



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE**

**MONDAY, AUGUST 26, 2024
7:00 PM**

Individuals Requiring Special Accommodations Should Notify the City's ADA Coordinator at (719) 553-2295 by Noon on the Friday Preceding the Meeting.

A. CALL TO ORDER

President Mark Aliff

B. INVOCATION

Pastor Mary Williams, First Congregational Church

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Proclamation Presentation: "Saturday, September 7, 2024: Presbyterian Towers Day – 60th Anniversary" - Wil Smith, Operations Manager, Presbyterian Towers

F. PUBLIC FORUM

G. COUNCIL MEMBER AND MAYOR COMMENTARY

H. REVIEW OF AGENDA

I. APPROVAL OF AGENDA

Motion to Amend the Agenda or Motion to Approve the Agenda as distributed.

J. READING AND APPROVAL OF MINUTES

Motion to dispense with the reading and approve the Minutes of the Regular Meeting dated August 12, 2024, as distributed.

J1 City Council Minutes August 12, 2024

K. CONSENT AGENDA

All items listed in this portion of the agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilperson so requests; in which event, the item will be removed from the Consent Agenda and considered under the Regular Agenda. Unless otherwise indicated, titles are self-explanatory.

L. COMMUNICATIONS

L1 Minutes of the Planning and Zoning Commission Regular Meeting for 7/10/2024

M. RESOLUTIONS

- M1 A Resolution awarding a construction contract in the amount of \$171,136 to CGRS, Inc. and setting forth \$34,227 for contingencies for Project No. 24-078 (WWAN04) at the James R. Dilorio Water Reclamation Facility (WRF) for the Upgrade of the Valves, Chutes, and Gritt Classifier Project and authorizing the Purchasing Agent to execute the same.
- M2 A Resolution transferring funds in the amount of \$20,887.51 from the "2024" Public Works Operating Budget for contract services and budgeting and appropriating \$20,887.51 into Project Account CI2210 - Public Works Asset Management, approving Amendment No. 4 to the master subscription agreement in the amount of \$20,887.51 between the City of Pueblo, a Colorado Municipal Corporation, and Brightly Software, Inc., a Delaware corporation, formerly Dude Solutions, Inc., for Project No. 21-041 Pueblo Street Assessment Project, and authorizing the Purchasing Agent to execute same.
- M3 A Resolution ratifying the award of an emergency construction contract in the amount of \$56,768.87 to Russ Grading & Excavating LLC, under Project No. 23-040 (SWAN03), 2023-2026 Emergency Storm Sewer Point Repair for repairs on Jerry Murphy Road north of Candytuft Blvd, approving a change order in the amount of \$5,670.00 for additional work and materials, and authorizing and approving the Purchasing Agent's execution of the same
- M4 A Resolution approving Amendment No. 1 to the Agreement for Professional Engineering Services in the amount of \$22,016.35 between the City of Pueblo, a Colorado Municipal Corporation, and 3 Rocks Engineering, LLC, for Project No. 23-107 Design for Street Expansion of Bandera Parkway, and authorizing the Purchasing Agent to execute same.
- M5 A Resolution authorizing the City of Pueblo to credit sanitary sewer fees of \$1,048.96 to Michaelene Thompson
- M6 A Resolution authorizing the issuance of a Revocable Permit (REV-24-22) to the Senior Resource Development Agency (SRDA) for the use of the front sidewalk in front of the Senior Resource Development Agency (SRDA) building on Union Avenue and the courtyards south and north of the building for the SRDA Fund Raiser at the Pueblo Chile and Frijoles Festival
- M7 A Resolution authorizing the issuance of a Revocable Permit (REV-24-24) to the YMCA of Pueblo for the use of the outer lanes of Spaulding Avenue (both directions) between the north entrance of the YMCA and Pueblo Blvd., outer lanes of Parker Blvd. (both directions) between Spaulding Avenue and its north/eastern terminus for the 5K run/walk Corporate Cup event
- M8 A Resolution approving a Commercial Service Provider Air Show Permit between the City of Pueblo, a Colorado Municipal Corporation, and KC Aviation Stem Inc., dba Wings of Pride, a Missouri Not-For-Profit Corporation, and authorizing the Director of Aviation to execute same
- M9 A Resolution adopting a fee schedule for liquor and beer license applications and permits and repealing Resolution No. 15381
- M10 A Resolution amending Resolution Nos. 15609, 15641, and 15651, to update the finance project account numbers assigned for projects associated with Fire Stations 6, 8, and 11.
- M11 A Resolution approving a Settlement Agreement and Release of Claims between the City of Pueblo, a Colorado Municipal Corporation, and Cristy Gonzales, related to settlement of United States District Court of Colorado Action no. 23-CV-03125-DDD-MDB

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance approving and accepting Airport Improvement Program (AIP) Grant Agreement No. 3-08-0046-051-2024 from the United States of America acting through the Federal Aviation Administration for funds in the amount of \$239,529 for costs related to the Construct Hangar and Rehabilitate Taxiway (Phase I Design) project at the Pueblo Memorial Airport, budgeting and appropriating \$239,529 to Project No. AP1804 – South T-Hangar #1, and authorizing the Mayor to execute same
- N2 An Ordinance approving Lease NO. GS-08P-LCO00780 between the City of Pueblo, a Colorado Municipal Corporation, and the United States of America to lease space at the Pueblo Memorial Airport for use by the Transportation Security Administration (TSA), and authorizing the Mayor to execute same
- N3 An Ordinance approving the La Bella Piazza Subdivision generally located South of West Pueblo Boulevard and West of Granada Boulevard
- N4 An Ordinance establishing 2025 Pueblo Rural Transportation Planning Project, TP2402, and budgeting and appropriating funds in the amount of \$12,000 for said Project
- N5 An Ordinance designating 330 South City Park Avenue, City Park Bath House, as a Local Historic Landmark
- N6 An Ordinance approving and enacting The Collective Bargaining Agreement between The City of Pueblo and The International Brotherhood of Police Officers Local 537 commencing January 1, 2025, and authorizing The Mayor to execute same
- N7 An Ordinance amending the fiscal year 2024 Staffing Ordinance by adding one (1) full-time position to the authorized staffing of the Police Department entitled Community Initiative to Reduce Violence (CIRV) Program Manager
- N8 An Ordinance amending Section 6-5-16 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the FY 2024 classification and pay plan by establishing the pay scale for the Community Initiative to Reduce Violence (CIRV) Program Manager
- N9 An Ordinance approving and authorizing the Mayor to execute an agreement between the City of Pueblo, a Colorado Municipal Corporation, and Brown and Caldwell, Inc., to render professional engineering services related to the design of the digester covers and mixing system replacement, polymer system replacement, and Phase 4 electrical improvements
- N10 An Ordinance amending appropriations and compiling previous amendments to the General Fund, Special Revenue Funds, Enterprise Funds, Internal Service Funds, Debt Service Funds and Capital Project Funds for the fiscal year 2023 and amending the budget for the year 2023
- N11 An Ordinance rescinding Ordinance 10714, establishing Project No. CI2447 - Elizabeth Street Parkway Outdoor Basketball Courts Mural Project, and budget and appropriate funds in the amount of \$10,000 to Project No. CI2447
- N12 An Ordinance amending Article 73, Chapter 3, of Title XI of the Pueblo Municipal Code to amend license types to accommodate changes in Colorado Revised Statutes creating liquor licenses of Entertainment Facility License and Lodging Facility License and repealing the Lodging And Entertainment Facility License
- N13 An Ordinance approving the 1st Amendment to the Intergovernmental Agreement between the City of Pueblo, a Colorado Municipal Corporation ("City"), and the State of Colorado, acting by and through the Colorado Department of Transportation ("CDOT"), Project SAR M086-094 (24468) for the Haaff Elementary Safe Routes To Schools Project, budgeting and appropriating funds in the amount of \$91,816.00 and Authorizing the Mayor to Execute Same

N14 An Ordinance establishing Project DT2401, West Side Connector (FHWA), approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the Federal Highway Administration, budgeting and appropriating funds from the RAISE Grant Program - Award Number 693JJ32440495 in the amount of \$16,834,725.00, and authorizing the Mayor to execute same

N15 An Ordinance approving a memorandum of understanding between the City of Pueblo, a Colorado Municipal Corporation and Citizen Energy, LLC, a District of Columbia Limited Liability Company, regarding member agency match funding for the U.S. Department of Transportation' Charging and Fueling Infrastructure Discretionary Grant Opportunity

N16 An Ordinance making certain legislative findings and approving the West Pueblo Urban Renewal Plan

N17 An Ordinance making certain legislative findings and approving the Colorado Smelter Urban Renewal Plan

O. APPROVAL OF CONSENT AGENDA

I move to receive and file the minutes of the Planning and Zoning Commission, approve all the Resolutions Set Forth in the Consent Agenda; Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for September 09, 2024, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q1 A Resolution authorizing payment from the Council Contingencies account in the 2024 general fund budget to the Latino Chamber Development Foundation in the amount of \$1,000 to sponsor the 19th Annual Tostada Fundraiser event at the Sangre de Cristo Arts Center on Friday, August 16, 2024

Q2 A Resolution authorizing payment from the Council Contingencies account in the 2024 general fund budget to Mad Fresh Productions in the amount of \$1,000 as the fiscal sponsor of Southern Colorado Fashion and the Fall Showcase on Saturday, September 7, 2024, at 5 pm at the Pueblo Mall

Q3 A Resolution authorizing payment from the Council Contingencies account in the 2024 general fund budget to Mariposa Center for Safety in the amount of \$1,000 to sponsor the 23rd Annual Tribute to Women Awards Ceremony on Saturday, October 5, 2024, at 6 pm at the Rawlings Library

Q4 A Resolution authorizing payment from the Council Contingencies account in the 2024 general fund budget to Metro Volunteers DBA Spark the Change Colorado in the amount of \$1,500 to sponsor the annual Suicide Memory Walk on September 7, 2024, from 9 am to 12 pm at Lake Minnequa Veteran's Memorial Park

R. ORDINANCES – FINAL PRESENTATION

R1 An Ordinance ratifying the approval and adopting the City of Pueblo's 2024-2025 Action Plan for the Community Development Block Grant (CDBG) and the Home Investment Partnership Act Grant (HOME), authorizing the Mayor of the City of Pueblo to submit the application together with all required and necessary certifications, assurances, and documentation to the U.S. Department of Housing and Urban Development, and appropriating and budgeting CDBG and HOME funds therefore. - *Introduced July 22, 2024 by Councilor Regina Maestri*

R2 An Ordinance approving and accepting a Grant Agreement for the City of Pueblo from the

State of Colorado Department of Public Safety, Division of Criminal Justice for the Better LED and Solar Spaces Project, authorizing the Mayor to execute the same, establishing Project Number CI2445, and budgeting and appropriating funds in the amount of \$853,413 to Project Number CI2445 - *Introduced August 12, 2024 by Councilor Regina Maestri*

- R3 An Ordinance approving and accepting Airport Improvement Program (AIP) Grant Agreement No. 3-08-0046-050-2024 from the United States of America acting through the Federal Aviation Administration for funds in the amount of \$253,073 for costs related to the Rehabilitation of East (North) Apron (Design) at the Pueblo Memorial Airport, budgeting and appropriating \$253,073 to project AP2401 – East Apron (N) Taxilane Rehab, and authorizing the Mayor to execute same - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R4 An Ordinance transferring, budgeting, and appropriating reimbursement proceeds in the amount of \$7,526.70 into the Airport Operating Budget Account No. 54070100-56012 - repair and maintenance supplies - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R5 An Ordinance approving and ratifying a Supplemental Environmental Project Agreement and approving a modification to said agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment for the purpose of developing a Household Hazardous Waste program; authorizing the Mayor to execute the modification; accepting funds in the amount of \$378,880.00 from the Colorado Department of Public Health and Environment; and budgeting and appropriating said funds into Project Account No. PL2302 - Household Hazardous Waste Program - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R6 An Ordinance approving an Intergovernmental Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation, Project: BRO M086-104 (26412) Pueblo 18th Street Bridge Rehab, accepting a grant in the amount of \$448,000.00, establishing Project Account CI2446, 18th Street Rehabilitation, transferring \$112,000.00 from Project Account HUAN01, Street Resurfacing Project to Project Account CI2446, 18th Street Bridge Rehabilitation Project, budgeting and appropriating funds in the amount of \$560,000, and authorizing the Mayor to execute same - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R7 An Ordinance approving and accepting a donation of funds in the amount of \$2,000.00 for deposit into the City's General Fund from the Beulah Historical Society to the City of Pueblo, to offset costs incurred for the fabrication and installation of highway memorial signs on Colorado State Highway 78 honoring PFC Mike Hanratty - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R8 An Ordinance approving a maintenance IGA between the City of Pueblo, a Colorado Municipal Corporation; Pueblo County, a political subdivision of the State of Colorado; and the State of Colorado by and through the Colorado Department of Transportation related to the maintenance of installed roadway improvements along the Medal of Honor Boulevard corridor, and authorizing the Mayor to execute said agreement - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R9 An Ordinance approving an intergovernmental agreement between the City of Pueblo, and Custer County relating to mutual aid in the provisions of the Fire Protection and other emergency services, and authorizing the Mayor to execute the same - *Introduced August 12, 2024 by Councilor Regina Maestri*
- R10 An Ordinance approving and accepting a grant funding agreement and all applicable conditions pertaining thereto from the Colorado Auto Theft Prevention Authority ("CATPA")

relating to the Beat Auto Theft Through Law Enforcement (“BATTLE”) Team, establishing Project No. PS2405, budgeting and appropriating funds to project number PS2405, and authorizing the Mayor to execute same - *Introduced August 12, 2024 by Councilor Regina Maestri*

R11 An Ordinance approving and authorizing the Mayor to sign a Facility Use Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Pueblo City-County Library District, A Nonprofit Entity, for use of Certain Park Premises - *Introduced August 12, 2024 by Councilor Regina Maestri*

R12 An Ordinance approving Amendment No. 1 to the professional services agreement between the City of Pueblo and Gruen Gruen + Associates, LLC, a Limited Liability Corporation in the state of Illinois, in the amount of \$19,000 with \$1,610 in contingencies to update the Strategic Housing Assessment completed in September of 2021 - *Introduced August 12, 2024 by Councilor Regina Maestri*

R13 An Ordinance submitting to the eligible electors of the City of Pueblo, Colorado at the Special Municipal Election to be held on November 5, 2024, proposed amendments to Sections 4-2, 17-2, 17-5, 17-6, 17-8, 17-9, and 17-10 of the Charter of the City of Pueblo and fixing the ballot title therefor - *Introduced August 12, 2024 by Councilor Regina Maestri*

R14 An Ordinance submitting to the eligible electors of the City of Pueblo, Colorado at the Special Municipal Election to be held on November 5, 2024, proposed amendments to Sections 1-5, 2-6, 2-10, 3-9, 3-18, 3-19, 3-20, 3-21, 6-1, 7-28, 8-12, and 15-6 of the Charter of the City of Pueblo and fixing the ballot title therefor - *Introduced August 12, 2024 by Councilor Regina Maestri*

R15 An Ordinance amending Chapters 1 and 5 of Title IX of the Pueblo Municipal Code to update and revise the business licensing application and appeal process, amend the lodging facility licensing requirements, and provide penalties for violation thereof - *Introduced August 12, 2024 by Councilor Regina Maestri*

R16 An Ordinance amending Chapter 6 of Title XVI of the Pueblo Municipal Code relating to and increasing sewer user charges. - *Introduced August 12, 2024 by Councilor Regina Maestri*

R17 An Ordinance amending Chapters 1 and 5 of Title IX of the Pueblo Municipal Code to update and revise the business licensing application and appeal process, amend the Lodging Facility licensing requirements, and provide penalties for violation thereof - *Introduced August 12, 2024 by Councilor Regina Maestri*

S. COUNCIL MEMBER CONFLICT OF INTEREST

Councilor Sarah Martinez may ask to be excused from the meeting due to a conflict of interest with agenda item number S-1.

S1 An Ordinance approving an engagement agreement with Koncilja Energy Law and Policy for representation in Public Utilities Commission proceeding No. 24AL-0275E, approving the corresponding Joint Interest Agreement, and authorizing the Mayor to execute the same - *Introduced August 12, 2024 by Councilor Regina Maestri*

T. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, AUGUST 12, 2024 - 7:00 PM
MINUTES**

A. CALL TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

F. PUBLIC FORUM

- Jose Ortega - Contempt of Court
- Denise Torres - Contempt of Court misuse
- Elvis Martinez - Transparency & more
- Ted Freeman - PEDCO
- Bryan Bailey - Crime/Illegal housing
- Augustine Garcia - Tent City Jail

G. COUNCIL MEMBER AND MAYOR COMMENTARY

Mayor Graham introduced Danny Nunn, Interim Director of Finance and thanked volunteers for coming out to help clean up Northern Ave this weekend.

Council members expressed comments regarding community-related issues and events/functions they attended.

H. REVIEW OF AGENDA

The agenda was reviewed page by page.

I. APPROVAL OF AGENDA

Councilor Maestri, seconded by Councilor Gomez, moved to postpone item R1 to the September 9, 2024 agenda and to approve the agenda as amended.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

J. READING AND APPROVAL OF MINUTES

J1 CITY COUNCIL MINUTES 07/22/2024

Councilor Maestri, seconded by Councilor Flores, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **July 22, 2024** as distributed.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion 7-0.

K. CONSENT AGENDA

L. COMMUNICATIONS

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING FOR 05/08/2024

L2 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING FOR 06/12/2024

M. RESOLUTIONS

M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$264,735.45 TO TONY J BELTRAMO & SONS, INC., FOR PROJECT NO. 24-097, ASPHALT IMPROVEMENTS - CAMBRIDGE AVENUE AND AMHERST AVENUE, SETTING FORTH \$53,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15703.

M2 A RESOLUTION AUTHORIZING PAYMENT OF TWO HUNDRED AND FIFTY-FIVE THOUSAND DOLLARS (\$255,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR THE PURPOSES OF ACQUIRING THE MANDATORY RAILROAD PERMITS NEEDED TO COMPLETE THE INSTALLATION OF FIBER-OPTIC CABLE NETWORK INFRASTRUCTURE FOR THE NEW FIRE STATIONS AND WASTEWATER TREATMENT FACILITY, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35

This Resolution was assigned as 15704.

M3 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$130,914 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 24-005, CONCRETE IMPROVEMENTS - ELMWOOD GOLF COURSE AND CART PATH, SETTING FORTH \$19,637.10 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15705.

M4 A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$55,032.44 TO A5 CONSTRUCTION, LLC., FOR PROJECT NO.

24-003, CONCRETE IMPROVEMENTS – CHEYENNE AVENUE (19TH TO 29TH), AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15706.

- M5 A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$36,309.50 TO BAHAM CONSTRUCTION, INC., FOR PROJECT NO. 23-122, FIRE STATION #5 – TRUCK BAY CONCRETE REPLACEMENT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15707.

- M6 A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$3,354.06 WITH K.R. SWERDFEGER CONSTRUCTION, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 5824 MARK TWAIN LN, FOR PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME.**

This Resolution was assigned as 15708.

- M7 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$232,337.20 TO MARTIN MARIETTA, FOR PROJECT NO. 24-066, ASPHALT IMPROVEMENTS - GRANADA BOULEVARD, SETTING FORTH \$40,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15709.

- M8 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-16) TO AMERICAN LEGION 2 FOR THE CLOSURE OF THE 700 BLOCK OF WEST 9TH STREET BETWEEN CRAIG STREET AND WEST STREET TO HOST THEIR CAR/BIKE SHOW ON AUGUST 17, 2024, FROM 6:00 A.M. TO 3:00 P.M.**

This Resolution was assigned as 15710.

- M9 A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-21) TO PUEBLO COMMUNITY COLLEGE FOR THE USE OF THE PUBLIC RIGHT-OF-WAY ALONG ORMAN AVENUE BETWEEN ARTHUR STREET AND MARILYN PLACE TO HOST ITS ANNUAL WELCOME BACK TO CAMPUS CELEBRATION ON MONDAY, AUGUST 19, 2024**

This Resolution was assigned as 15711.

- M10 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF DANIEL HENDERSON TO THE ELECTRICAL BOARD OF APPEALS - ENGINEER POSITION**

This Resolution was assigned as 15712.

- M11 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF JOHN CHRISMAN TO THE PLUMBING BOARD OF APPEALS - ENGINEER POSITION**

This Resolution was assigned as 15713.

- M12 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF KENNEDY**

**PUGH AND CLAIRE SCHAD TO THE PUEBLO HUMAN RELATIONS
COMMISSION - JOINT APPOINTMENTS**

This Resolution was assigned as 15714.

**M13 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF
THOMAS CARRIGAN, ALYSSA VARGAS-LOPEZ, AND SHAWN VECELLIO TO
SERVE A THREE-YEAR TERM EXPIRING AUGUST 31, 2027, ON THE EL
CENTRO DEL QUINTO SOL BOARD OF DIRECTORS**

This Resolution was assigned as 15715.

**M14 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ERIK
SEGALL AND JENNIFER HORN TO COMPLETE A THREE-YEAR TERM
EXPIRING DECEMBER 31, 2024 ON THE PUEBLO HUMAN RELATIONS
COMMISSION - CITY APPOINTMENTS**

This Resolution was assigned as 15716.

**M15 A RESOLUTION SETTING THE DATE, TIME AND PLACE FOR THE HEARING
ON ANY OBJECTIONS TO AN ABATEMENT ASSESSMENT AS SEPTEMBER
13, 2024 AT 9:00 A.M. IN CITY COUNCIL CHAMBERS AND DIRECTING THE
MAYOR TO APPOINT A HEARINGS OFFICER**

This Resolution was assigned as 15717.

**M16 A RESOLUTION ESTABLISHING A PLANNING COMMITTEE FOR PHASE III
IMPROVEMENTS OF THE PUEBLO PROFESSIONAL BULL RIDERS
UNIVERSITY AND HERITAGE OF HEROES PROJECT – AQUATICS CENTER
AND WATER PARK**

This Resolution was assigned as 15718.

**M17 A RESOLUTION AMENDING RESOLUTION NO. 15637 TO UPDATE THE
FINANCE ACCOUNT NUMBERS ASSIGNED TO THE PROJECTS TO
CONSTRUCT FIRE STATIONS 6, 8, AND 11; AND TO PROCURE NEW FIRE
APPARATUS**

This Resolution was assigned as 15719.

N. ORDINANCES – FIRST PRESENTATION

**N1 AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT FOR
THE CITY OF PUEBLO FROM THE STATE OF COLORADO DEPARTMENT OF
PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE FOR THE BETTER LED
AND SOLAR SPACES PROJECT, AUTHORIZING THE MAYOR TO EXECUTE
THE SAME, ESTABLISHING PROJECT NUMBER CI2445, AND BUDGETING
AND APPROPRIATING FUNDS IN THE AMOUNT OF \$853,413 TO PROJECT
NUMBER CI2445**

**N2 AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT
PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-050-2024 FROM THE
UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION
ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$253,073 FOR COSTS**

RELATED TO THE REHABILITATION OF EAST (NORTH) APRON (DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$253,073 TO PROJECT AP2401 – EAST APRON (N) TAXILANE REHAB, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

N3 AN ORDINANCE TRANSFERRING, BUDGETING, AND APPROPRIATING REIMBURSEMENT PROCEEDS IN THE AMOUNT OF \$7,526.70 INTO THE AIRPORT OPERATING BUDGET ACCOUNT NO. 54070100-56012 - REPAIR AND MAINTENANCE SUPPLIES

N4 AN ORDINANCE APPROVING AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

N5 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-104 (26412) PUEBLO 18TH STREET BRIDGE REHAB, ACCEPTING A GRANT IN THE AMOUNT OF \$448,000.00, ESTABLISHING PROJECT ACCOUNT CI2446, 18TH STREET REHABILITATION, TRANSFERRING \$112,000.00 FROM PROJECT ACCOUNT HUAN01, STREET RESURFACING PROJECT TO PROJECT ACCOUNT CI2446, 18TH STREET BRIDGE REHABILITATION PROJECT, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$560,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

N6 AN ORDINANCE APPROVING AND ACCEPTING A DONATION OF FUNDS IN THE AMOUNT OF \$2,000.00 FOR DEPOSIT INTO THE CITY'S GENERAL FUND FROM THE BEULAH HISTORICAL SOCIETY TO THE CITY OF PUEBLO, TO OFFSET COSTS INCURRED FOR THE FABRICATION AND INSTALLATION OF HIGHWAY MEMORIAL SIGNS ON COLORADO STATE HIGHWAY 78 HONORING PFC MIKE HANRATTY

N7 AN ORDINANCE APPROVING A MAINTENANCE IGA BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION; PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO; AND THE STATE

OF COLORADO BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION RELATED TO THE MAINTENANCE OF INSTALLED ROADWAY IMPROVEMENTS ALONG THE MEDAL OF HONOR BOULEVARD CORRIDOR, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

N8 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND CUSTER COUNTY RELATING TO MUTUAL AID IN THE PROVISIONS OF THE FIRE PROTECTION AND OTHER EMERGENCY SERVICES, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

N9 AN ORDINANCE APPROVING AND ACCEPTING A GRANT FUNDING AGREEMENT AND ALL APPLICABLE CONDITIONS PERTAINING THERETO FROM THE COLORADO AUTO THEFT PREVENTION AUTHORITY (“CATPA”) RELATING TO THE BEAT AUTO THEFT THROUGH LAW ENFORCEMENT (“BATTLE”) TEAM, ESTABLISHING PROJECT NO. PS2405, BUDGETING AND APPROPRIATING FUNDS TO PROJECT NUMBER PS2405, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

N10 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A FACILITY USE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A NONPROFIT ENTITY, FOR USE OF CERTAIN PARK PREMISES

N11 AN ORDINANCE APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO AND GRUEN GRUEN + ASSOCIATES, LLC, A LIMITED LIABILITY CORPORATION IN THE STATE OF ILLINOIS, IN THE AMOUNT OF \$19,000 WITH \$1,610 IN CONTINGENCIES TO UPDATE THE STRATEGIC HOUSING ASSESSMENT COMPLETED IN SEPTEMBER OF 2021

N12 AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 4-2, 17-2, 17-5, 17-6, 17-8, 17-9, AND 17-10 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

N13 AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 1-5, 2-6, 2-10, 3-9, 3-18, 3-19, 3-20, 3-21, 6-1, 7-28, 8-12, AND 15-6 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE

THEREFOR

N14 AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

N15 AN ORDINANCE AMENDING CHAPTER 6 OF TITLE XVI OF THE PUEBLO MUNICIPAL CODE RELATING TO AND INCREASING SEWER USER CHARGES.

N16 AN ORDINANCE APPROVING AN ENGAGEMENT AGREEMENT WITH KONCILJA ENERGY LAW AND POLICY FOR REPRESENTATION IN PUBLIC UTILITIES COMMISSION PROCEEDING NO. 24AL-0275E, APPROVING THE CORRESPONDING JOINT INTEREST AGREEMENT, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

O. APPROVAL OF CONSENT AGENDA

Councilor Maestri, seconded by Councilor Boston, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for August 26, 2024, and Order the Ordinances to be published BY TITLE.

Roll Call – **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q1 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO PUEBLO CHAMBER OF COMMERCE IN THE AMOUNT OF \$2,500 TO SPONSOR THE 4TH ANNUAL PUEBLO CHILE FESTIVAL BALLOON FEST ON SEPTEMBER 20–22, 2024

A staff report and detailed review of the Resolution was given by Brian McCain, Chief of Staff

- Sally Carter McInnis appeared in person to speak in favor of this Resolution
- Bret Verna appeared in person to speak in favor of this Resolution

Councilor Gomez, seconded by Councilor Latino, moved to approve the Resolution.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** Councilor Gomez. Motion Passed 6-1.

This Resolution was assigned as 15720.

Q2 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO LA RAZA SERVICES, INC., DBA SERVICIOS DE LA RAZA IN THE AMOUNT OF \$2,000 TO SPONSOR THE 3RD ANNUAL CHILDREN'S DAY ON FRIDAY, MAY 17, 2024

A staff report and detailed review of the Resolution was given by Brian McCain, Chief of Staff.

Councilor Flores, seconded by Councilor Gomez, moved to approve the Resolution.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15721.

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE CREATING AND RESERVING SECTIONS 7-3-52 THROUGH 7-3-61 FOR FUTURE ADDITIONS TO THE PUEBLO MUNICIPAL CODE AND CREATING A NEW ARTICLE V CONTAINING SECTIONS 7-3-62 THROUGH 7-3-72 OF CHAPTER 3 OF TITLE VII OF THE PUEBLO MUNICIPAL CODE REGULATING THE USE AND MANAGEMENT OF SHOPPING CARTS WITHIN THE CITY

This item was postponed to the September 9, 2024 agenda.

R2 AN ORDINANCE APPROVING THREE MAIN EXTENSION AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE BOARD OF WATER WORKS OF PUEBLO, COLORADO RELATED TO THE EXTENSION OF WATER MAINS TO SERVE THE CITY'S THREE NEW FIRE STATIONS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENTS

A staff report and detailed review of the Ordinance was given by Andrew Hayes, Director of Public Works.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Gomez, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10747.

R3 AN ORDINANCE APPROVING A MEMORANDUM OF AGREEMENT AND EASEMENT AGREEMENT BY AND BETWEEN THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO STATE FAIR AUTHORITY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION,

RELATING TO RECONSTRUCTION AND MAINTENANCE OF THE ADA RAMP AND IMPROVEMENTS AT MESA AVENUE AND PRAIRIE AVENUE AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

A staff report and detailed review of the Ordinance was given by Andrew Hayes, Director of Public Works.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Gomez, seconded by Councilor Latino, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10748.

R4 AN ORDINANCE VACATING A PORTION OF MECHANIC STREET AND RICHMOND AVENUE AND PORTIONS OF A 20-FOOT ALLEY IN THE CENTRAL PUEBLO SUBDIVISION GENERALLY LOCATED WEST OF SANTA FE DRIVE AND AT THE INTERSECTION OF MECHANIC STREET AND RICHMOND AVENUE

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #V-23-05 dated March 13, 2024, be made part of the record for this hearing. So ordered by President Aliff.

A staff report and detailed review of the Ordinance was given by Scott Hobson, Interim Director of Planning & Community Development.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Flores, seconded by Councilor Gomez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10749.

R5 AN ORDINANCE APPROVING THE HISTORIC ARKANSAS RIVERWALK PROJECT, FILING NO. 4 SUBDIVISION

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that the Planning & Zoning documents for this item, Case #S-23-06 dated March 13, 2024, be made part of the record for this hearing. So ordered by President Aliff.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Boston, seconded by Councilor Maestri, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** Councilor Gomez. Motion Passed 6-1.

This Ordinance was assigned as 10750.

R6 AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2024-2025 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Gomez, seconded by Councilor Latino, moved to approve the Ordinance on final presentation.

Councilor Maestri, seconded by Councilor Boston, amended the motion to postpone this item to the August 26, 2024 agenda.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri. **Nays:** Councilor Martinez. Motion Passes 6-1.

R7 AN ORDINANCE AUTHORIZING ASSIGNMENT OF A PRIVATE ACTIVITY BOND ALLOCATION FROM THE CITY OF PUEBLO TO THE COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development

PUBLIC HEARING:

- Brenda Haddad appeared via zoom to speak in favor of this ordinance

Seeing no one else wished to speak, President Aliff declared the Hearing closed.

Councilor Flores, seconded by Councilor Boston, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10751.

R8 AN ORDINANCE APPROVING AND ACCEPTING A COLORADO RESOURCE FOR EMERGENCY AND TRAUMA EDUCATION (CREATE) GRANT ESTABLISHING PROJECT NO. PS2407 FOR EMERGENCY AND TRAUMA EDUCATION GRANT, AND BUDGETING AND APPROPRIATING GRANT FUNDS IN THE AMOUNT OF \$25,000, WHICH INCLUDES A TEN PERCENT COST MATCH OF \$2,500 FOR THE PURPOSES AUTHORIZED BY THE GRANT AGREEMENT

A staff report and detailed review of the Ordinance was given by Barb Huber, Fire Chief.

PUBLIC HEARING:

Seeing no one wished to speak, President Aliff declared the Hearing closed.

Councilor Boston, seconded by Councilor Latino, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10752.

R9 AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT AND APPLICABLE CONDITIONS PERTAINING THERETO WITH THE STATE OF COLORADO DEPARTMENT OF LAW PEACE OFFICER STANDARDS AND TRAINING (POST), ESTABLISHING PROJECT NUMBER PS2406, BUDGETING AND APPROPRIATING FUNDS INTO PROJECT PS2406, AUTHORIZING MAYOR GRAHAM TO EXECUTE SAME AND RATIFYING HER SIGNATURE THERETO

A staff report and detailed review of the Ordinance was given by James Martin, Deputy Police Chief.

PUBLIC HEARING:

- Bill Genoves appeared in person to speak in favor of this ordinance

Seeing no one else wished to speak, President Aliff declared the Hearing closed.

Councilor Boston, seconded by Councilor Latino, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10753.

R10 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2024 SPECIAL MUNICIPAL ELECTION

A staff report and detailed review of the Ordinance was given by Marisa Stoller, City Clerk.

PUBLIC HEARING:

- Elvis Martinez appeared in person to speak in favor of this ordinance

Seeing no one else wished to speak, President Aliff declared the Hearing closed.

Councilor Boston, seconded by Councilor Gomez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10754**.

R11 AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, A PROPOSED AMENDMENT TO SECTIONS 3-5 AND 5-2 OF THE CHARTER OF THE CITY OF PUEBLO SETTING THE MAXIMUM PENALTY FOR VIOLATION OF THE CHARTER AND PUEBLO MUNICIPAL CODE AND FIXING THE BALLOT TITLE THEREFOR

A staff report and detailed review of the Ordinance was given by Carla Sikes, City Attorney.

PUBLIC HEARING:

- Elvis Martinez appeared in person to speak against this ordinance

Seeing no one else wished to speak, President Aliff declared the Hearing closed.

Councilor Gomez, seconded by Councilor Maestri, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as **10755**.

R12 AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, A PROPOSED AMENDMENT TO ARTICLE 19 – RECALL OF ELECTED OFFICERS, OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

A staff report and detailed review of the Ordinance was given by Marisa Stoller, City Clerk.

PUBLIC HEARING:

- Elvis Martinez appeared in person to speak against this ordinance

Seeing no one else wished to speak, President Aliff declared the Hearing closed.

Councilor Boston, seconded by Councilor Gomez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Maestri, Councilor Martinez. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10756.

S. COUNCIL MEMBER CONFLICT OF INTEREST

Councilor Maestri was excused from the meeting due to a conflict of interest.

S1 A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$348,291.26 TO PASHCO ROOFING, INC. DBA COLORADO FRONT RANGE ROOFING, FOR PROJECT NO. 23-100R, ROOF REPLACEMENT – STREETS MAINTENANCE FACILITY REBID, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

A staff report and detailed review of the Resolution was given by Andrew Hayes, Director of Public Works.

- Elvis Martinez appeared in person to speak against this ordinance

Councilor Boston, seconded by Councilor Flores, moved to approve the Resolution.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Gomez, Councilor Latino, Councilor Martinez. **Nays:** None. Motion Passed 6-0.

This Resolution was assigned as 15722.

T. COMMUNICATIONS

T1 A CITIZEN FILED AN ETHICS COMPLAINT AGAINST COUNCILOR REGINA MAESTRI

A staff report and detailed review of the complaint was given by Carla Sikes, City Attorney.

Councilor Gomez, seconded by Councilor Latino, moved to investigate the complaint.

Roll Call - **Ayes:** Councilor Gomez. **Nays:** President Aliff, Councilor Boston, Councilor Flores, Councilor Latino, Councilor Martinez. Motion Failed 1-5.

T2 A CITIZEN FILED AN ETHICS COMPLAINT AGAINST COUNCILOR REGINA MAESTRI

A staff report and detailed review of the communication was given by Carla Sikes, City Attorney.

Councilor Latino, seconded by President Aliff, moved to accept the communication.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Gomez, Councilor Latino, Councilor Martinez. **Nays:** Councilor Flores. Motion Passed 5-1.

Councilor Flores, seconded by Councilor Gomez, moved to dismiss the complaint.

Roll Call - **Ayes:** President Aliff, Councilor Boston, Councilor Flores, Councilor Latino, Councilor Martinez. **Nays:** Councilor Gomez. Motion Passed 5-1.

U. ADJOURN

President Aliff adjourned the meeting at 10:27 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marisa Stoller", written in a cursive style.

Marisa Stoller
City Clerk

MINUTES OF REGULAR MEETING

City of Pueblo, Colorado
Wednesday July 10, 2024, 2024 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

The meeting was called to order at 3:30p.m. with Commissioner Castellucci presiding.

Commissioners Present: Mike Castellucci, Patrick Avalos, Alexandra Aznar, Lisa Bailey, Regina Maestri, Chris Pasternak, Cheryl Spinuzzi.

Commissioners Absent:

Staff Members Present: David Wyatt, Assistant City Attorney; Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner, Wade Broadhead, Senior Planner, Cindy Capritta, Land Use Tech.

Staff Members Absent:

Approval of the Agenda: Bailey motioned to approve the agenda, seconded by Spinuzzi.

Motion Passed: 7-0

Public Meeting:

1. URP-22-02 West Pueblo - Beritt Odom provided Staff Report. Jerry Pacheco, Executive Director of PURA spoke in support of the project.

Commission Action: Bailey moved to recommend the URP to City Council conditioned upon completion of the 3 amendments prior to forwarding to City Council. Motion seconded by Avalos.

Motion Passed: 7-0

2. UPR-22-03 Colorado Smelter - Wade Broadhead provided Staff Report. Jerry Pacheco, Executive Director of PURA spoke in support of the project.

Commission Action: Bailey moved to recommend the URP to City Council, seconded by Spinuzzi.

Motion Passed: 7-0.

Public Hearings:

1. S-23-11 North Vista Highlands, Filing No. 9, A Special Area Plan Subdivision, of 19.52 acres into townhome lots and parcels for recreation and drainage. Staff Report by Beritt Odom, *cont'd from June 12, 2024.*

Hearing: Applicant Mike Cuppy, North Star Engineering and Surveying was sworn in and spoke in support of the application. No one appeared in opposition.

Commission Action: Bailey moved to recommend the application to City Council upon completion of one (1) staff condition, seconded by Aznar.

Motion Passed: 7-0

2. SAP-23-04 North Vista Highlands, Filing No. 9, A Special Area Plan Subdivision, of 19.52 acres into townhome lots and parcels for recreation and drainage. Staff Report by Beritt Odom, *cont'd from June 12, 2024.*

Hearing: Applicant Mike Cuppy remained sworn in and spoke in favor of the application. No one appeared in opposition.

Commission Action: Bailey moved to recommend the application to City Council upon completion of two (2) staff condition, seconded by Maestri.

Motion Passed: - 7-0

10. TA-22-01 Text Amendment Short Term Residential Rentals: An Ordinance amending Chapter 5 of Title IX; Chapter 9 of Title XIV; Chapter 2, Chapter 4; and Chapter 5 of Title XVII of the Pueblo Municipal Code Relating to Short-Term Rentals.

Commission Action: Pasternak moved to continue application to the August 14, 2024, meeting seconded by Bailey.

Motion Passed: 7-0

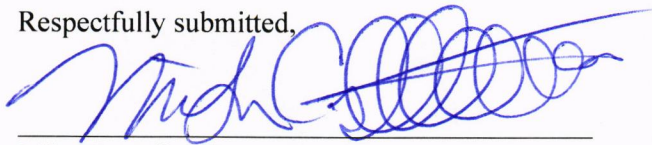
Approval of Minutes.

Bailey motioned to approve the **June 12, 2024**, Minutes, seconded by Maestri.

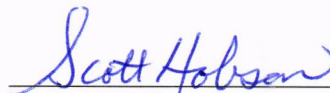
Old/New Business – None

Adjourn – 4:25 P.M.

Respectfully submitted,



Mike Castellucci
Chairperson



Scott Hobson
Executive Secretary

Digital recordings of all the meetings of the Planning and Zoning Commission are maintained and available for inspection and review during normal business hours (M – F, 8 a.m. – 5 p.m.) at the Department of Planning & Community Development, 211 East D Street, Pueblo, CO.



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$171,136 TO CGRS, INC. AND SETTING FORTH \$34,227 FOR CONTINGENCIES FOR PROJECT NO. 24-078 (WWAN04) AT THE JAMES R. DIORIO WATER RECLAMATION FACILITY (WRF) FOR THE UPGRADE OF THE VALVES, CHUTES, AND GRIT CLASSIFIER PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME.

SUMMARY:

Attached is a Resolution awarding a construction contract to CGRS, Inc. for Project No. 24-078 (WWAN04), remove and install upgraded valves, chutes, grit classifier and flow meters at the James R. Dilorio Water Reclamation Facility.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The James R. Dilorio Water Reclamation Facility (WRF) treats all the wastewater for the City of Pueblo. The WRF will be upgrading the following equipment: flow meters, valves, chutes, and grit classifier. The current flow meters are no longer supported by the manufacturer and the parts are no longer being made. The WRF needs to upgrade the flow meters to maintain the correct reading for the processes and reporting. The valves need to be upgraded and replaced because the valves are used to repair the Secondary Clarifiers. Without the valves being replaced, maintenance would not be able to be performed on the clarifiers. The chutes are part of the Sludge Handling System. The chutes have rusted through and need to be replaced. The grit classifier has rusted through the tank and can no longer be repaired. The classifier removes rocks and debris from the process, saving the pumps from damage and without it would cause more damage and cost the WRF more in the future if not replaced.

FINANCIAL IMPLICATIONS:

The cost of the construction project was bid at \$171,136 with contingencies of \$34,227. Funds are available from the Rehabilitation Funds and appropriate to Project No. 24-078 (WWAN04).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Alternative No. 1 - No Action

If no upgrades are performed on the flow Meters, valves, chutes, grit classifier and components, the condition of the equipment would continue to deteriorate until an emergency repair is required at a higher cost than the planned project. The WRF would also risk violating its discharge permit if the equipment upgrades are not upgraded, and an outage were to happen.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-26-24 Upgrade of Valves Chutes and Gritt Classifier bid summary
2. 08-26-24 Upgrade of Valves Chutes and Gritt Classifier map

RESOLUTION NO. 15723

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$171,136 TO CGRS, INC. AND SETTING FORTH \$34,227 FOR CONTINGENCIES FOR PROJECT NO. 24-078 (WWAN04) AT THE JAMES R. DIORIO WATER RECLAMATION FACILITY (WRF) FOR THE UPGRADE OF THE VALVES, CHUTES, AND GRITT CLASSIFIER PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME.

WHEREAS, competitive bids for Project No. 24-078 (WWAN04) Upgrade of Valves, Chutes, And Grit Classifier Project have been received and examined; and

WHEREAS, the proposal of CGRS Inc., was the lowest of those bids determined to be responsive; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 24-078 (WWAN04) Upgrade of Valves, Chutes, and Gritt Classifier Project to be performed, and the contract for said project is hereby awarded to CGRS Inc, in the amount of \$171,136.

SECTION 2.

Funds for Project 24-078 (WWAN04) shall be from the Rehabilitation Funds

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of Pueblo, A Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 4.

In addition to the amount of the bid set forth, as aforementioned, an additional amount as stipulated in this section is hereby established for contingencies and additional work.

Contingencies and Additional Work.....\$34,227

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to effectuate the transactions described therein.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK



EVALUATION TABULATION
IFB No. 24-078
Upgrade of Valves, Chutes, and Gritt Classifier for WRF
RESPONSE DEADLINE: June 26, 2024 at 10:30 am
Report Generated: Wednesday, June 26, 2024

VENDOR TOTALS

Vendor	DIGESTER BASEMENT (SITE 1)	DAFT BASEMENT (SITE 2)	SECONDARY BASEMENT (SITE 3)	DAFT TRUCK BAY (SITE 4)	OLD HEADWORKS BUILDING (SITE 5)	Total
CGRS, Inc.	\$10,880.00	\$34,632.00	\$47,567.00	\$47,306.00	\$30,751.00	\$171,136.00
GSE Construction Company Inc.	\$13,000.00	\$21,000.00	\$38,100.00	\$38,000.00	\$65,400.00	\$175,500.00

EVALUATION TABULATION

IFB No. 24-078

Upgrade of Valves, Chutes, and Gritt Classifier for WRF

DIGESTER BASEMENT (SITE 1)

Digester Basement (Site 1)					CGRS, Inc.		GSE Construction Company Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	1	Cost for Removal of 2 Existing 4" Rosemount Flow Meters	1	Lump Sum	\$4,890.00	\$4,890.00	\$3,900.00	\$3,900.00
X	2	Cost for Installation of 2 New 4" Rosemount Flow Meters (including all work for Site 1 as outlined within this IFB)	1	Lump Sum	\$5,990.00	\$5,990.00	\$9,100.00	\$9,100.00
Total						\$10,880.00		\$13,000.00

DAFT BASEMENT (SITE 2)

DAFT Basement (Site 2)					CGRS, Inc.		GSE Construction Company Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	3	Cost for Removal of 2 Existing 4" Rosemount Flow Meters and Removal of 2 Existing 8" Rosemount Flow Meters	1	Lump Sum	\$16,956.00	\$16,956.00	\$4,400.00	\$4,400.00
X	4	Cost for Installation of 2 New 4" Rosemount Flow Meters and Installation of 2 New 8" Rosemount Flow Meters (including all work for Site 2 as outlined within this IFB)	1	Lump Sum	\$17,676.00	\$17,676.00	\$16,600.00	\$16,600.00
Total						\$34,632.00		\$21,000.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - Upgrade of Valves, Chutes, and Gritt Classifier for WRF

Page 2

EVALUATION TABULATION

IFB No. 24-078

Upgrade of Valves, Chutes, and Gritt Classifier for WRF

SECONDARY BASEMENT (SITE 3)

Secondary Basement (Site 3)					CGRS, Inc.		GSE Construction Company Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	5	Cost for Removal of 1 Existing 24" Rosemount Flow Meter and Removal of 1 Existing 20" Dezuirk Plug Valve	1	Lump Sum	\$14,585.00	\$14,585.00	\$7,200.00	\$7,200.00
X	6	Cost for Installation of 1 New 24" Rosemount Flow Meter and Installation of 1 New 20" Dezuirk Plug Valve (including all work for Site 3 as outlined within this IFB)	1	Lump Sum	\$32,982.00	\$32,982.00	\$30,900.00	\$30,900.00
Total						\$47,567.00		\$38,100.00

DAFT TRUCK BAY (SITE 4)

DAFT Truck Bay (Site 4)					CGRS, Inc.		GSE Construction Company Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	7	Cost of Equipment: New Centrifuge Chutes	4	Each	\$6,643.00	\$26,572.00	\$4,400.00	\$17,600.00
X	8	Cost for Removal of 4 Existing Centrifuge Chutes	1	Lump Sum	\$7,034.00	\$7,034.00	\$3,600.00	\$3,600.00
X	9	Cost for Installation of 4 New Centrifuge Chutes (including all work for Site 4 as outlined within this IFB)	1	Lump Sum	\$13,700.00	\$13,700.00	\$16,800.00	\$16,800.00
Total						\$47,306.00		\$38,000.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - Upgrade of Valves, Chutes, and Gritt Classifier for WRF

Page 3

EVALUATION TABULATION

IFB No. 24-078

Upgrade of Valves, Chutes, and Gritt Classifier for WRF

OLD HEADWORKS BUILDING (SITE 5)

Old Headworks Building (Site 5)					CGRS, Inc.		GSE Construction Company Inc.	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	10	Cost for Removal of Existing Gritt Classifier Screw Conveyor and Cyclone System	1	Lump Sum	\$11,794.00	\$11,794.00	\$11,900.00	\$11,900.00
X	11	Cost for Installation of 1 New Gritt Classifier Screw Conveyor and Cyclone System (including all work for Site 5 as outlined within this IFB)	1	Lump Sum	\$18,957.00	\$18,957.00	\$53,500.00	\$53,500.00
Total						\$30,751.00		\$65,400.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - Upgrade of Valves, Chutes, and Gritt Classifier for WRF

Page 4

EVALUATION TABULATION

IFB No. 24-078

Upgrade of Valves, Chutes, and Gritt Classifier for WRF

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	CGRS, Inc.	GSE Construction Company Inc.
BID GUARANTEE	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass
ACKNOWLEDGEMENTS		
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass
INSURANCE REQUIREMENTS	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass
Has/is this firm or any officer or partner of this firm:		
Convicted of a criminal offense	Pass	Pass
Convicted under state or federal statutes	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass
Failed to perform	Pass	Pass
Suspension or Debarment	Pass	Pass
Unqualified	Pass	Pass
Unlicensed	Pass	Pass
Delinquent	Pass	Pass
Confirmation	Pass	Pass

EVALUATION TABULATION

Public Improvement Invitation for Bid - Upgrade of Valves, Chutes, and Gritt Classifier for WRF

Page 5



Pueblo City Wastewater Treatment Plant

CITY OF PUEBLO SEWER

Stockyard Rd

Stockyard Rd

Stockyard Rd

Booth-Orchard



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 12, 2026

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$20,887.51 FROM THE "2024" PUBLIC WORKS OPERATING BUDGET FOR CONTRACT SERVICES AND BUDGETING AND APPROPRIATING \$20,887.51 INTO PROJECT ACCOUNT CI2210 - PUBLIC WORKS ASSET MANAGEMENT, APPROVING AMENDMENT NO. 4 TO THE MASTER SUBSCRIPTION AGREEMENT IN THE AMOUNT OF \$20,887.51 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BRIGHTLY SOFTWARE, INC., A DELAWARE CORPORATION, FORMERLY DUDE SOLUTIONS, INC., FOR PROJECT NO. 21-041 PUEBLO STREET ASSESSMENT PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

SUMMARY:

This Resolution transfers \$20,887.51 from the "2024" Public Works Operating Budget for Contract Services and budgets and appropriates funds in the amount of \$20,887.51 into Project Account CI2210 - Public Works Asset Management, approves Contract Amendment No. 4 to the Master Subscription Agreement awarded to Brightly Software, Inc., in the amount of \$20,887.51 for Project No. 21-041 Pueblo Street Assessment Project.

PREVIOUS COUNCIL ACTION:

Resolution 14728, dated October 12, 2021, approved a Master Subscription Agreement for Software License with Dude Solutions, Inc., (now Brightly Software, Inc.), for \$162,829.21.

Resolution 14932, dated July 11, 2022, established project CI2210, Public Works Asset Management Project, transferred \$145,000.00 from the Public Works Operating Budget for Contract Services, transferred \$162,829.21 from Project HUAN01 - Street Resurfacing, approved Amendment No. 1 to the Master Subscription Agreement

awarded to Brightly Software, Inc., in the amount of \$144,488.74 for Project No. 21-041 Pueblo Street Assessment Project.

Resolution 15260, dated June 12, 2023, approved Amendment No. 2 to the Master Subscription Agreement awarded to Brightly Software, Inc. for Project No. 21-041 Pueblo Street Assessment Project in the amount of \$90,029.35 adding facility condition assessment and associated services to the contract scope of work.

Resolution 15452, dated December 26, 2023, approved Amendment No. 3 to the Master Subscription Agreement awarded to Brightly Software, Inc. for Project No. 21-041 Pueblo Street Assessment Project in the amount of \$7,097.89.

BACKGROUND:

As the initial step of establishing the Public Works Department's asset management program, the City of Pueblo solicited requests for proposals for contract services to evaluate the City's streets for condition and drivability. Additionally, proposers were requested to recommend a Pavement Management Software solution to assist the City with capital expenditure budgeting and project planning. Dude Solutions, Inc., (now Brightly Software, Inc.), was selected as the lowest, most responsive bid for the software agreement for the street assessment data and was awarded a Master Subscription Agreement. That contract has been amended to provide additional asset management services (including facility condition assessments and other associated services) to

The proposed Amendment No. 4 provides for a modification to the original agreement for additional services to collect energy consumption and billing data for utilities that provide services to City-owned facilities, providing energy analysis tools to identify energy/cost-saving opportunities and facilitating . square feet of City-owned facilities. This Resolution transfers the funds from the Public Works operating budget for the additional contract services.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$20,887.51 shall be transferred from the "2024" Public Works operating budget for contract services (10140103 53003) to Public Works Asset Management Project Account CI2210.

Funding in the amount of \$20,887.51 will be paid from account CI2210, Public Works Asset Management Project.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution will prevent the City from acquiring the additional services.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15724

A RESOLUTION TRANSFERRING FUNDS IN THE AMOUNT OF \$20,887.51 FROM THE "2024" PUBLIC WORKS OPERATING BUDGET FOR CONTRACT SERVICES AND BUDGETING AND APPROPRIATING \$20,887.51 INTO PROJECT ACCOUNT CI2210 - PUBLIC WORKS ASSET MANAGEMENT, APPROVING AMENDMENT NO. 4 TO THE MASTER SUBSCRIPTION AGREEMENT IN THE AMOUNT OF \$20,887.51 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BRIGHTLY SOFTWARE, INC., A DELAWARE CORPORATION, FORMERLY DUDE SOLUTIONS, INC., FOR PROJECT NO. 21-041 PUEBLO STREET ASSESSMENT PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

WHEREAS, Project No. 21-041, Pueblo Street Assessment Project was awarded to Dude Solutions, Inc., (now Brightly Software, Inc.), on October 12, 2021;

WHEREAS, Amendment No. 1 to the Master Services Agreement was approved on July 11, 2022;

WHEREAS, Amendment No. 2 to the Master Services Agreement was approved on June 12, 2023;

WHEREAS, Amendment No. 3 to the Master Services Agreement was approved on December 26, 2023; and,

WHEREAS, the City of Pueblo and Brightly Software, Inc., (formerly Dude Solutions, Inc.), desire to modify the Agreement to provide additional services to the City; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of \$20,887.51 shall be transferred from the "2024" Public Works Operating Budget, Contract Services (10140103 53003), to Project Account CI2210, Public Works Asset Management.

SECTION 2.

Amendment No. 4 (the "Amendment"), by and between the City of Pueblo, a Colorado Municipal Corporation, and Brightly Software, Inc., a Delaware corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by the Amendment to be performed in the amount of \$20,887.51.

SECTION 3.

Funds in the amount of \$20,887.51 for said shall be paid from Project No. CI2210 – Public Works Asset Management.

SECTION 4.

The Purchasing Agent is hereby authorized to execute said Amendment on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Resolution and the attached Amendment to implement the policies and procedures described herein.

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Iliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

**DRAFT AMENDMENT NO. 4 TO THE MASTER SUBSCRIPTION
AGREEMENT
BY AND BETWEEN THE
CITY OF PUEBLO AND BRIGHTLY SOFTWARE, INC.**

This Amendment No. 4 to the Master Subscription Agreement (“Amendment”) is executed and to be effective as of the _____ day of _____, 20____ by and between the City of Pueblo, Colorado, a Colorado Municipal Corporation (hereafter referenced as “Subscriber”) and Brightly Software, Inc., a Delaware Corporation registered to do business in the State of Colorado, formerly Dude Solutions, Inc. (hereafter referenced as “Brightly”). Subscriber and Brightly are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

WHEREAS, Subscriber and Brightly entered into that certain Master Subscription Agreement dated the 27th day of October, 2021 (the “Agreement”) for Bid 21-041B RFP - Contracting Services for City of Pueblo Street Assessment Project - Software; and

WHEREAS, Subscriber and Brightly desire to modify the Agreement pursuant to the provisions set forth herein;

WHEREAS, to the extent professional services are included in this Amendment, the Professional Services Addendum (“PSA”) attached hereto as Exhibit B is expressly incorporated herein by reference.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises set forth herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Subscriber and Brightly hereby agree to the following:

AGREEMENT

1. The Agreement documents shall be amended to add services (“Additional Services”), to include, but not limited to, implementation services for Energy Manager (energy management software). Brightly shall commence and satisfactorily complete work for the Additional Services according to the Proposal Q-334950 dated August 7, 2024, attached hereto and incorporated herein as Exhibit A, including its responsibilities under the Agreement, and all documentation provided to Subscriber detailing the products, services, and their functions. The Additional Services shall include all usual and customary professional consulting services in connection with Brightly’s work.
2. Exhibit A to this Amendment No. 4 outlines the professional services fee schedule for aggregate compensation payable to Brightly for the Additional Services and items, and shall not exceed the maximum amount of \$20,887.51, as set forth in Exhibit A. No compensation shall be paid to Brightly for services required and expenditures incurred in correcting Brightly’s mistakes or negligence.
3. Brightly shall be responsible for the professional quality, technical accuracy, and timely completion of Brightly’s work, including that performed by Brightly’s subconsultants and subcontractors, and including reports and other services.

4. Subject to the Colorado Governmental Immunity Act (CGIA), Brightly shall be responsible for the safety of Brightly's employees in the execution of work under the Agreement and shall provide all necessary safety and protective equipment for said employees, if any.
5. Section 8.2 of the PSA is hereby deleted in its entirety and is of no effect with respect to the Additional Services, this Amendment, and the Agreement.
6. Section 2.2 of the PSA is hereby deleted in its entirety and replaced with the following language:

2.2 Incidental Expenses. If stated in an applicable Order, Subscriber will reimburse Company for travel and related business expenses incurred in connection with Professional Services. If an estimate of incidental expenses is included in the applicable SOW or Order Form, Company will not exceed a 3% inflation of such estimate without the written consent of Subscriber. Should Company not obtain Subscriber's prior written approval for any travel and related business expenses not included in the applicable Order, Subscriber shall not have to pay any associated cost. (Replace references above for Subscriber as "City"; Company as "Brightly".)
7. Before undertaking any work or incurring any expense which Brightly considers beyond or in addition to that described in Exhibit A or otherwise contemplated by the terms of the Agreement or this Amendment, Brightly shall advise Subscriber in writing that (i) Brightly considers the work beyond the scope of the Agreement, (ii) the reasons that Brightly believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Brightly shall not proceed with any out of scope or additional work until authorized in writing by Subscriber. The compensation for such authorized work shall be negotiated. Unauthorized work shall not be compensated.
8. Subscriber Data, Subscriber Content, and Deliverables, (as defined in accordance with the Agreement) prepared or provided by Brightly pursuant to this Amendment shall become the sole property of Subscriber solely for its internal business purposes associated with its use of Company's Services, and Subscriber shall be vested with all rights therein of whatever kind or nature and however created, whether by common law, statute, or equity. Subscriber shall have access at all reasonable times to Subscriber Data, Subscriber Content, and Deliverables and make copies of all notes, plans, reports, and all other data or other documents pertaining to the Deliverables under this Amendment.
9. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
10. Except as expressly modified by this Amendment, the Agreement shall remain in full force and effect. Except as modified by this Amendment, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment.

11. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document with the same effect as if all Parties had signed the same original. The Parties further agree that transmission of this Amendment by any electronic format, telecopy or via email in a PDF format, shall be deemed transmission of the original Amendment for all purposes. Electronic signatures shall be deemed valid and binding to the same extent as the original.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

BRIGHTLY SOFTWARE, INC.

By _____
Naomi Hedden, Director of Purchasing

By _____
Brian Benfer, Senior Vice President of Sales

Attest _____
Marisa Stoller, City Clerk

By _____
Mike Knox, Vice President of Sales

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Danny Nunn, Interim Finance Director

APPROVED AS TO FORM

Elizabeth Sexton Drake, Assistant City Attorney

Attachments: Exhibit A
Exhibit B
Additional Information for Amendment

Exhibit A

Brightly Solutions Proposal Q-334950 dated August 7, 2024, pages 2 - 16

Sourcewell/NJPA purchasing contract

- <https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents> (<https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents>).
- Contract #090320-SDI

Subscription Term: 4 months (09/01/2024 - 12/31/2024)

Cloud Services				
Item	Start Date	End Date	Pricing Based On	Investment
Energy Manager Professional	9/1/2024	12/31/2024	100.00 Facilities	2,464.46 USD
				Subtotal: 2,464.46 USD
Managed Services				
Item	Start Date	End Date	Pricing Based On	Investment
Utility Bill Population	9/1/2024	12/31/2024	300.00 Accounts	4,728.80 USD
				Subtotal: 4,728.80 USD
Professional Services				
Item			Pricing Based On	Investment
Energy Manager Implementation			100.00 Facilities	4,061.25 USD
Utility Bill Population Implementation			300.00 Accounts	8,806.50 USD
				Subtotal: 13,694.25 USD

Professional Services		
Item	Pricing Based On	Investment
ESTAR Sync Setup	10.00 Facilities	826.50 USD
		Subtotal: 13,694.25 USD
Total Initial Investment		20,887.51 USD

Pricing for the First Renewal Services Term is \$21,579.78 USD

Note: First Renewal Services Term not awarded by this Amendment No. 4; included for future consideration only.

Energy Manager Implementation Statement of Work

Summary:

Company will provide implementation services to Subscriber to implement EM (Energy Manager), an energy management software that empowers facility and energy managers alike to identify utility waste, better prioritize action and make smarter operational decisions with centralized management of utilities. This 60-day implementation service includes access to Company's on-line Learning Management System (LMS), dedicated implementation resources, data loading assistance, and implementation guidance as Subscriber configures their account and train users.

In Scope:

The Deliverables below will be considered in scope of this SOW:

1. EM Implementation
2. EM Training

Deliverables:

- Project Kick-Off Call
- Access to Financial Force Community project collaboration tool
- Standard database configuration imports using data input templates and utility bill copies
- One-on-one database configuration guidance by dedicated Implementation Specialist
- Training on best practices and content
- Unlimited access to LMS and on-line help content (during and after implementation)

Acceptance Process:

As each deliverable is completed, the Company Project Coordinator will confirm with the Subscriber and document acceptance in the Project Community Portal. Once the last deliverable has been completed, the service will be deemed delivered in full and the implementation project closed.

- Project initiation
 - Kickoff call complete
 - Data, configuration, and training requirements provided
- Account Setup and Configuration
 - Facility, vendor, account, meter and bill data has been setup and configured based on provided data
- Bill Entry
 - Subscriber has been trained on bill entry
- User Acceptance Testing& End User Training

- System walk-through complete and end users have received training on Energy Manager

Assumptions:

Company Assumptions:

- Company will not access any 3rd party systems for the purpose of exporting data.
- Any services not explicitly included in this SOW are assumed to be out of scope and quoted separately.

Subscriber Assumptions:

- There will be a single point of contact/project manager for the duration of the project.
- IT department is responsible for ensuring access to mobile devices, internet connections, email access, and web link access to the software such as white listing IP addresses.
- For onsite activities, Subscriber will provide a dedicated space with adequate technology, including but not limited to monitor/projector, computers, mobile devices, quality phone and internet connections.
- Subscriber will be responsible for providing facility, vendor, account, and meter data in data input templates provided.
- If Subscriber is unable to provide data within 60 days of project kick-off call, the Subscriber will be responsible for manually adding data into Energy Manager.
- If Subscriber is unable to provide data in the data input templates provided, additional services can be purchased.
- Subscriber will responsibility for providing one utility bill per vendor within 60 days. If Subscriber does not provide utility bills, Subscriber will be responsibility for setting up bill line items in Energy Manager.
- Subscriber has up to (5) business days to confirm deliverable acceptance. No response will be interpreted as acceptance.

Project schedule and approach:

- Kick-off Call with Project Coordinator
 - Confirm software and services purchased
 - Introductions – Project Roles and Responsibilities
 - Overview of implementation process and tools and data import templates
 - Schedule key milestone dates, including anticipated project completion date
 - Access to Company's on-line Learning Management System
 - Access to project plan on interactive project plan
- Account Setup and Configuration
 - Subscriber attends Energy Manager Introduction virtual classroom training or review equivalent help content to understand basic navigation and configuration requirements
 - Subscriber compiles facility, vendor, account and meter data in specified data input format and utility bills copies
 - Initial data review call with Implementation Specialist
 - Company will configure system settings, facilities, vendors, accounts, meters, and bill line items.

- Bill Entry
 - Subscriber will attend Bill Entry virtual classroom training or review equivalent help content
 - Subscriber enters utility bills into Energy Manager based on bill line items set up by Implementation Specialist
 - Subscriber to connect with Implementation Specialist within 60-day period on account configuration and bill entry questions
- Use Case Testing and User Training
 - Implementation Specialist will perform use case testing to ensure solution readiness and run reports in Energy Manager to confirm data is consistent
 - Have representatives from various user roles login to confirm they can execute job functions as expected
 - Confirm users can access Energy Manager and perform expected job functions
 - End-user walkthrough and training
- Project Close

Sample Project Timeline (project timelines may vary):

Phase	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8
Project Kickoff								
Account Setup & Configuration								
Bill Configuration & Entry								
Use Case Testing & User Training								
Project Close								

Change Management:

Subscriber may request that the Company add services not in the specifications by submitting a written proposed change order to the Company. Submitted change requests will be reviewed for approval. Approved change orders will become part of the applicable SOW when executed by both Parties, and the services described therein will become part of the services.

Invoicing:

The Project Close phase and closure of the implementation milestone will trigger billing for the implementation services.

Energy Manager – New ENERGY STAR Portfolio Manager Account Sync Setup Service

- City Of Pueblo provides information for the person that will be the Administrator of the Portfolio Manager account.
- Company creates the new ENERGY STAR Portfolio Manager account.
- City Of Pueblo collects and inputs facility attributes and space uses/types via Company Energy Manager's ENERGY STAR module. This will identify facilities and meters to establish in ENERGY STAR's Portfolio Manager account for City Of Pueblo and will enable synchronization of data beginning upon the first Meter Data upload.
- City Of Pueblo uploads historical and/or current meter data to Portfolio Manager using the Energy Manager's ENERGY STAR module.

Energy Manager – Existing ENERGY STAR Portfolio Manager Account Sync Setup Service

- City Of Pueblo provides login credentials for their existing Portfolio Manager account to Company.
- Company shares (with exchange privileges) [CLIENT NAME's] Portfolio Manager properties with the Energy Manager's Portfolio Manager account.
- Company synchronizes the Portfolio Manager account for City Of Pueblo with their Energy Manager account.
- Company maps Portfolio Manager properties for City Of Pueblo to their Energy Manager facilities.
- Company uploads historical meter data to Portfolio Manager Account for City Of Pueblo for ENERGY STAR rating calculation metrics moving forward.
 - Note: Existing meter data is moved to the "not used in metrics" category, which can be accessed for reference.
- City Of Pueblo maintains their Portfolio Manager Account thru the Energy Manager's ENERGY STAR module.

Energy Manager – Utility Bill Import Setup Service

- Company designs, constructs and tests the file format(s) for use in importing energy data.
- After completion of the import format, the importing of utility bill invoice data into Energy Manager will be performed by City Of Pueblo.
- City Of Pueblo will be responsible for verifying and importing cost, consumption, accuracy and/or the appropriateness of invoice data provided by the utility provider or client.

Utility Bill Population and Historical UBP – Standard Implementation Statement of Work

Purpose

Brightly (Company) Utility Bill Population Standard Implementation is designed to provide our clients with guidance by experienced subject matter experts to ensure an effective and efficient implementation and a faster ROI. With over 12,000 clients successfully using our software, we understand what it takes to successfully implement your solution and look forward to working with you through our Standard Implementation service.

Value

By partnering with Brightly and taking advantage of our Standard Implementation Service, you are provided expert guidance in the best practice enrollment of the Utility Bill Population service (Historical and/or Ongoing) in conjunction with your Energy Manager database.

By following our focused project plan, you will experience faster time to value with utility bill data populating into your Energy Manager database. Our approach streamlines the enrollment process and empowers the Client Project Lead to fully own and operationalize Energy Manager with historical and/or current, ongoing utility bill data quickly within their organization. The sooner your login credentials are validated and/or utility bills are uploaded to your folder, the sooner data will come in to the database.

Any changes to this statement of work shall be handled through project change controls.

Deliverables

- Project Kick-Off Call
- Access to Financial Force Community project collaboration tool
- Final utility bill population configuration supported by 1-on-1 bill acquisition and enrollment guidance
- Go-live support during enrollment and launch
- Unlimited access to Help Site, Virtual Classroom Trainings, and Best Practice webinars with office hours during and after project
- Support resources are available for technical assistance by Phone and Email between 8am – 6pm EST, Monday - Friday
 - Phone: 1-877-655- 3833
 - Email: energy.support@brightlysoftware.com

Methodology and Approach

Brightly understands the importance of moving quickly to be able to configure a new system and drive adoption within your organization to facilitate a smooth transition from your current system to Energy Manager. Your Standard Utility Bill Population Implementation will begin with a Kickoff Call with one of our Implementation Specialists. From there, an Implementation Specialist will guide and assist you through the enrollment. Below is a summary of the standard implementation process.

Standard Implementation for Historical and Ongoing Utility Bill Population Service

Your implementation team will be here to assist you during the duration, beginning with the Kick-Off Call.

PHASE	Project Kick Off	Responsible Party
Kick Off	Kickoff Call with Implementation Specialist. (Concurrent with Energy Manager) Agenda: • Introductions – Project Roles and Responsibilities • Overview of Implementation Process and Tools • Discuss Current Processes and Goals • Review Basecamp and Resources • Review Utility Bill Population Spreadsheet • Determine Timeline and Next Steps	Implementation Specialist Key Client Personnel (Client Project Lead, other major stake holders)
	Utility Account Enrollment	
Account and Bill Gathering	• Client fills out the Utility Bill Population Spreadsheet: • Enter Vendor Name for Each Account to be Enrolled in UBP Service • Enter Utility Bill Account Numbers to be Enrolled in UBP Service • Enter the Vendor Websites where bills are to be gathered • Enter User Name for Vendor Websites where bills are to be gathered • Enter Passwords for Vendor Websites where bills are to be gathered • If bills cannot be gathered online, client must indicate that clean PDF bills will be supplied. • Client will be given a secure ShareFile link where PDF bills can be uploaded by the client for processing and import into Energy Manager. • Implementation Specialist will review Utility Bill Population Spreadsheet with the client and discuss any issues that would prohibit enrollment and population of bills. • Implementation Specialist will work with data vendors to conduct preliminary enrollment and identify issues with selected accounts. • Implementation Specialist will advise client of any enrollment issues identified, make changes as needed, and will produce a final Utility Bill Population spreadsheet. • Client approves final Utility Bill Population spreadsheet and provides final validation of accounts to be enrolled after which modifications to accounts or enrollments will be handled through the change control process.	Client Project Lead Implementation Specialist
	Utility Account Enrollment	

Enrollment and Post Enrollment	- Implementation Specialist will formally enroll vendors with bills available online with the Utility Bill Population service. - Implementation Specialist will formally enroll vendors with PDF copies of bills with the Utility Bill Population service. - If sub-accounts are identified during enrollment that add to the total number of accounts then a re-scoping and re-pricing exercise might be necessary to finalize the number of accounts. - Implementation Specialist will coordinate with the Energy Data Team on any issues that arise during bill retrieval or population - Implementation Specialist will work with client to resolve issues as needed. - Client may connect with Implementation Specialist on enrollment progress.	Client Project Lead Implementation Specialist
	Utility Bill Population	
Bill Population	- Energy Data Team will import utility bill data into the client's database as it is made available by the utility vendors received for historical and/or ongoing population within 20 business days for historical bill data and 10 business days for ongoing bill data from being posted by vendor. - Energy Data Team will import utility bill data into the client's database as it is made available by the client for historical and/or ongoing population within 30 business days for historical bill data and 10 business days for ongoing bill data from being posted to ShareFile by the client. - Energy Data Team will work to resolve any issues that arise during import of historical or ongoing utility bill population.	Client Project Lead Energy Data Team
	Support: Utility Bill Population (Post Implementation)	
Utility Bill Population Enrollment Completion and Ongoing Support	- Confirm goals defined during Kickoff Call have been met - Client will contact the Company, Inc. Legendary Support Team if bill data is missing or imported incorrectly through phone or email. - Company Support by Phone: 1-877-655-3833 - Company Support by Email: energy.support@brightlysoftware.com	Client Project Lead Implementation Specialist

Special Conditions for Utility Bill Population

The Utility Bill Population Service is subject to additional terms that include the following:

- Login Requirements:** The client must provide usernames, passwords and billing statements for utility accounts.
- UBP Agreement Term:** The term of this agreement is to exist and continue for one year which is to

begin at the date of the acceptance of this proposal.

- **Invoice:** The invoice is sent when the Utility Bill Population service is launched and the support phase of the process is started.
- **Automatic Renewal:** Automatic invoicing of annual fee will occur at the end of each term unless request for non-renewal is received in writing 45 days prior to renewal date.
- **Termination:** Notwithstanding any other provision to the contrary, this agreement can only be terminated for cause during the Term of this agreement.
- **Additional Accounts:** Additional accounts beyond those documented in this proposal can be set up by contacting the Company Client Service Center and are subject to additional set-up charges and renewal amounts.
- **Refunds:** The purchase price for this service is due upon acceptance and is non-refundable.
- **Cancellation:** If payment is not received prior to renewal date, service will be cancelled.

Responsibilities and Assumptions

- **Client Resource Availability:** The client will schedule time for the appropriate resources to be available to the Implementation Specialist for all scheduled required activity. The success of this process is dependent on the attendance and full engagement of the key stakeholders.
- **Online Access:** The client will need to provide Company authorization via login names and passwords to your utility providers' websites in order to access, process, and enter bills that are available online.
- **Softcopy Bills:** It is client's responsibility to provide legible PDF softcopies for all utility bills without online access for any utility providers and associated accounts that the client wishes to have included in the Utility Bill Population service. This will allow Company to retrieve current utility bill data so that data can be populated in the software solution for the corresponding accounts on a monthly basis. We can furnish a guide that outlines the scanning and PDF requirements that should be followed when this service is purchased.
- **Accuracy and Availability:** It is the client's responsibility to contact their utility providers regarding missing or inaccurate utility bill data for accounts included in the Utility Bill Population. Company is responsible for accurate and timely entry of utility bill data into the corresponding Energy Manager account.
- **Line Items:** Company has designed the Utility Bill Population Service to capture specific line items from the bills based on the specific utility type. This is a standard list that can be provided and shows which lines items we track.
- **Utility Bill Population Import Template:** As part of the service, Company will add a bill import template called "Utility Bill Population Import" or similar. It will contain the columns and tags needed in order to provide the UBP Service each month.
- **Historical Utility Bill Population:** The same authorization is needed as the ongoing Utility Bill Population service if Company is going to be accessing historical bill data online. You may also provide legible, electronic PDF file copies of utility bills that are historical in nature to build out the requested historical data in Energy Manager if they are not available to be gathered online. Most utility companies have between 18 – 24 months of historical bills, but it will vary per vendor.
- **Working with Utility Companies:** In most cases, Company is not able to work directly with your Utility Companies to obtain bills or other information. In limited circumstances, we can work directly with Utility Companies; however, this can incur additional costs and must be specifically included in the proposed services. This also often extends the timeline to deliver populated data because Utility Companies are often slow to respond to non-customer requests. If Company includes working with your

vendors as part of our proposed services, due to privacy policies and best practices, Utility Companies often ask for a Letter of Authorization from their customers in order to talk with a 3rd Party, such as Company. These letters only authorize Company to make inquiries about our clients' accounts and bills, and does not usually mean full access to online accounts and bills. We still need our clients to provide bills either through online login credentials that can access bills and/or PDF copies.

Change Controls

- After the Utility Account Enrollment phase is complete and bill population has begun, any changes to enrolled accounts, facilities, or other data configuration changes need to be directed to Company Support and might require a re-scoping and re-pricing exercise.
- Parties may agree to modify the Services through a written change order specifically referencing this applicable Statement of Work. Such change order will become part of the applicable Statement of Work when executed by both Parties, and the services described therein will become part of the Services.
- You may request that Company add services not in the Specifications by submitting a written proposed change order to Company. Such change order will become part of the applicable Statement of Work when executed by both Parties, and the services described therein will become part of the Services.

Project Terms and Conditions

This Statement of Work ("SOW") is entered into by and between Brightly, Inc. ("Company") and #OrganizationName# pursuant to and subject to the project terms and conditions ("Project Terms and Conditions") specified below.

Acceptance of this SOW on behalf of a company or legal entity represents that you have authority to bind such entity and its affiliates to the order, terms and conditions herein. If you do not have such authority, or you do not agree with the Terms set forth herein, you must not accept this SOW and may not use the Service.

In addition, the terms of the Company Master Subscription Agreement, found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) ("Terms"), shall govern the Services, unless Subscriber has a separate written agreement executed by Brightly, Inc. ("Company") for the Services, in which case the separate written agreement will govern. The terms of the SOW shall take precedence in the event of a conflict between the Terms and the Project Terms and Conditions. Acceptance by electronic signature is considered a valid and legally binding form of receipt.

Company reserves the right to require that overdue Client accounts be paid to current for all prior Company completed projects before a new SOW can be executed.

SOW must be accepted and signed by Client within 60 days, after which Company reserves the right to adjust or requote the engagement.

The term of this SOW shall be effective and binding and commence on the date signed by Client and shall terminate as provided herein or upon written acceptance of the work performed with final payment received.

Order terms

BY SIGNING THIS ORDER FORM, WHETHER BY ELECTRONIC OR WRITTEN SIGNATURE, YOU ARE PLACING A BINDING ORDER FOR THE OFFERINGS SHOWN. IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN, THE INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE OFFERINGS.

- The "Effective Date" of the Agreement between Customer and Brightly Software, a Siemens Company ("Siemens") is the date Customer accepts this Order
- Proposal expires in sixty (60) days.
- The Siemens entity entering into this Agreement is Brightly Software, Inc., a Delaware corporation, and the notice address shall be Corporate Trust Center, 1209 Orange Street, Wilmington, DE 19801 USA, Attn: Brightly Software.
- By accepting this Order, and notwithstanding anything to the contrary in any other purchasing agreement, Customer agrees to pay all relevant Subscription Fees for the full Subscription Term defined above.
- Payment terms: Net 30
- This Order and its Offerings will be subject to the terms and conditions of the Terms of Service (the Base Terms together with any applicable Supplemental Terms) found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) ("Agreement"), unless Customer has a separate written agreement executed by Brightly Software, Inc. for the Offerings, in which case the separate written agreement will govern its defined Term. Acceptance is expressly limited to the terms of the Agreement. No other terms and conditions will apply. The terms of any purchase order or other document from Customer are excluded and such terms will not apply to the Order and will not supplement or modify the Agreement irrespective of any language to the contrary in such document.
- Siemens shall invoice Customer and Customer agrees to pay Siemens the amount specified on this Order. Quantities purchased may not be decreased during the relevant Subscription Term. Customer is responsible for providing complete and accurate billing and contact information to Siemens and notifying Siemens promptly of any changes to such information.
- If Customer is paying by credit card or Automated Clearing House ("ACH"), Customer shall establish and maintain valid and updated credit card information or a valid ACH auto debit account (in each case, the "Automatic Payment Method"). Upon establishment of such Automatic Payment Method, Siemens is hereby authorized to charge any applicable Subscription Fee using such Automatic Payment Method.
- Customer is responsible for paying all taxes associated with its purchases hereunder. Siemens shall invoice Customer and Customer shall pay that amount unless Customer provides Siemens with a valid tax exemption certificate, direct pay permit, or other government-approved documentation. Notwithstanding the foregoing, Customer is responsible for, and, to the extent permitted by law, will indemnify Siemens for: 1) any encumbrance, fine, penalty or other expense which Siemens may incur as a result of Customer's failure to pay any taxes required hereunder, and 2) any taxes, including

withholding taxes, resulting from making an Offering available to Users in geographic locations outside the country in which Customer is located as per the Order. For clarity, Siemens is solely responsible for taxes assessable against Siemens based on its income, property and employees.

- Siemens maintains the right to increase fees within the Subscription Term for Recurring Fee Offerings by an amount not to exceed the greater of prices shown in the investment table or the applicable CPI and other applicable fees and charges every 12 months. Any additional or renewal Subscription Terms will be charged at the then-current rate.
- In the event Customer purchases the Cloud Services (including any renewals thereof) through an authorized reseller of Siemens, the terms and conditions of this Agreement shall apply and supersede any other agreement except for any terms and conditions related to fees, payment or taxes. Such terms and conditions shall be negotiated solely by and between Customer and such authorized reseller. In the event Customer ceases to pay the reseller, or terminates its agreement with the reseller, Siemens shall have the right to terminate Customer's access to the Cloud Services at any time upon thirty (30) days' notice to Customer unless Customer and Siemens have agreed otherwise in writing.
- Where the Customer is a public entity ("Public Entity Customer"), Public Entity Customer shall use reasonable efforts to obtain appropriation in the full amount required under this Order annually. If the Public Entity Customer fails to appropriate funds sufficient to maintain the Offerings described in this Order, then the Public Entity Customer may terminate the Offerings at no additional cost or penalty by giving prior written notice documenting such non-appropriation. Public Entity Customer shall use reasonable efforts to provide at least thirty (30) days prior written notice of non-appropriation. Public Entity Customer agrees non-appropriation is not a substitute for termination for convenience, and further agrees Offerings terminated for non-appropriation may not be replaced with functionally similar products or services prior to the expiration of the Services Term set forth in this Order. Public Entity Customer will not be entitled to a refund or offset of previously paid, but unused Fees

Cloud Services

- Billing frequency: Annual
- Cloud Services Offerings will be subject to the terms and conditions of the General Software and Cloud Supplemental Terms found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) .
- Any Offerings identified as Cloud Services on this Order shall automatically renew for additional periods equal to the expiring Subscription Term or one year, whichever is longer, unless either party has provided written notice of its intent to terminate the Cloud Service subscription not less than forty-five (45) days prior to the expiration of the then-current Subscription Term.
- During the Term, Siemens shall, as part of Customer's Subscription Fees, provide telephone and email support ("Support Services") during the hours of 8:00 AM and 6:00 PM EST, Monday through Friday ("Business Hours"), excluding holidays.
- Siemens shall use commercially reasonable efforts to make its Software or Cloud Service available 99.9% of the time for each full calendar month during the Subscription Term, determined on twenty-four (24) hours a day, seven (7) days a week basis (the "Service Standard"). The Service Standard availability for access and use by Customer(s) excludes unavailability when due to: (a) any access to or use of the Cloud Service by Customer or any Account User that does not strictly comply with the terms of the Agreement or the Documentation; (b) any failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under the Agreement; (c) Customer's or its

Account User's Internet connectivity; (d) any Force Majeure Event; (e) any failure, interruption, outage, or other problem with internet service or non-Cloud Service; (f) Scheduled Downtime; or (g) any disabling, suspension, or termination of the Cloud Service by Siemens pursuant to the terms of the Agreement. "Scheduled Downtime" means, with respect to any applicable Cloud Service, the total amount of time (measured in minutes) during an applicable calendar month when such Cloud Service is unavailable for the majority of Customer's Account Users due to planned Cloud Service maintenance. To the extent reasonably practicable, Siemens shall use reasonable efforts to provide eight (8) hours prior notice of Cloud Service maintenance events and schedule such Cloud Service maintenance events outside the applicable business hours.

- Siemens reserves the right to block IP addresses originating a Denial of Service (DoS) attack. Siemens shall notify Customer should this condition exist and inform Customer of its action. Once blocked, an IP address shall not be able to access the Cloud Service and the block may be removed once Customer is satisfied corrective action has taken place to resolve the issue. Siemens also reserves the right to suspend or terminate service if Customer: 1) performs load tests, network scans, penetration tests, ethical hacks or any other security auditing procedure on the Cloud Service, 2) interferes with or disrupts the integrity or performance of the Cloud Service or data contained therein, or 3) otherwise violates the use restrictions under this Agreement.

Managed Services

- Billing frequency: Annual
- Managed Services Offerings will be subject to the terms and conditions of the Services Supplemental Terms found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) .
- Any Offerings identified as Managed Services on this Order shall automatically renew for additional periods equal to the expiring Subscription Term or one year, whichever is longer, unless either party has provided written notice of its intent to terminate the Managed Service subscription not less than forty-five (45) days prior to the expiration of the then-current Subscription Term.

Professional Services:

- Professional Services Offerings will be subject to the terms and conditions of the Services Supplemental Terms found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>).
- Unless otherwise specified in an applicable Order: (i) Siemens will perform the Professional Services during workdays, Monday through Friday, up to 8 hours a day; (ii) any estimate of hours or costs are reasonable, good faith estimates only; and (iii) each task is performed as firm fixed price work or time and materials as described in this Order. Siemens is only obliged to supply Professional Services and/or Deliverables as expressly stated in this Order. Siemens shall not be obliged to supply any Professional Services and/or Deliverables without a valid Order.
- **Scheduling.** Siemens requires at least 6 weeks advanced notice from the acceptance of an Order to schedule Professional Services delivery dates when travel is required. Onsite Professional Services shall be delivered consecutively in a single onsite visit unless the applicable Order includes the additional fees and incidental expenses associated with multiple visits.
- **Unused Professional Services.** Unless otherwise specified in the Order, Siemens reserves the right to expire any unused Professional Services 6 months from the Effective Date set forth on the Order, and Customer will not be entitled to receive a refund for any fees prepaid for such expired Professional Services.

- **Customer Cooperation.** Customer will cooperate reasonably and in good faith with Siemens in its performance of Professional Services by: (i) providing access to any necessary Customer Data, (ii) allocating sufficient resources and timely performing any tasks reasonably necessary to enable Siemens to perform its obligations under the Order, and (iii) actively participate in scheduled project meetings. Any delays in the performance of Professional Services or delivery of Deliverables caused by Customer may result in additional applicable charges for resource time.
- **Incidental Expenses.** Customer will reimburse Siemens for travel and related business expenses incurred in connection with Professional Services. If an estimate of incidental expenses is included in the Order, Siemens will not exceed a 5% inflation of such estimate without the written consent of Customer.

Special Terms

- Customer hereby authorizes Siemens and its service provider to use Customer's credentials to access Customer utility account information and use the utility information in connection with the Offerings and to utilize the information for any purpose permitted by law.

Additional information

- Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer. Tax exemption certifications can be sent to accountsreceivable@brightlysoftware.com (<mailto:accountsreceivable@brightlysoftware.com>).
- Billing frequency other than annual is subject to additional processing fees.
- Provide Siemens with the purchase order number, if applicable. Acceptance of this Order without a purchase order number indicates that a purchase order is not necessary. Please reference Q-334950 on any applicable purchase order and email to Purchaseorders@Brightlysoftware.com (<mailto:Purchaseorders@Brightlysoftware.com>)
- Brightly Software, Inc. can provide evidence of insurance upon request.

Exhibit B

Professional Services Addendum

THIS PROFESSIONAL SERVICES ADDENDUM ("Addendum") is an addendum to the Master Subscription Agreement (the "Agreement") between Brightly Software ("Company") and Subscriber, as defined in the Agreement. This Addendum applies to the extent that Subscriber and Company execute an Order Form that includes a Statement of Work ("SOW") for the provision of Professional Services to be provided by Company for Subscriber.

BY ACCEPTING THIS ADDENDUM, EITHER BY CLICKING A BOX INDICATING ACCEPTANCE, BY RESELLER PURCHASE, BY EXECUTING AN ORDER FORM THAT REFERENCES THIS ADDENDUM OR BY OTHERWISE ACCESSING AND USING THE PROFESSIONAL SERVICES, SUBSCRIBER AGREES TO THE TERMS OF THIS AGREEMENT. AS A RESULT, PLEASE READ ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY.

1. PROFESSIONAL SERVICES.

1.1 Scope. Company will provide such Professional Services and supply Deliverables to Subscriber in accordance with the terms of the Agreement and all applicable SOWs or Order Forms. Unless otherwise specified in an applicable SOW or Order Form: (i) Company will perform the Professional Services during workdays, Monday through Friday, up to 8 hours a day; (ii) any estimate of hours or costs are reasonable, good faith estimates only; and (iii) each task is performed as firm fixed price work or time and materials. Company is only obliged to supply Professional Services as expressly stated in the SOW and shall not be obliged to supply any Professional Services and/or Deliverables until both Parties have approved the applicable SOW.

1.2 Scheduling. Company requires at least 6 weeks advanced notice from the acceptance of an Order Form or reseller purchase to schedule Professional Services delivery dates when travel is required. Onsite Professional Services shall be delivered consecutively in a single onsite visit unless the applicable Order Form or reseller purchase includes the additional fees and incidental expenses associated with multiple visits.

1.3 Unused Professional Services. Unless otherwise specified in the applicable SOW, any unused order for Professional Services will expire 6 months from the date of order, and Subscriber will not be entitled to receive a refund for any fees prepaid for such expired Professional Services.

1.4 Relationship to Other Services. The Addendum is limited to Professional Services and does not convey any right to use any other Company Services. Subscriber agrees that Professional Services is not contingent on the delivery of any future Service functionality or features other than Deliverables,, or on any oral or written public comments by Company regarding future Service functionality or features.

1.5 Subscriber Cooperation. Subscriber will cooperate reasonably and in good faith with Company in its performance of Professional Services by: (i) providing access to Subscriber Data, (ii) allocating sufficient resources and timely performing any tasks reasonably necessary to enable Company to perform its obligations under the SOW or Order Form, and (iii) actively participate in scheduled project meetings. Any delays in the performance of Professional Services or delivery of Deliverables caused by Subscriber may result in additional applicable charges for resource time.

1.6 Acceptance. Any Deliverables are stated in the SOW or Order Form. Unless otherwise specified in the applicable SOW, Deliverables will be considered accepted upon Subscriber's written notice thereof (e-mail is sufficient) or two (2) business days from delivery whichever is sooner, provided Subscriber's rejection is limited to failure to materially conform to the SOW's specifications. An effective notice of rejection must specifically disclose the material failure to conform to its specifications. In response to rejection, Company may revise and redeliver the Deliverable, and thereafter the procedures of this Section will repeat.

1.7 Change Order. Changes to Professional Service defined in an Order Form, SOW or reseller purchase, shall require a written Change Order signed by the parties prior to implementation of such change(s). Changes may include, for example, alterations to the Professional Service scope of work, Deliverables or changes to fees or schedule.

2. FEES & PAYMENT TERMS.

2.1 Payment. Subscriber will pay Company the fees specified in each SOW or Order Form contained therein. Unless the SOW or Order Form provides otherwise, Subscriber will pay Company within thirty (30) calendar days from the date of invoice. Where multiple onsite visits are scheduled, the Professional Services, fees and incidental expenses shall be invoiced upon the completion of each visit.

2.2 Incidental Expenses. Subscriber will reimburse Company for travel and related business expenses incurred in connection with Professional Services. If an estimate of incidental expenses is included in the applicable SOW or Order Form, Company will not exceed a 5% inflation such estimate without the written consent of Subscriber.

3. TERM AND TERMINATION.

3.1 Term. Each SOW term shall begin on the effective date specified in the applicable SOW or Order Form and end on the date that the Professional Services are completed. Unless earlier terminated as set forth below, the terms of this Addendum will continue until termination or expiration of the applicable SOW. Termination shall be in accordance with the Agreement.

3.2 Termination. Either party may terminate a SOW or this Addendum for the other's material breach of such SOW or this Addendum, as applicable, on thirty (30) days' written notice, provided that if the other party cures the breach before expiration of such notice period, the SOW will not terminate. Additionally, all SOWs will immediately terminate upon termination or expiration of the Agreement.

3.3 Effect of Termination. Upon termination of a SOW: (1) if such SOW provides for an hourly or per unit fee, Subscriber will pay Company such fee for the work performed up to the date of termination; and (2) if the SOW provides for a fixed fee, Subscriber will pay Company the reasonable value of the Professional Services rendered by Company up to the termination date. Termination of a SOW for any reason, including without limitation for cause, will not terminate any other SOW.

4. PROPRIETARY RIGHTS AND LICENSES.

4.1 Confidential Information. As between the parties, each party retains all ownership rights in and to its Confidential Information as set forth in the Agreement.

4.2 Subscriber Data. Subscriber does not grant to Company any rights in or to Subscriber's intellectual property except such licenses as are required for Company to perform its obligations under the Agreement.

4.3 License for Deliverables. Upon payment of fees due under an applicable SOW or Order Form, Company grants Subscriber a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to copy, maintain, use and run (as applicable) solely for its internal business purposes associated with its use of Company's Services any Deliverables created by Company solely for Subscriber under this Agreement. Company and Subscriber each retain all right, title and interest in their respective Intellectual Property and Company retains all ownership rights in the Deliverables.

5. WARRANTY.

Company represents and warrants that all Professional Services shall be performed in a professional and workmanlike manner in accordance with generally accepted industry standards. For any breach of this warranty in Section 5, Subscriber's exclusive remedy and Company's entire liability shall be the re-performance of the applicable Professional Services.

6. DISCLAIMER.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH SECTION 5 ABOVE, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, Company AND ITS THIRD PARTY PROVIDERS DISCLAIM ALL WARRANTIES OF ANY KIND RELATED TO THE DELIVERABLES OR THE PERFORMANCE OF PROFESSIONAL SERVICES HEREUNDER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. Company DOES NOT WARRANT THE RELIABILITY, TIMELINESS, SUITABILITY, OR ACCURACY OF THE DELIVERABLES OR THE RESULTS SUBSCRIBER MAY OBTAIN BY USING THE DELIVERABLES. IN PARTICULAR, Company DOES NOT WARRANT UNINTERRUPTED OR ERROR- FREE OPERATION OF THE DELIVERABLES, THAT THE DELIVERABLES WILL CONTINUE TO FUNCTION WITH ANY SUBSCRIPTION SERVICES AFTER THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD, OR THAT Company WILL CORRECT ALL DEFECTS OR PREVENT THIRD PARTY DISRUPTIONS OR UNAUTHORIZED THIRD PARTY ACCESS.

7. NON-EXCLUSIVITY OF PROFESSIONAL SERVICES.

Notwithstanding the Confidentiality obligations set forth in Section 8 of the Agreement and this Addendum, Subscriber acknowledges and agrees that (i) multiple Subscribers may require similar Professional Services or Deliverables and that Company may be developing similar Professional Services and Deliverables for other third parties, (ii) Company may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information of Subscriber, (iii) nothing will prohibit Company from developing or having developed for it customizations, configurations, feature, concepts, systems or techniques that are similar to the Deliverables, and (iv) nothing will prohibit Company from re-using with another Subscriber or making generally available as part of Subscription Services all or part of any customization, configuration, feature, concept, system or technique developed hereunder.

8. IP INDEMNITY.

8.1 Indemnification by Company. In addition to the indemnification obligations set forth in Section 6 of the Agreement and subject to this Addendum, Company will (i) defend, or at its option settle, any claim, demand, action or legal proceeding ("Claim") made or brought against Subscriber by a third party alleging that the use of the Deliverable(s) as contemplated hereunder directly infringes the intellectual property rights of such third party, and (ii) pay (a) any final judgment or award directly resulting from such Claim to the extent such judgment or award is based upon such alleged infringement or (b) those damages agreed to by Company in a monetary settlement of such Claim. Company's obligations to defend or indemnify will not apply to the extent that a Claim is based on (I) Subscriber Data, Subscriber's or a third party's technology, software, materials, data or business processes; (II) a combination of the Deliverable(s) with non-Company products or services; or (III) any use of the Deliverable(s) not in compliance with this Addendum. In the event of a Claim, Company may, in its discretion and at no cost to Subscriber (A) modify the Deliverable(s) so that they are no longer the subject of an infringement claim, (B) obtain a license for Subscriber's continued use of the Deliverable(s) in accordance with this Addendum, or (C) suspend use of the Deliverable in question and refund to Subscriber a pro rata portion of the fees paid for every month during which Subscriber is prevented from using the infringing Deliverable as a result of such infringement, during the first three years after delivery of such Deliverable.

8.2 Indemnification by Subscriber. To the extent permitted by law and subject to this Addendum, Subscriber will (i) defend, or at its option settle, any Claim made or brought against Company by a third party alleging that (I) Subscriber Data, Subscriber's or a third party's technology, software, materials, data or business processes; (II) a combination of the Deliverables with non-Company products or services; or (III) Subscriber's use of the Deliverables, other than as authorized in this Addendum, violates applicable law or regulations or infringes the intellectual property rights of, or has otherwise harmed, a third party; and (ii) pay (a) any final judgment or award directly resulting from such Claim, or (b) or those damages agreed to in a monetary settlement of such Claim.

THIS SECTION 8 STATES COMPANY'S SOLE OBLIGATION, AND SUBSCRIBER'S SOLE REMEDY, WITH REGARDS TO CLAIMS THAT THE DELIVERABLES INFRINGE ANY THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

9. LIMITATION OF LIABILITY. IN ADDITION TO THE OBLIGATIONS UNDER THE AGREEMENT, IN NO EVENT SHALL COMPANY, IN THE AGGREGATE, BE LIABLE FOR DAMAGES TO SUBSCRIBER IN EXCESS OF THE TOTAL AMOUNT PAID BY SUBSCRIBER UNDER THE APPLICABLE SOW TO WHICH THE CLAIM RELATES. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. THE FOREGOING LIMITATION WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. UNDER NO CIRCUMSTANCES SHALL COMPANY HAVE ANY LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR LOSS OF PROFITS, OR CONSEQUENTIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR PRODUCTS LIABILITY. NOTHING IN THIS SECTION SHALL LIMIT SUBSCRIBER'S PAYMENT OBLIGATIONS UNDER SECTION 4 OF THE AGREEMENT.

10. MISCELLANEOUS

10.1 Order of Precedence. In the event of a conflict, the provisions of an authorized SOW will prevail over those of this Addendum. Neither party's acts nor omissions related to Professional Services, to a SOW, or to this Addendum, including without limitation breach of a SOW or of this Addendum, will give the other party any rights or remedies not directly related to the SOW in question.

10.2 Independent Contractor. The parties are independent contractors and nothing in this Agreement should be construed to create a partnership, agency, joint venture, fiduciary or employment relationship between the parties. Neither party is authorized to make any representation or commitment on behalf of the other party. Each party assumes full responsibility for the actions of its personnel while performing Services and such party will be solely responsible for the supervision, daily direction, control of its personnel and for the payment of all of their compensation.

10.3 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

10.4 Force Majeure. Neither party will be responsible for failure or delay of performance of a SOW if caused by an act of nature, war, hostility or sabotage; an electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than thirty (30) days, either party may cancel unperformed Professional Services upon written notice.

10.5 Non-Solicitation. Except where prohibited by law, during the Term of this Addendum and for twelve (12) months thereafter, Subscriber will not solicit for employment, nor knowingly employ (either as an employee, contractor or agent), any of Company's employees or subcontractors without Company's prior written consent. For the purposes herein, "solicit" does not include broad-based recruiting efforts, including without limitation help wanted advertising and general posting open positions.

10.6 Subcontractors. Company may, in its reasonable discretion, use subcontractors inside or outside the United States to perform any of its obligations hereunder. Company will be responsible for the performance of Professional Services by its personnel (including employees and contractors) and their compliance with Company's obligations under this Addendum, except as otherwise specified herein.

10.7 Severability. If any provision of this Addendum is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Addendum will remain in effect.

11. DEFINITIONS.

11.1 "Change Order" means a Company change order that changes the Professional Services as set forth on a SOW, Order Form or defined in a reseller purchase. Change Orders executed by both parties shall be incorporated by reference into the applicable SOW, Order Form or reseller purchase. A Change Order cannot change Services, as defined in the Agreement to include SaaS applications.

11.2 "Deliverable" means a deliverable under an SOW or Order Form.

11.3 "SOW" means a statement of work describing Professional Services to be provided hereunder, that is entered into between Subscriber and Company or which is incorporated into an Order Form that is entered into between Subscriber and Company. A Company Affiliate that executed an SOW with Subscriber will be deemed to be Company as such term is used in this Agreement. SOWs or Order Forms are deemed incorporated herein by reference.

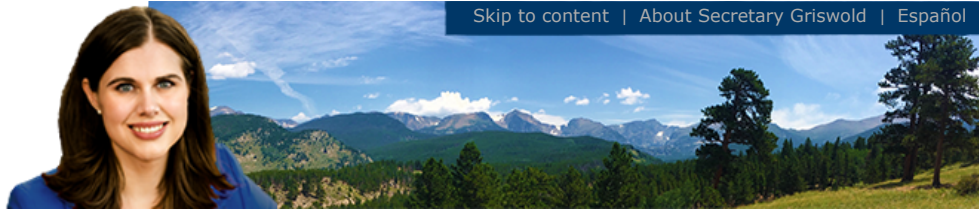
All other capitalized terms used but not defined herein shall have the respective meanings set forth in the Agreement.

Additional Information for Amendment

Colorado Certificate of Good Standing

Colorado PERA Questionnaire

Insurance Certificates



Summary

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Details			
Name	Brightly Software, Inc.		
Status	Good Standing	Formation date	08/30/2018
ID number	20181690023	Form	Foreign Corporation
Periodic report month	August	Jurisdiction	Delaware
Principal office street address	11000 Regency Pkwy, Suite 300, Cary, NC 27518, US		
Principal office mailing address	11000 Regency Pkwy, Suite 300, Cary, NC 27518, US		

Registered Agent	
Name	C T Corporation System
Street address	7700 E Arapahoe Rd Ste 220, Centennial, CO 80112, US
Mailing address	7700 E Arapahoe Rd Ste 220, Centennial, CO 80112, US

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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,

Brightly Software, Inc.

is an entity formed or registered under the law of Delaware, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 20181690023.

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 08/14/2024 that have been posted, and by documents delivered to this office
electronically through 08/16/2024 @ 07:26:12.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 08/16/2024 @ 07:26:12 in accordance with applicable law.
This certificate is assigned Confirmation Number 16302177.



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

**COLORADO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
SUPPLEMENTAL QUESTIONNAIRE TO BE ANSWERED BY
ANY BUSINESS PERFORMING SERVICES FOR THE CITY OF PUEBLO**

Pursuant to section 24-51-1101(2), C.R.S., salary or other compensation from the employment, engagement, retention or other use of a person receiving retirement benefits (Retiree) through the Colorado Public Employees Retirement Association (PERA) in an individual capacity or of any entity owned or operated by a PERA Retiree or an affiliated party by the City of Pueblo to perform any service as an employee, contract employee, consultant, independent contractor, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of contracting for services with the City of Pueblo, this document must be completed, signed and returned to the City of Pueblo:

(a) Are you, or do you employ or engage in any capacity, including an independent contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes____, No X. (If you answered "no" please proceed to signature section at bottom of this page.)

(b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? For purposes of responding to this question, an "affiliated party" includes (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree's regular salary or compensation. Yes ____, No ____.

If you answered "yes" please state which of the above entities best describes your business:

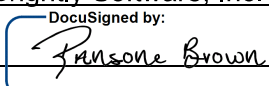
(c) If you answered "yes" to both (a) and (b), you agree to reimburse the City of Pueblo for any employer contribution required to be paid by the City of Pueblo to PERA for salary or other compensation paid to you as a PERA Retiree or paid to any employee or independent contractor of yours who is a PERA Retiree performing services for the City of Pueblo. You further authorize the City of Pueblo to deduct and withhold all such contributions from any moneys due or payable to you by the City of Pueblo under any current or future contract or other arrangement for services between you and the City of Pueblo.

Please provide the name, address, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

Name	Address	DOB	Social Security Number
Name	Address	DOB	Social Security Number

Failure to accurately complete, sign and return this document to the City of Pueblo may result in you being denied the privilege of doing business with the City of Pueblo.

Company Name: Brightly Software, Inc.

Authorized Signature:  Title: Accounts Receivable Specialist

Printed Name: Ransone Brown Date: August 20, 2024



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
09/25/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, LLC. 445 SOUTH STREET MORRISTOWN, NJ 07962-1966		CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL: ADDRESS:	
INSURED BRIGHTLY SOFTWARE, INC. 11000 REGENCY PARKWAY STE 300 CARY, NC 27518		INSURER(S) AFFORDING COVERAGE INSURER A: HDI Global Insurance Company INSURER B: Travelers Property Casualty Co. of America INSURER C: Travelers Casualty & Surety Company INSURER D: INSURER E: INSURER F:	
CN101547597-BRIGH-GAWUC-		NAIC # 41343 25674 19038	

COVERAGES	CERTIFICATE NUMBER: NYC-011486580-05	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:		GLD1110115	10/01/2023	10/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 100,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMPI/OP AGG \$ INCL \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		TC2J-CAP-7440L34A-TIL-23	10/01/2023	10/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ N/A BODILY INJURY (Per accident) \$ N/A PROPERTY DAMAGE (Per accident) \$ N/A \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED \$ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	UB-8P83929A-23-51-K (AOS) UB-8P79233A-23-51-R (AZ,MA,WI)	10/01/2023 10/01/2023	10/01/2024 10/01/2024	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Cyber		CYD5616704S	10/01/2023	10/01/2024	PER CLAIM \$ 5,000,000 AGGREGATE \$ 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 RE: BID 21-041B RFP - CONTRACTING SERVICES FOR CITY OF PUEBLO STREET ASSESSMENT PROJECT

CITY OF PUEBLO, ITS AGENTS, OFFICERS AND EMPLOYEES ARE HEREBY ADDITIONAL INSURED AS OBLIGATED UNDER CONTRACT UNDER THE REFERENCED GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE POLICIES.

CERTIFICATE HOLDER CITY OF PUEBLO, A MUNICIPAL CORPORATION, 230 S. MECHANIC STREET, PUEBLO, CO 81003	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE of Marsh USA LLC
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**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION RATIFYING THE AWARD OF AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$56,768.87 TO RUSS GRADING & EXCAVATING LLC, UNDER PROJECT NO. 23-040 (SWAN03), 2023-2026 EMERGENCY STORM SEWER POINT REPAIR FOR REPAIRS ON JERRY MURPHY ROAD NORTH OF CANDYTUFT BLVD, APPROVING A CHANGE ORDER IN THE AMOUNT OF \$5,670.00 FOR ADDITIONAL WORK AND MATERIALS, AND AUTHORIZING AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

SUMMARY:

This Resolution ratifies and approves the award of a construction contract to Russ Grading & Excavating LLC, under Contract No. 23-040 for an emergency storm sewer point repair at Jerry Murphy Road north of Candytuft Blvd, and approving Contract Amendment No. 1 in the amount of \$5,670.00.

PREVIOUS COUNCIL ACTION:

On 08/14/2023 City Council passed Resolution #15335, which approved the award of the 2023-2026 Storm Sewer Point Repair contract to multiple contractors which were qualified via competitive bid.

BACKGROUND:

The Stormwater Utility was notified that a sinkhole was present on Jerry Murphy Road north of Candytuft Blvd. Closed caption television (CCTV) video was captured of the 30-inch pipe that runs perpendicular to Jerry Murphy Road. CCTV revealed that the sinkhole caused the pipe to fail. A visual inspection of the system revealed that flared end sections and rip rap would be needed on both ends of the pipe. An emergency point repair was required for the 30-inch pipe and sinkhole to remove the hazard to drivers.

The bid summary sheet with the unit prices for the estimated work performed by Russ

Grading & Excavating LLC is provided.

The cost breakdown for the project is as follows:

BID ITEM	DESCRIPTION	ESTIMATED QUANTITY		UNIT OF MEASURE	UNIT PRICE	AMOUNT
1.	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Less than 8' Deep	>100	160	LF	\$195.00	\$36,000.00
2.	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 15" Pipe	>100	160	LF	\$68.00	\$10,880.00
3.	Install Extra Lean Concrete (Flowable Fill)	21-100	24	CY	\$175.00	\$4,200.00
4.	Mobilization	1	1	LS	\$4,000.00	\$4,000.00
5.	Traffic Control +10%	1	1	LS	\$1,688.87	\$1,688.87
TOTAL						\$56,768.87
CHANGE ORDER (DEDUCTIONS)						
1.	Remove Existing Pipe and Replace w/24" High Performance Polypropylene Pipe Less than 8' Deep	>100	160	LF	\$195.00	\$-36,000.00
2.	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 15" Pipe	>100	160	LF	\$68.00	\$-10,880.00
TOTAL						\$-46,880.00
CHANGE ORDER (ADD-ONS)						
	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Less than 8' Deep	>100	160	LF	\$195.00	\$36,000.00

	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 30" Pipe	21-100	80	LF	\$95.00	\$7,600.00
	Contract Bond	1	1	EA	\$1,450.00	\$1,450.00
	Fiber Line Relocation	1	1	EA	\$2,500.00	\$2,500.00
	30" Flared End Section	1	2	EA	\$1,750.00	\$3,500.00
	Rip Rap Structures	1	2	EA	\$750.00	\$1,500.00
TOTAL						\$52,550.00
GRAND TOTAL BID						\$62,438.87

FINANCIAL IMPLICATIONS:

Funding in the amount of \$62,438.87 will be paid from Project Account SWAN03, Point Repairs and Pipe Cleaning.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Bid Summary
2. Site Location Map
3. Change Order 1
4. Invoice from Russ Grading & Excavating LLC

RESOLUTION NO. 15725

A RESOLUTION RATIFYING THE AWARD OF AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$56,768.87 TO RUSS GRADING & EXCAVATING LLC, UNDER PROJECT NO. 23-040 (SWAN03), 2023-2026 EMERGENCY STORM SEWER POINT REPAIR FOR REPAIRS ON JERRY MURPHY ROAD NORTH OF CANDYTUFT BLVD, APPROVING A CHANGE ORDER IN THE AMOUNT OF \$5,670.00 FOR ADDITIONAL WORK AND MATERIALS, AND AUTHORIZING AND APPROVING THE PURCHASING AGENT'S EXECUTION OF THE SAME

WHEREAS, an emergency storm sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Russ Grading & Excavating LLC, under Contract No. 23-040, 2023-2026 Storm Sewer Point Repair; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council hereby ratifies and approves Project No. 23-040 (SWAN03) – 2023-2026 Emergency Storm Sewer Point Repair (Jerry Murphy Road north of Candytuft Blvd), and hereby ratifies and approves the award of the emergency construction contract to Russ Grading & Excavating LLC, in the amount of \$56,768.87.

SECTION 2.

Change Order #1 to Project No. 23-040 (SWAN03) – 2023-2026 Emergency Storm Sewer Point Repair (Jerry Murphy Road north of Candytuft Blvd) in the amount of \$5,670.00 is hereby ratified and approved.

SECTION 3.

Funds for Project No. 23-040 (SWAN03) – 2023-2026 Emergency Storm Sewer Point Repair (Jerry Murphy Road north of Candytuft Blvd) shall be paid from Project Account SWAN03, Point Repairs & Pipe Cleaning.

SECTION 4.

The officers and staff of the City are authorized to perform all acts consistent with this Resolution to implement the policies and procedures described herein. Furthermore, all actions previously taken by officers and staff of the City consistent with the Contract, including any payments authorized under the Contract, are hereby ratified.

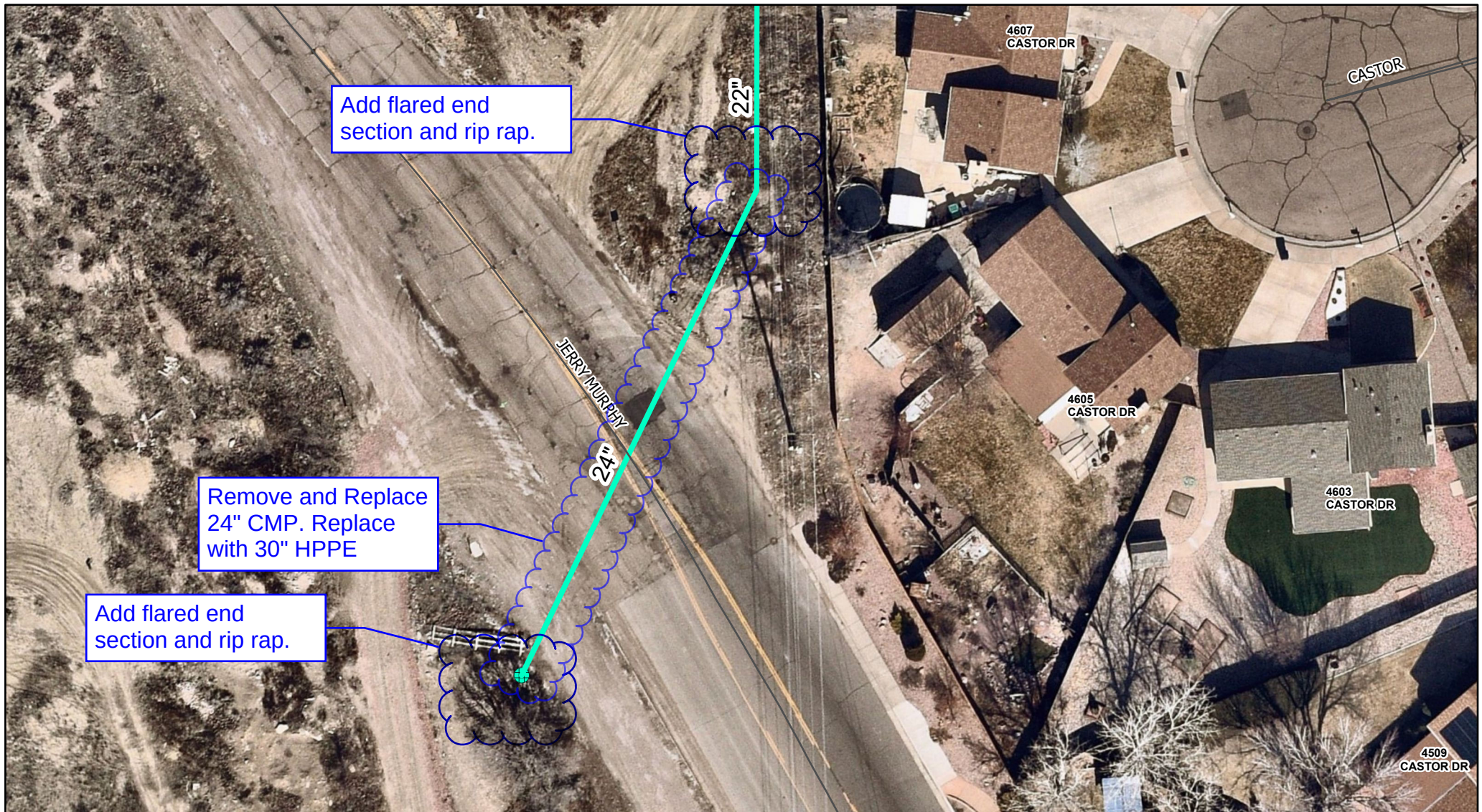
INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Cliff
PRESIDENT OF CITY COUNCIL

Signed by:
Vince Petkosek
DEPUTY CITY CLERK

Bid: 23-040 2023-2026 Emergency Storm Sewer Point Repair					Russ Grading & Excavating LLC	
Line Item	Description	Bid Quantities	Quantity	Unit of Measure	Unit Cost	
1	Remove Existing Pipe and Replace w/30" High Performance Polypropylene Pipe Less than 8' Deep	>100	160	LF	\$225.00	\$36,000.00
2	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC 12" Pipe	>100	160	LF	\$68.00	\$10,880.00
3	Install Extra Lean Concrete (Flowable Fill)	21-100	24	CY	\$175.00	\$4,200.00
4	Mobilization	1	1	LS	\$4,000.00	\$4,000.00
5	Traffic Control +10%	1	1	LS	\$1,688.87	\$1,688.87
					Total	\$56,768.87



	Jerry Murphy N. of Candytuft The City of Pueblo, Colorado does not guarantee nor provide any warranty, expressed or implied, as to the representative completeness or accuracy of maps and data provided herein.		
	Maxar, Microsoft, Copyright nearmap 2015		

City Of Pueblo

Contract Change Order

Department Of Public Works

Project Number : 23-040**Change Order No. :** 1**Date:** August 9, 2024**Project Name :** Jerry Murphy North of Candytuft**Contractor :** Russ Grading & Excavating LLC.

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	CONTRACT DECREASES		
2	R&R 24" HP LESS THAN 8' DEEP (Decrease - 160 LF)	\$36,000.00	
	R&R 5" ASPHALT FOR 15" PIPE (Decrease - 160 LF)	\$10,880.00	
	CONTRACT INCREASES		
	R&R 30" HP LESS THAN 8' DEEP (Increase - 160 LF)		\$36,000.00
	R&R 5" ASPHALT FOR 30" PIPE (Increase - 80 LF)		\$7,600.00
	CONTRACT BOND (Increase - 1 EA)		\$1,450.00
	FIBER OPTIC RELOCATION (Increase - 1 EA)		\$2,500.00
	30" FLARED END SECTION (Increase - 2 EA)		\$3,500.00
	RIP RAP STRUCTURES (Increase - 2 EA)		\$1,500.00
TOTAL		\$46,880.00	\$52,550.00

Net Adjustment This Change Order	\$	5670.00
Traffic Control +10%	\$	1688.87
Original Contract Amount	\$	55080.00
Total Adjusted Contract Amount To Date	\$	62438.87

Reason For Change:

Line 1 should have been for a 30" pipe and not 24" pipe. The charge should have been for \$31,200. Line 2 should have been for 30" pipe and not 15" pipe. Only 80 linear feet (LF) of asphalt was used for the road instead of the 160 LF that was projected in the original contract. The last 4 Increases were because there are no line items listed on the EPR contract.

This document shall become an amendment to the contract and all provisions of the contract apply hereto. The adjustment to the contract amount and contract time, if any, made by this change order constitutes full compensation to the Contractor for the work included within this change order, and Contractor's acceptance hereof constitutes a waiver of any contract and equitable claims on account thereof.

Prepared by:  Date: 8/9/24

Associate Engineer

Reviewed by:  Date: 8/8/24

Drainage Engineer

Accepted by:  Date: 8/12/24

Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director of Public Works constitutes representation that lawful appropriations are sufficient to cover such expenses.

Approved by:  Date: 8/12/24

Director of Public Works

Russ Grading & Excavating LLC

24975 South Rd
Pueblo, CO 81006
USA

INVOICE

Invoice Number: 492
Invoice Date: Jul 31, 2024
Page: 1
Duplicate

Voice: 719-369-9781
Fax:

Bill To:
City of Pueblo PO Box 1427 Pueblo, CO 81002

Ship to:
City of Pueblo PO Box 1427 Pueblo, CO 81002

Customer ID	Customer PO	Payment Terms	
City of Pueblo		Net 30 Days	
Sales Rep ID	Shipping Method	Ship Date	Due Date
	Airborne		8/30/24

Quantity	Description	Unit Price	Amount
	STORMWATER EPR JERRY MURPHY & CANDYTUFT ORIGINAL CONTRACT ITEMS		
160.00	R&R 24" HP LESS THAN 8' DEEP (\$36,000 on original contract was math error)	195.00	31,200.00
160.00	R&R 5" ASPHALT FOR 15" PIPE	68.00	10,880.00
24.00	INSTALL FLOWFILL	175.00	4,200.00
1.00	MOBILIZATION	4,000.00	4,000.00
	CONTRACT DECREASES		
-160.00	R&R 24" HP LESS THAN 8' DEEP (\$36,000 on original contract was math error)	195.00	-31,200.00
-160.00	R&R 5" ASPHALT FOR 15" PIPE	68.00	-10,880.00
	CONTRACT INCREASES		
160.00	R&R 30" HP <8' DEEP	225.00	36,000.00
80.00	R&R 5" ASPHALT FOR 30" PIPE	95.00	7,600.00
1.00	TRAFFIC CONTROL + 10%	1,688.87	1,688.87
1.00	CONTRACT BOND	1,450.00	1,450.00
	CONTRACT CHANGE ORDERS		
1.00	FIBER OPTIC RELOCATION DUE TO BORE THRU PIPE (SECOM)	2,500.00	2,500.00
2.00	30" FLARE END SECTIONS	1,750.00	3,500.00
2.00	RIP RAP STRUCTURES	750.00	1,500.00
Subtotal			62,438.87
Sales Tax			
Total Invoice Amount			62,438.87
Payment/Credit Applied			
TOTAL			62,438.87

Check/Credit Memo No:



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$22,016.35 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND 3 ROCKS ENGINEERING, LLC, FOR PROJECT NO. 23-107 DESIGN FOR STREET EXPANSION OF BANDERA PARKWAY, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

SUMMARY:

This Resolution approves Contract Amendment No. 1 to the Agreement for Professional Engineering Services awarded to 3 Rocks Engineering LLC, in the amount of \$22,016.35 for Project No. 23-107, Design for Street Expansion of Bandera Parkway.

PREVIOUS COUNCIL ACTION:

Resolution 15427, dated November 27, 2023, awarded an agreement for Professional Engineering Services in the amount of \$99,000 to 3 Rocks Engineering LLC for Design of Street Expansion of Bandera Parkway.

BACKGROUND:

The original project included the design of a 450-foot street expansion for Bandera Parkway in Pueblo, Colorado. The original limits of work were adjacent to Lots 6 and 10, City View Filing No. 1, between Aramis Court and Liezl Street. The additional scope expands the limits of work to the north of Armis Court and to the south of Liezel Street.

This amendment to the Professional Engineering Services Agreement, provides additional work for expansions to the project limits noted above to provide additional topographical survey and design. The amendment also includes additional design elements due to the typical roadway section of Bandera Parkway narrowing north of the boundary line of the Regency Crest Subdivision.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$22,016.35 will be paid from Project Account CI2305, Street Expansion - Bandera Pkwy.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution will result in the cancelation of additional services. However, the additional services are necessary due to site restrictions creating the need to expand the project limits and require additional design elements.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-107 3 Rocks Amendment No 1

RESOLUTION NO. 15726

A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$22,016.35 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND 3 ROCKS ENGINEERING, LLC, FOR PROJECT NO. 23-107 DESIGN FOR STREET EXPANSION OF BANDERA PARKWAY, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

WHEREAS, an Agreement for Professional Engineering Services was awarded to 3 Rocks Engineering, LLC, on December 11, 2023, and,

WHEREAS, the City of Pueblo and 3 Rocks Engineering, LLC, desire to modify the Agreement for additional services; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Amendment 1 to the Agreement for Professional Engineering Services for Project No. 23-107 Design for Street Expansion of Bandera Parkway, by and between the City of Pueblo, a Municipal Corporation, and 3 Rocks Engineering, LLC, a Colorado Limited Liability Corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by the Amendment to be performed in the amount of \$22,016.35.

SECTION 2.

Funds in the amount of \$22,016.35 shall be paid from Project Account CI2305 – Street Expansion - Bandera Pkwy.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said Amendment on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution and the Amendment to implement the policies and procedures described herein.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

AMENDMENT NO. 1
TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BY AND BETWEEN CITY OF PUEBLO AND 3 ROCKS ENGINEERING LLC

1. Introduction

This Amendment No. 1 to the Professional Engineering Services Agreement ("Amendment") is executed to be effective as of the ____ day of _____, 20____, by and between the City of Pueblo, a Colorado Municipal Corporation ("City") and 3 Rocks Engineering LLC, a Colorado Limited Liability Company ("Consultant"). City and Consultant are sometimes referred to herein as a "Party" and collectively, as the "Parties."

2. Project Statement

WITNESSETH THAT:

WHEREAS, City and Consultant entered into that certain Professional Engineering Services Agreement dated December 11, 2023 for Bid 23-107 Design for Street Expansion of Bandera Parkway (the "Agreement").

WHEREAS, City and Consultant desire to modify the Agreement pursuant to the provisions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, City and Consultant hereby agree to the following conditions.

3. AGREEMENT

- A. The Agreement is amended by expanding the scope of service to include the following additional services:
 - 1. Consultant shall provide additional work for expanded project limits and additional design elements as identified in Attachment A.
 - 2. Attachment A to this Amendment No. 1 shall be additional work as agreed upon by Consultant and City, and Consultant shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement.
- B. With respect to services provided under the Amendment No. 1, the fee schedule attached as Attachment B to this Amendment No. 1 shall apply to compensation payable to Consultant. The aggregate compensation payable to the Consultant for performance of the additional services authorized by this Amendment No. 1 shall not exceed the maximum amount of \$22,016.35 as set forth in the Attachment B and notwithstanding whether the service is billed as Time and Material.
 - 1. The compensation payable to the Consultant by this Amendment No. 1 shall be billed at the amounts set forth in the Attachment B.
 - 2. City must respond in writing with written approval prior to Consultant beginning work.

- C. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- D. Except as expressly modified by this Amendment No. 1, the Agreement shall remain in full force and effect. Except as modified by this Amendment No. 1, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 1.

4. Signature Section

This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document with the same effect as if all Parties had signed the same original. The Parties further agree that transmission of this Amendment by any electronic format, telecopy or via email in a PDF format, shall be deemed transmission of the original Amendment for all purposes. Electronic signatures shall be deemed valid and binding to the same extent as the original.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

3 ROCKS ENGINEERING LLC

By _____
Naomi Hedden, Director of Purchasing

By _____
Alex Ewers, Principal-in-charge

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Danny Nunn, Interim Finance Director

APPROVED AS TO FORM

Robert Jagger, Deputy City Attorney

Attachments: Attachment A, Attachment B, and Additional Information for Amendment

Attachment A

Scope of Service

Excerpt from Consultant Proposal dated July 11, 2024, Pages 1 – 2

3 Rocks Engineering & Surveying has been working on the Preliminary (Schematic) design phase for the Bandera Parkway Extension and will be submitting an initial set of plans soon for City review. Since the NTP for this project, and throughout the Project Development phase, site restrictions created the need for expanded project limits and additional design elements that were not originally shown in the Request for Proposal (RFP) scope of work or included in the 3 Rocks scope and fee. The current contract base price is \$99,000. This letter is to formally request additional project fees for the increase in scope. Each added design element will be discussed in relation to what was given in the RFP scope of work.

Some of the out-of-scope work has already been completed due to project schedule needs such as the additional topographic survey which needed to be done immediately after NTP for the design to proceed and was more economical to do all at one time. 3 Rocks has been keeping the city apprised of the out-of-scope work through monthly project status updates which includes a section titled *PROJECT SCOPE, BUDGET, AND SCHEDULE STATUS* giving details on the work completed and fee.

1. Scope item change- change in project limits:

The RFP included an exhibit showing the approximate limit of design in red cross hatch. The project limits defined by this exhibit are north at the end of the existing east sidewalk and curb and south to the property line of the Regency Crest subdivision. The initial project intent was to tie to the existing roadway constructed as part of the Regency Crest build out.

Because of a change to the Bandera cross section due to site restrictions, the actual project limits extended south and north to the extent shown by the yellow lines:



The change in project limits added cost for additional topographical survey and design.

2. Scope item change- additional design elements:

The intent of the design detailed in the RFP was to tie into the recently constructed road and sidewalk at the boundary with the Regency Crest subdivision. Due to constraints at the Potoker property north of the boundary line, the Bandera Parkway typical section was narrowed to avoid impacts to this property. This change requires the removal and relocation of curb, sidewalk, median, and drainage inlets between Liezl Street and the subdivision boundary. These design elements add time and fee for design coordination. The exhibit below shows the added design elements.



Attachment B

Fee Schedule

Excerpt from Consultant Proposal dated July 11, 2024, Pages 2 – 3

The scope of the three Items listed above were not specifically listed in the original scope of work or included in the design fee. The cost for the completed work for each of these items has been tracked (see ***bold italics***) during the project and is summarized below. Fee for items not completed yet (remaining preliminary design and future design phases, including design, plan production and management) is estimated and shown *non-bold italics*.

1. Extended survey limits (***survey completed- additional cost for extended survey limits north and south, reentry for locked access- \$5,725***)
Extended project limits (removal and redesign of curb, sidewalk and drainage within the Regency Crest subdivision) (***conceptual and preliminary design incorporating Regency Crest portion - \$5,090***)
2. Extra design cost for change in Bandera Cross section from parkway to undivided section. Requires design options for either a redirect taper length variance or increase in driveway and Short St/Dartanian Ct (City View Heights subdivision) profile grade. (***conceptual design looking at options- \$3,702.75***)
Remaining preliminary and final design fee estimate: \$7,500

Completed out of scope cost: \$14,516.35

Estimated fee to complete additional design elements: \$7,500

Total Amendment No. 1 Request: \$22,016.35

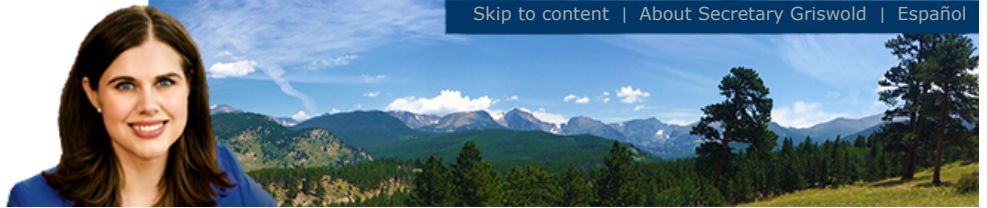
Potential out of scope work that has been excluded from this change order request is structural design for a retaining wall at the Potoker property. Current design indicates a non-structural wall (2' or less in height) can be used at this location. It is anticipated that this wall will be dry stack and require no special design since it is considered a landscape treatment. If structural retaining wall design is needed in the future, another change order request will be submitted.

Additional Information for Amendment

Certificate of Good Standing

PERA Questionnaire

Insurance Certificate(s)

**For this Record...**

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[Business Search](#)

[FAQs, Glossary and Information](#)

Summary

Details			
Name	3 Rocks Engineering LLC		
Status	Good Standing	Formation date	03/23/2019
ID number	20191247298	Form	Limited Liability Company
Periodic report month	March	Jurisdiction	Colorado
Principal office street address	430 Main St, Canon City, CO 81212, US		
Principal office mailing address	430 Main St, Canon City, CO 81212, US		

Registered Agent	
Name	Alexander William Ewers
Street address	1406 Cone Ave, Canon City, CO 81212, US
Mailing address	430 Main St, Canon City, CO 81212, US

[Filing history and documents](#)

[Trade names](#)

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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

3 Rocks Engineering LLC

is a

Limited Liability Company

formed or registered on 03/23/2019 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20191247298 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 07/12/2024 that have been posted, and by documents delivered to this office electronically through 07/16/2024 @ 12:33:02 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 07/16/2024 @ 12:33:02 in accordance with applicable law. This certificate is assigned Confirmation Number 16210584 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

**COLORADO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
SUPPLEMENTAL QUESTIONNAIRE TO BE ANSWERED BY
ANY BUSINESS PERFORMING SERVICES FOR THE CITY OF PUEBLO**

Pursuant to section 24-51-1101(2), C.R.S., salary or other compensation from the employment, engagement, retention or other use of a person receiving retirement benefits (Retiree) through the Colorado Public Employees Retirement Association (PERA) in an individual capacity or of any entity owned or operated by a PERA Retiree or an affiliated party by the City of Pueblo to perform any service as an employee, contract employee, consultant, independent contractor, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of contracting for services with the City of Pueblo, this document must be completed, signed and returned to the City of Pueblo:

(a) Are you, or do you employ or engage in any capacity, including an independent contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes____, No ☒. (If you answered "no" please proceed to signature section at bottom of this page.)

(b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? For purposes of responding to this question, an "affiliated party" includes (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree's regular salary or compensation. Yes____, No____.

If you answered "yes" please state which of the above entities best describes your business:

(c) If you answered "yes" to both (a) and (b), you agree to reimburse the City of Pueblo for any employer contribution required to be paid by the City of Pueblo to PERA for salary or other compensation paid to you as a PERA Retiree or paid to any employee or independent contractor of yours who is a PERA Retiree performing services for the City of Pueblo. You further authorize the City of Pueblo to deduct and withhold all such contributions from any moneys due or payable to you by the City of Pueblo under any current or future contract or other arrangement for services between you and the City of Pueblo.

Please provide the name, address, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

Name	Address	DOB	Social Security Number
Name	Address	DOB	Social Security Number

Failure to accurately complete, sign and return this document to the City of Pueblo may result in you being denied the privilege of doing business with the City of Pueblo.

Company Name: 3 Rocks Engineering

Authorized Signature:  Title: Owner

Printed Name: Alex Ewers Date: 11/20/2023



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/18/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Clinton Perry(07063F4) 7608 N Union Blvd Ste 135 Colorado Springs CO 80920-3886	CONTACT NAME: Clinton Perry PHONE (A/C, NO, EXT): 719-548-0811 FAX (A/C, NO): 719-890-3367 E-MAIL ADDRESS: cperry@farmersagent.com														
INSURED 3 ROCKS ENGINEERING LLC 430 MAIN ST # 17 CANON CITY CO 81212	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Truck Insurance Exchange</td><td>21709</td></tr><tr><td>INSURER B: Farmers Insurance Exchange</td><td>21652</td></tr><tr><td>INSURER C: Mid Century Insurance Company</td><td>21687</td></tr><tr><td>INSURER D: Next</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Truck Insurance Exchange	21709	INSURER B: Farmers Insurance Exchange	21652	INSURER C: Mid Century Insurance Company	21687	INSURER D: Next		INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAME ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDTL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☒ OCCUR	Y	N	607023756	01/26/2024	01/26/2025	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea Occurrence) \$ 75,000						
	MED EXP (Any one person) \$ 5,000						
	PERSONAL & ADV INJURY \$ 1,000,000						
	GENERAL AGGREGATE \$ 2,000,000						
	PRODUCTS - COMP/OP AGG \$ 1,000,000						
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY ☒ SCHEDULED AUTOS HIRED AUTOS ONLY	Y	N	607023769	01/26/2024	01/26/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE \$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE \$
	DED RETENTION \$						\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y	Y	A04176550	01/26/2024	01/26/2025	☒ PER STATUTE ☐ OTHER \$
	E.L. EACH ACCIDENT \$ 500,000						
	E.L. DISEASE - EA EMPLOYEE \$ 500,000						
	E.L. DISEASE - POLICY LIMIT \$ 1,000,000						
D	Professional Liability	Y	Y	NXTX3YJ947-01-PL	07/03/2024	07/03/2025	Occurrence/aggregate \$1MM/\$2MM

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Bid 23-107 Design for Street Expansion of Bandera Parkway
City of Pueblo, its agents, officers and employees as additional insureds.

CERTIFICATE HOLDER

CANCELLATION

CITY OF PUEBLO A MUNICIPAL CORPORATION 230 S MECHANIC ST PUEBLO CO 81003	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Clinton Perry <i>Clinton Perry</i>
--	---



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO CREDIT
SANITARY SEWER FEES OF \$1,048.96 TO MICHAELENE
THOMPSON

SUMMARY:

From January 2023 to December 2023, excess sanitary sewer fees were erroneously charged to Michaelene Thompson, due to errors in calculation of the sewer user charge.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The Wastewater Department received a written request from Michaelene Thompson, the tenant of the property located at 1208 W Northern Ave, seeking a refund of their sewer charges. The sewer consumption charges for 1208 W Northern Ave were in excess of actual consumption.

Pursuant to City Ordinance 16-6-25, refunds based upon sewer user charges appearing on billings issued more than ninety (90) days prior to receipt of a written request can only be authorized by City Council and are limited to a maximum period of two years. Michaelene Thompson is requesting a credit adjustment of wastewater fees in the amount of \$1,048.96 for the charges from January 2023 to December 2023.

FINANCIAL IMPLICATIONS:

The adjustment of \$1,048.96 will be credited to the customer's utilities account #331389-089428.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Alternative No. 1 – No Action

The property at 1208 W Northern Ave will not receive compensation for erroneously charged sanitary sewer fees.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-26-24 2408 W Northern - Michaelene Thompson

RESOLUTION NO. 15727

A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO
CREDIT SANITARY SEWER FEES OF \$1,048.96 TO
MICHAELENE THOMPSON

WHEREAS, the City's Wastewater Department has been notified that Michaelene Thompson was erroneously charged sanitary sewer fees; and

WHEREAS, pursuant to Section 16-6-23 of the Pueblo Municipal Code, the Director of Wastewater has determined that grounds exist for a refund pursuant to Section 16-6-24 of the code; and

WHEREAS, a refund for the paid amount can only be authorized by Pueblo City Council;
NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City shall refund Michaelene Thompson the sum of \$1,048.96 for the erroneous collection of sewer fees charged for 1208 W Northern Ave during the period of January 2023 through December 2023.

SECTION 2.

Such refund shall be credited directly to the customer's utilities account (#331389-089428) in the amount of \$1,048.96.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and to implement the transaction herein authorized.

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-22) TO THE SENIOR RESOURCE DEVELOPMENT AGENCY (SRDA) FOR THE USE OF THE FRONT SIDEWALK IN FRONT OF THE SENIOR RESOURCE DEVELOPMENT AGENCY (SRDA) BUILDING ON UNION AVENUE AND THE COURTYARDS SOUTH AND NORTH OF THE BUILDING FOR THE SRDA FUND RAISER AT THE PUEBLO CHILE AND FRIJOLES FESTIVAL

SUMMARY:

Attached is a revocable permit for the Senior Resource Development Agency (SRDA) related to their participation in the 2024 Chile and Frijoles Festival.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Senior Resource Development Agency (SRDA) has submitted a Revocable Permit application (REV-24-22) requesting the use of the front sidewalk in front of the Senior Resource Development Agency (SRDA) building on Union Avenue and the courtyards south and north of the building for the SRDA Fund Raiser at the Pueblo Chile and Frijoles Festival from September 20, 2024, at 8:00 a.m. through September 22, 2024, at 11:59 p.m.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve the Resolution will prevent SRDA from hosting its event in the public right-of-way during the Pueblo Chile and Frijoles Festival.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. NOTARIZED REVOCABLE PERMIT - 24-22

RESOLUTION NO. 15728

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-22) TO THE SENIOR RESOURCE DEVELOPMENT AGENCY (SRDA) FOR THE USE OF THE FRONT SIDEWALK IN FRONT OF THE SENIOR RESOURCE DEVELOPMENT AGENCY (SRDA) BUILDING ON UNION AVENUE AND THE COURTYARDS SOUTH AND NORTH OF THE BUILDING FOR THE SRDA FUND RAISER AT THE PUEBLO CHILE AND FRIJOLES FESTIVAL

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-24-22) is authorized to be issued to the Senior Resource Development Agency (SRDA) for the use of the front sidewalk in front of the Senior Resource Development Agency (SRDA) building on Union Avenue and the courtyards south and north of the building for the SRDA Fund Raiser at the Pueblo Chile and Frijoles Festival

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Bliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **Senior Resource Development Ag 230 N Union Ave 7195533422 1 City Hall, Pueblo CO, 81003**
2. Permitted Area: **Front Sidewalk in front of Senior Resource Development Agency (SRDA) building on Union Avenue and the courtyards South and North of the Building**
3. Purpose of Revocable Permit: **SRDA fundraiser during the Pueblo Chile & Frijoles Festival.**
4. Commencement Date: **September 20, 2024** Time: **8:00am**
5. Ending Date: **September 22, 2024** Time: **11:59pm**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this 9 day of AUGUST, 2024.

PERMITTEE:

Organization or

Individual:

By:

Title:

SENIOR RESOURCE DEV. AGENCY

CARMA LOONTJER *Carma Loontjer*

DEVELOPMENT DIRECTOR

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the 9th day of August, 2024 by Carma Loontjer as Development Director.

My commission expires:

TAJAY SUZETTE BARRY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20234007982
MY COMMISSION EXPIRES 02/28/2027

Tajay Suzette Barry

Notary Public

APPROVED this _____ day of _____, 20____.
PUEBLO, a Municipal Corporation

By _____

Heather Graham, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-24) TO THE YMCA OF PUEBLO FOR THE USE OF THE OUTER LANES OF SPAULDING AVENUE (BOTH DIRECTIONS) BETWEEN THE NORTH ENTRANCE OF THE YMCA AND PUEBLO BLVD., OUTER LANES OF PARKER BLVD. (BOTH DIRECTIONS) BETWEEN SPAULDING AVENUE AND ITS NORTH/EASTERN TERMINUS FOR THE 5K RUN/WALK CORPORATE CUP EVENT

SUMMARY:

Attached is a draft Revocable Permit (REV-24-24) for the YMCA of Pueblo for the use of Spaulding Avenue to host their Corporate Cup 5K Run/Walk event.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The YMCA of Pueblo has submitted a Revocable Permit application (REV-24-24) for the use of the outer lanes of Spaulding Avenue (both directions) between the north entrance of YMCA and Pueblo Blvd., outer lanes of Parker Blvd. (both directions) between Spaulding Avenue and its north/eastern terminus for the 5K run/walk Corporate Cup event on September 7, 2024, from 7:30 a.m. to 9:30 a.m.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve this Resolution will prevent the applicant from utilizing the right-of-way to host its event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. NOTARIZED REVOCABLE PERMIT - 24-24

RESOLUTION NO. 15729

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-24-24) TO THE YMCA OF PUEBLO FOR THE USE OF THE OUTER LANES OF SPAULDING AVENUE (BOTH DIRECTIONS) BETWEEN THE NORTH ENTRANCE OF THE YMCA AND PUEBLO BLVD., OUTER LANES OF PARKER BLVD. (BOTH DIRECTIONS) BETWEEN SPAULDING AVENUE AND ITS NORTH/EASTERN TERMINUS FOR THE 5K RUN/WALK CORPORATE CUP EVENT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-24-24) is authorized to be issued to the YMCA of Pueblo for the use of the outer lanes of Spaulding Avenue (both directions) between the north entrance of YMCA and Pueblo Blvd., outer lanes of Parker Blvd. (both directions) between Spaulding Avenue and its north/eastern terminus for the 5K run/walk Corporate Cup event on September 7, 2024, from 7:30 a.m. to 9:30 a.m.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit (REV-24-24).

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee: **YMCA of Pueblo 3200 E Spaulding Ave 719-543-5151 3200 E Spaulding Ave**
2. Permitted Area: **Outer lanes of Spaulding Avenue (both directions) between North Entrance of YMCA and Pueblo Blvd; Outer lanes of Parker Blvd (both directions) between Spaulding Ave. and its north/eastern terminus; No affect to any part of W. 31st St although it is included in the Traffic Control Plan.**
3. Purpose of Revocable Permit: **Closure of the permitted area to vehicular traffic to facilitate a 5K run/walk event.**
4. Commencement Date: **September 7, 2024** Time: **7:30am**
5. Ending Date: **September 7, 2024** Time: **9:30am**

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation. Covid-19

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

- (i) If to Permittee, at the address shown in paragraph 1 above.

(ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this 12th day of August, 2024.

PERMITTEE:

Organization or
Individual:

By:

Title:

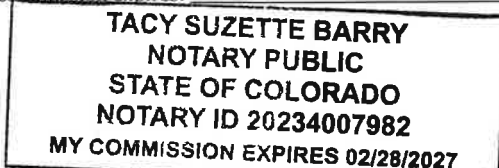
YMCA of Pueblo
Pirk C Hodge City Manager
community program director

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the 12th day of August, 2024 by
Pirk C Hodge as Community Program Director

My commission expires:



Tacy Suzette Barry
Notary Public

APPROVED this _____ day of _____, 20____.
PUEBLO, a Municipal Corporation

By _____

Heather Graham, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: A RESOLUTION APPROVING A COMMERCIAL SERVICE PROVIDER AIR SHOW PERMIT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND KC AVIATION STEM INC., DBA WINGS OF PRIDE, A MISSOURI NOT-FOR-PROFIT CORPORATION, AND AUTHORIZING THE DIRECTOR OF AVIATION TO EXECUTE SAME

SUMMARY:

This Resolution approves a Commercial Service Provider Air Show Permit between the City of Pueblo, a Colorado Municipal Corporation, and KC Aviation Stem Inc., dba Wings of Pride, a Missouri Not-For-Profit Corporation.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

KC Aviation Stem Inc., dba Wings of Pride, desire to use the Pueblo Memorial Airport for an air show event on September 27th and 28th, 2025. The Air Show Permit outlines the responsibilities of KC Aviation Stem Inc., dba Wings of Pride, for the event.

FINANCIAL IMPLICATIONS:

The City will be paid \$1.25 per adult ticket sold with a minimum of \$25,000, in addition to any other negotiated fees. Also, a damage deposit of \$2,500.00 is required.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Denying the Resolution will prevent the air show being conducted at the Pueblo Memorial Airport.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 2025 Wings of Pride 2024 08 13 PERMIT FINAL

RESOLUTION NO. 15730

A RESOLUTION APPROVING A COMMERCIAL SERVICE PROVIDER AIR SHOW PERMIT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND KC AVIATION STEM INC., DBA WINGS OF PRIDE, A MISSOURI NOT-FOR-PROFIT CORPORATION, AND AUTHORIZING THE DIRECTOR OF AVIATION TO EXECUTE SAME

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Commercial Service Provider Air Show Permit, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, by and between the City of Pueblo, a Colorado Municipal Corporation, and KC Aviation Stem Inc., dba Wings of Pride, a Missouri Not-For-Profit Corporation, for the use of the Pueblo Memorial Airport for the purpose of conduction an Air Show event is hereby approved, subject to conditions set forth in said permit.

SECTION 2.

The Director of Aviation is hereby authorized to execute said permit on behalf of the City of Pueblo, a Colorado Municipal Corporation.

SECTION 3.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

COMMERCIAL SERVICE PROVIDER PERMIT AIR SHOW

In consideration of the mutual covenants contained herein, the City of Pueblo, a Colorado Municipal Corporation, ("City") hereby grants to KC AVIATION STEM INC, dba WINGS OF PRIDE, a Missouri Not For-Profit Corporation ("Permittee") a Commercial Service Provider Permit ("Permit") to provide an air show and all related Services ("Services") at Pueblo Memorial Airport, Pueblo, Colorado ("Airport") subject to and upon the terms and conditions hereinafter set forth, which Permittee agrees to perform and be bound by:

1. The Permit shall be effective on August 13, 2024 and is granted for a term ending on December 31, 2025. The Permit shall not automatically renew.
2. The terms and conditions of this Permit and Permittee's rights hereunder are hereby made subject to the provisions of Title III, Chapter 1 of the Pueblo Municipal Code and as the same may be subsequently amended. In the event of a conflict between said Code and any provision herein, said Code shall control.
3. Permittee shall comply with all applicable airport regulations including FAR Part 139, TSA 49 CFR, the current NFPA as adopted by the City, City of Pueblo Municipal Code Title III, Chapter 1, all other relevant City, State, and Federal Codes, and as the same may be subsequently amended. Permittee shall maintain current airport access badge(s) in compliance with TSA 1542 and Pueblo Municipal Code Section 3-1-9.
4. At all times where Permittee is providing Services, Permittee shall, at its own cost and expense, provide and keep in force general commercial liability insurance which includes property damage and bodily injury with a combined single limit of not less than five million dollars (\$5,000,000), and has no exclusions for work performed on aircraft or airport premises. At all times where Permittee is providing Services, Permittee shall, at its own cost and expense, provide and keep in force commercial automobile liability insurance with a combined single limit for all owned, hired, and non-owned autos of not less than one million dollars (\$1,000,000). Such policies must each include: (i) a waiver of subrogation and (ii) a special endorsement that the policy will not be canceled by the insurer during its term without first giving ten (10) days prior written notice by certified or registered United States mail to the Permittee and City. Permittee shall provide City with current proof of all such insurances at the time the Permit is issued, any subsequent renewal, and at any time upon request.
5. At all times during the term of this Permit, and of any renewal or extension hereof, Permittee shall, at its own cost and expense, provide and keep in good standing business licenses with the City of Pueblo and the State of Colorado. Upon request, Permittee will provide City with certificates of good standing evidencing that the licenses are current and that Permittee is authorized to do business within the City and State.
6. At the time this Permit is issued and annually thereafter, Permittee shall provide City with a list of the Airport areas and any Airport tenants it intends to access for the Services. Permittee shall keep this list current and report any change to the City upon such change being made.
7. In consideration for the Permit, Permittee shall pay to City of Pueblo an amount of \$1.25 per adult ticket sold with a minimum of \$25,000 payable within ten days of the culmination of events, in addition to any other negotiated fees or cost to host the event.

8. Permittee shall deposit with the City Two Thousand Five Hundred Dollars (\$2,500.00) as and for a damage deposit which may be used by the City to repair any damage to City property or for the removal of trash, debris, or equipment from the Airport and the balance thereof, if any, will be returned to Permittee after full performance of Permittee's obligations under this Permit. Deposit is due 10 days prior to event commencement.
9. The Permittee shall be responsible for all Air Show related trash removal from the Airport following the Services. In the event of any physical damage done or resulting to any City property or property of others on the Airport, from the actions, omissions, or operations of Permittee, its officers, employees, vendors, contractors, agents, or invitees, Permittee shall immediately repair and restore such property to its original condition. Permittee shall be responsible for all removal of any equipment or other items used on the Airport. This shall be done in a timely manner with coordination and approval of the Airport Director.
10. Permittee will conduct the Services at the Airport on September 27 and 28th, 2025, commencing at ending at hours to be mutually agreed upon by the parties. Event set-up will commence on the Monday prior to the Air Show and tear down must terminate no later than 3 days following the Air Show. A complete schedule of the days and activities will be provided to the Director of Aviation five days prior to the start of activities.
11. Permittee shall at its sole expense engage such employees, vendors, agents, and contractors necessary and required to conduct the Services and to perform Permittee's obligations under this Permit, including, without limitation, an air event controller. As to the City, Permittee shall be responsible for all acts and omissions of its officers, employees, vendors, agents, and contractors.
12. The Services and aircraft use of the Airport, including aerobatic demonstrations, shall be coordinated with the Director, FAA, and Airport Traffic Control and comply with all federal, state and local laws, rules and regulations including, without limitation, those that relate to air shows and safety of the air space that surrounds the Airport.
13. Permittee must obtain approval from the Director of Aviation at least forty-eight (48) hours prior to any use of City property and equipment, including, but not limited to, use of the aircraft boarding and deboarding stairs, ticketing counter, baggage carousel, customer holding area, gates, apron parking, and ramp. Permittee shall not have exclusive use of any area of the Airport or of any City equipment, unless Permittee contracts with City for such use, and all such uses shall be as determined by the Director of Aviation in his or her sole discretion. All areas of the Airport and all Airport equipment will be inspected by airport staff prior to use by Permittee, and Permittee shall be required to sign-off on airport staff's inspection prior to said use.
14. Permittee is an IRS 501c3 tax exempt corporation, shall be solely responsible for the payment of all applicable non tax exempt City of Pueblo taxes, including but not limited to sales and use tax, personal property tax, and excise tax due by Permittee or Permittee's officers, employees, agents, vendors, contractors, or other personnel performing services or work under this Permit. Upon request, City may require Permittee to provide a certificate of good standing evidencing that all City taxes are filed and paid.
15. All activities conducted on the Airport by Permittee, its officers, agents, employees, vendors, or contractors shall be conducted at such locations on the Airport and in such a manner as the

Director of Aviation shall approve beforehand in writing.

16. Permittee shall establish perimeter boundaries at locations designated by the Director. The perimeter shall consist of a solid barrier to prevent any and all unauthorized pedestrians from entering into the active aircraft movement areas. Permittee shall provide personnel to patrol the perimeter to prevent unauthorized pedestrians' penetration of the active aircraft movement area.
17. The Permittee's officers, employees, agents, vendors, contractors, or other personnel performing services or work under this Permit shall comply with all federal, state, and local laws, rules, and regulations. Permittee must be in good standing with all City departments and not be delinquent on any charges or fees, nor fail to obtain the proper permits or permissions.
18. Permittee shall take all necessary and prudent measures to ensure the safety of all visitors to and participants in the Services and, in addition, will immediately eliminate and remove any risk identified by the Director, or any other authorized City employee, that might pose an immediate threat to the health or safety of persons using the Airport.
19. Permittee shall at its sole cost and expense make arrangements with either the Pueblo Police Department to provide two (2) police officers or a security firm to provide two (2) armed security agents, licensed in the State of Colorado, to be present during the hours of 9:00 a.m. through 5:00 p.m. on any event date. This is in addition to contracted event security personnel appropriate for the event.
20. Permittee shall notify all affected property owners or tenants on the Airport of the Services at least ten (10) days prior to the air show. Permittee and its designated representatives must be at the air show and available at all times for contact with the Director and his or her designated representatives.
21. The Permittee hereby releases the City and its officers and employees from any and all claims the Permittee may have or accrue resulting from the use of the Airport. Permittee shall indemnify, defend and hold harmless the City, its officers and employees from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising, directly or indirectly, out of or in connection with the use of the Airport by Permittee or any other person pursuant to or under this Permit including, without limitation, Permittee's officers, employees, vendors, agents and contractors.
22. In the event of any litigation or other proceedings under this Permit, the court shall award to the prevailing party its costs and expenses of litigation, including reasonable attorney fees. Exclusive venue for any such litigation or proceedings shall be Pueblo County, Colorado.
23. Nothing in this Agreement is intended, nor should it be construed, to create any rights, claims, or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations conferred under federal or state law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.
24. In the performance of Permittee's obligations under this Permit, it is understood, acknowledged, and agreed between the parties that Permittee is at all times acting and performing as an independent contractor, and City shall neither have nor exercise any control or direction over the manner and means by which Permittee performs Permittee's obligations

under this Permit, except as otherwise stated in the Permit terms. Permittee understands and agrees that Permittee and Permittee's officers, employees, agents, vendors, contractors, or other personnel are not City employees. Permittee shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits, or any other form of compensation or benefit to Permittee or any of Permittee's officers, employees, agents, vendors, contractors, or other personnel performing services or work under this Permit, whether it is of a direct or indirect nature, including, without limitation, providing worker's compensation insurance as provided by Colorado law. Further, it is expressly understood and agreed that for such purposes neither Permittee nor Permittee's officers, employees, agents, vendors, contractors, or other personnel shall be entitled to any City payroll, retirement, or any other benefits whatsoever.

25. Permittee shall not discriminate against any person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin and agrees to charge fair and reasonable prices for admission to the air show and for each unit of services or products provided by Permittee.
26. This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year.
27. Permittee accepts the Airport and its equipment "AS IS" "WITH ALL ITS FAULTS" in their present condition. Permittee acknowledges and agrees that neither City nor any of its employees, officers or agents have made any representation or warranty, express or implied, with respect to the Airport, its equipment, or their condition, including, without limitation, any warranties of merchantability or fitness for a particular purpose or usability in its present condition.
28. Permittee shall provide the Director of Aviation at list of all aircraft to be used at the Air Show at least 30 days in advance of scheduled activities. The list shall include the tail number, width, weight distribution, and any other relevant information of the planes that will be using the Airport property. The Director of Aviation will approve specific aircraft parking and will not hold permittee liable for any damage to pavement caused by aircraft parked on the approved areas.
29. The person signing the Permit in the name of Permittee represents and warrants that he or she is authorized to enter into this Permit on behalf of the Permittee and that the Permit is a valid legal obligation of Permittee, enforceable according to its terms. This Permit may not be assigned in whole or in part by Permittee.
30. This Permit is subject to guidance and compliance of the Federal Aviation Administration and the Transportation Security Administration.
31. Permittee is allowed first right of refusal for subsequent annual Airshows held at Pueblo for a term of three calendar years (2026, 2027, and 2028).
32. This Permit is subject and subordinate to provisions and regulations of any existing or future agreement between the City and the United States relative to the use, development, operation, or maintenance of the Airport.

33. The Parties agree that this is the complete and final agreement between the Parties and that no prior agreements, verbal or written, shall have a bearing or change the terms of this Agreement.
34. Any negotiated fees and costs related to this Agreement must be in writing as an amendment to this Agreement and signed by both Parties.
35. The Air Show may be cancelled for the following reasons upon a 5 day notice prior to the Air Show:
- a. Pilots or essential crew members ("Contractors" of Permittee) have an excusable illness or emergency under the terms and provisions of the Employee's employment agreement with Permittee.
 - b. A higher / more important commitment that necessitates emergency action by the Permittee preventing the Air Show activities as scheduled.
 - c. If the Services are cancelled, Permittee shall immediately contact Airport Administration (719-553-2760).
36. This Permit is CONDITIONED on the following:
- a. Permittee providing a certificate of insurance evidencing the coverage as detailed in Section 4 hereof; and
 - b. City obtaining approval from its insurance company stating that an air show may be held at the Airport; and
 - c. Permittee may not plan any air show where the times of said air show conflict with regularly schedule flights at the Airport, except that this condition may be waived with the approval of the Director of Aviation; and
 - d. Permittee complying with all FAA regulations and requirements; and
 - e. Permittee providing a copy of a Certificate of Waiver or Authorization approved by the FAA for the applicable air show; and
 - f. Permittee and City obtaining FAA approval of an Air Show Event Ground Operation Plan prior to any air show, including, without limitation, proposed travel routes outside the designated air show area, signage, parking and personnel to be used for parking, safety, and security.
 - g. Permittee preparing and submitting to the Director for approval a ground layout, including, without limitation, the locations of vendors, displays, medical aid facilities, restroom areas, or other designated areas.

Permittee must provide proof that all conditions have been met at least one (1) month prior to any planned air show. Should any condition not be met, this permit shall be void and no air show may be held.

PERMIT issued and dated this 13th day of August, 2024.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION


Greg Pedroza
Director of Aviation

WITNESS:

JRiddall

PERMITEE

KE AVIATION STEM / Ken Floyd
Name: Kenny Floyd
Title: Treasurer



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION ADOPTING A FEE SCHEDULE FOR LIQUOR AND BEER LICENSE APPLICATIONS AND PERMITS AND REPEALING RESOLUTION NO. 15381

SUMMARY:

Attached for consideration is a modification to the liquor and beer license application and permit fees updating the fees for Lodging and Entertainment licenses to align with new state licensing types.

PREVIOUS COUNCIL ACTION:

On September 25, 2023, Council adopted Resolution No. 15381 which amended the fee schedule to change the name of the art gallery permit to alcohol beverage retail establishment permit and updated statute reference numbers, and generally updated the fee schedule.

On January 14, 2008, Council adopted Resolution No. 11198 which established an increased fee schedule for the processing of certain liquor and beer license applications pursuant to Senate Bill 97-149 and C.R.S. §12-47-505 (now §44-3-505). These changes were intended to memorialize the actual costs incurred by a municipality to process liquor and beer license applications as determined by the Legislative Task Force created by the Colorado Municipal Clerk's Association and the Colorado Municipal League.

On March 23, 2015, Council adopted Resolution No. 13202, which established a fee for art gallery permits, a newly enacted law, and restated all other fees from Resolution No. 11198.

On September 26, 2016, Council adopted Resolution No. 13529, which established fees for liquor-licensed drugstore license, and manager registration for lodging and entertainment license pursuant to C.R.S. §12-47-408 (1)(b) (now §44-3-410 (1)(b)).

This Resolution restated all the liquor and beer license fees previously adopted.

BACKGROUND:

Effective August 6, 2024, and pursuant to SB24-231, new liquor license regulations have divided the formerly Lodging and Entertainment Facility Licenses to either the Lodging Facility License or the Entertainment Facility License. C.R.S. §44-3-103(15.5) and (29)

Those Licensees that currently hold a Lodging and Entertainment Facility License, of which City has about 11, can retain their current license and will be required to opt for either an Entertainment Facility License (an establishment which primarily provides sports or entertainment activities and incidentally to that business sells alcoholic beverages) or a Lodging Facility License (an establishment which primarily provides the public with sleeping rooms and meeting facilities and sells and served alcohol beverages). Both licenses require the alcohol to be consumed on premises and sandwiches and light snacks be available for consumption on premises.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Staff recommend adoption of the Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If City Council does not approve this Ordinance, the City Clerk's Office would not be able to collect the correct fees for an Entertainment Facility License or a Lodging Facility License.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

RESOLUTION NO. 15731

A RESOLUTION ADOPTING A FEE SCHEDULE FOR LIQUOR
AND BEER LICENSE APPLICATIONS AND PERMITS AND
REPEALING RESOLUTION NO. 15381

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Local fees chargeable for liquor and fermented malt beverage license applications and permits are adopted as herein set forth.

(a) For a new license, the application fee shall be one thousand dollars (\$1,000.00).

(b) For a transfer of location or ownership, the application fee shall be seven hundred and fifty dollars (\$750.00).

(c) For an additional liquor-licensed drugstore license, which involves transfer of ownership, change of location, and license merger and conversion pursuant to §44-3-410(1)(b) C.R.S., the application fee shall be one thousand dollars (\$1,000.00).

(d) For a timely renewal application, an application filed on or prior to the expiration date of the existing license, the application fee shall be one hundred dollars (\$100.00).

(e) For a late renewal application: for an application received after the expiration date of the existing license but not more than ninety (90) days from and including the expiration date the application fee shall be five hundred dollars (\$500.00), for a late renewal application that is more than ninety (90) but not more than one hundred and eighty (180) days after the expiration date of the existing license the application fee shall be an additional twenty-five dollars (\$25.00) accruing each day past the ninety (90) days in addition to the five hundred dollars (\$500.00). A license must be in good standing and current for a transfer of the license to be approved.

(f) For a temporary permit application under §44-3-303, C.R.S., the application fee shall be one hundred dollars (\$100.00).

(g) For a manager registration with respect to a hotel and restaurant liquor license under §44-3-413., C.R.S., the registration fee shall be twenty-five dollars (\$25.00).

(h) For a manager registration with respect to a tavern liquor license under §44-3-414, C.R.S., the registration fee shall be twenty-five dollars (\$25.00).

(i) For a manager registration with respect to a [lodging and entertainment license] **Entertainment Facility or Lodging Facility** under §44-3-428, C.R.S., the registration fee shall be twenty-five dollars (\$25.00).

(j) For qualification of officers, directors, stockholders, member or managers of a corporation or limited liability company applicants, a fee of one hundred dollars (\$100.00) for fingerprint analysis, when required, and background investigation shall be paid unless the applicant has already undergone a background investigation by and paid a fee to the state licensing authority.

(k) For a new license or renewal application for a retail establishment permit under §44-3-424, C.R.S., the application fee shall be one hundred dollars (\$100.00).

(l) For a modification of premise, the applications fee shall be seventy-five dollars (\$75.00). §44-3-301, C.R.S.

SECTION 2.

Resolution No. 15381 is hereby repealed.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 4.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Cliff
PRESIDENT OF CITY COUNCIL

Signed by:
Vince Petkosik
ATTESTED BY: 330F9001300E24F8
DEPUTY CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AMENDING RESOLUTION NOS. 15609, 15641, AND 15651, TO UPDATE THE FINANCE PROJECT ACCOUNT NUMBERS ASSIGNED FOR PROJECTS ASSOCIATED WITH FIRE STATIONS 6, 8, AND 11.

SUMMARY:

A Resolution amending Resolution Nos. 15609, 15641 and 15651 to update the finance project account numbers assigned to projects related to the Fire Stations 6, 8, and 11.

PREVIOUS COUNCIL ACTION:

On April 22, 2024, City Council approved Resolution No. 15609 which awarded a construction contract to Nunn Construction, for Project No. 24-010 Construction of Fire Stations 6, 8, and 11. The funding for that contract was from Capital Project Fund No. 456 - Fire Stations.

On May 13, 2024, City Council approved Resolution No. 15637 which established two finance project accounts, including CI2435 for the construction of Fire Stations 6, 8, and 11; and CI2434 for the procurement of new fire apparatus.

On May 28, 2024, City Council approved Resolution 15641 which approved Amendment No. 3 to the Agreement for Professional Architectural Services with Allred and Associates. The funding for that amendment was to be paid from account CI2435 - Fire Stations 6, 8, and 11.

On June 10, 2023, City Council approved Resolution No. 15651 which awarded an agreement for Professional Consulting Services in the amount of \$196,470.00 to Ground Engineering Consultants, Inc. The funding for that agreement was to be paid from account CI2435 - Fire Stations 6, 8, and 11.

On August 12, 2024, City Council approved Resolution 15719 which updated the

finance project account numbers assigned to the projects for the Fire Stations 6, 8, and 11.

BACKGROUND:

Funding for the projects to construct the fire stations and to procure new fire pumper apparatus was being obtained through certificates of participation (COP's) which are separate from the City's General Fund balance that funds many other capital improvement projects. Capital improvement projects funded from the City's General Fund are typically designated with a "CI" project prefix. Because a separate fund was established for the purpose of funding these projects, it is most appropriate to provide a different account prefix designation to make the distinction between fund types more clear. Resolution 15719 amended the Resolution that established the original project account numbers to create two new finance project account numbers:

- FD2401 - Fire Stations No. 6, 8, and 11, and
- FD2402 - Pumper Fire Apparatus

This resolution will amend the account that Amendment No. 3 to the Agreement for Professional Architectural Services and the third-party material testing and special inspections services is paid from CI2435 to FD2401. This resolution also amends the account that the construction contract is paid from Capital Projects Fund No.

FINANCIAL IMPLICATIONS:

This Resolution makes administrative changes to assign new project account numbers to the subject projects. There is no change to the anticipated project costs associated with this action.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Failure to approve this Resolution will preclude City staff from making the administrative changes necessary to assign updated project account numbers for the specified projects.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Resolution15609
2. Resolution15641
3. Resolution15651

RESOLUTION NO. 15732

A RESOLUTION AMENDING RESOLUTION NOS. 15609, 15641, AND 15651, TO UPDATE THE FINANCE PROJECT ACCOUNT NUMBERS ASSIGNED FOR PROJECTS ASSOCIATED WITH FIRE STATIONS 6, 8, AND 11.

WHEREAS, on April 22, 2024, City Council approved Resolution No. 15609 which awarded a construction contract to be paid from Capital Projects Fund No. 456 - Fire Stations; and

WHEREAS, on May 28, 2024, City Council approved Resolution No. 15641 which approved Amendment No. 3 to the Agreement for Professional Architectural Services to Allred and Associates to be paid from account CI2435; and

WHEREAS, on June 10, 2024, City Council approved Resolution No. 15651 which awarded an agreement for professional consulting services to be paid from account CI2435; and

WHEREAS, on August 12, 2024, City Council approved Resolution No. 15719 which updated the finance project account numbers assigned to the projects to construction Fire Stations 6, 8, and 11; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Section 4 of Resolution No. 15609 is deleted in its entirety and amended to read as follows:

SECTION 2.

Funds in the amount of \$34,205,000, shall be paid from Project No. FD2401 - Fire Stations 6, 8, and 11.

SECTION 2.

Section 2 of Resolution No. 15641 is deleted in its entirety and amended to read as follows:

SECTION 2.

Funds for said Amendment shall be paid from Project No. FD2401 - Fire Stations 6, 8, and 11.

SECTION 3.

Section 2 of Resolution No. 15651 is deleted in its entirety and amended to read as follows:

SECTION 2.

Funds for said Agreement shall be paid from Project No. FD2401 - Fire Stations 6, 8, and 11.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosch
DEPUTY CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: April 22, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$32,686,806 TO NUNN CONSTRUCTION, FOR PROJECT NO. 24-010, CONSTRUCTION OF FIRE STATIONS 6, 8, AND 11, SETTING FORTH \$1,518,194 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution awarding a construction contract to Nunn Construction, for Project No. 24-010, Construction of Fire Stations 6, 8, and 11.

PREVIOUS COUNCIL ACTION:

On October 23, 2023, by Ordinance No. 10570, City Council authorized a site lease and lease purchase agreement between the City, and BOKF, N.A. (solely in its capacity as trustee) for the purpose of financing the construction, improvement, and equipping of three fire stations by issuing Series 2023 Certificates of Participation to not exceed \$37,000,000.

On January 22, 2024, by Ordinance No. 10640, City Council authorized the establishment of the Debt Service Fund No. 304 - COP-Fire Stations.

On March 11, 2024, by Ordinance No. 10670, City Council authorized the establishment of the Capital Projects Fund No. 456 – Fire Stations, budgeted and appropriated the proceeds received from the issuance of the Series 2023 Certificates of Participation and all future funds received into Fund No. 456.

BACKGROUND:

This project consists of the construction of three (3) fire stations of approximately 14,000 square feet each, which will incorporate Net-Zero Energy principals, and are relatively similar in design. Each fire station incorporates similar floor plan and building structure. In August 2023, a request for qualifications from general contractors that

were interested in bidding future construction of three (3) new fire stations. A total of six (6) general contractors submitted a proposal for consideration. Of those six (6), three (3) were deemed to meet the minimum qualifications to construct three (3) fire stations.

The Information for Bid for the Construction of the Fire Stations was published to the three (3) pre-qualified contractors in January 2024. Nunn Construction was selected as the most advantageous for the City of Pueblo and in the best interest of the City of Pueblo, based on the evaluation factors set forth in the Information for Bid.

FINANCIAL IMPLICATIONS:

Funding, in the amount of \$32,686,806, plus \$1,518,194 in contingencies, will be paid from Capital Projects Fund 456 - Fire Stations.

BOARD/COMMISSION RECOMMENDATION

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15609

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$32,686,806 TO NUNN CONSTRUCTION, FOR PROJECT NO. 24-010, CONSTRUCTION OF FIRE STATIONS 6, 8, AND 11, SETTING FORTH \$1,518,194 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 24-010, Construction of Fire Stations 6, 8, and 11 have been received and examined; and,

WHEREAS, the bid of Nunn Construction, was determined to be the most advantageous to the City of Pueblo, in the best interest of the City of Pueblo, based on evaluation factors set forth in the Information for Bid, and the Committee of Awards recommends to the City Council that it authorize Project No. 24-010, Construction of Fire Stations 6, 8, and 11 to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 24-010, Construction of Fire Stations 6, 8, and 11 to be performed, and the contract for said project is hereby awarded to Nunn Construction, in the amount of \$32,686,806.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 3.

In addition to the amount of the bid set forth, as aforementioned, an additional amount as stipulated in this section is hereby established for contingencies and additional work.

Contingencies and Additional Work.....\$1,518,194

SECTION 4.

Funds in the amount of \$34,205,000, shall be paid from Capital Projects Fund No. 456 - Fire Stations.

SECTION 5.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

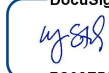
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 22, 2024

BY: Regina Maestri
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: May 28, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES IN THE AMOUNT OF \$59,025 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND ALLRED AND ASSOCIATES, A COLORADO CORPORATION., FOR PROJECT NO. 22-010 DESIGN AND ENGINEERING OF NEW FIRE STATIONS 6, 8, AND 11 PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

SUMMARY:

This Resolution approves Contract Amendment No. 3 to the Agreement for Professional Architectural Services awarded to Allred And Associates, in the amount of \$59,025.00 for Project No. 22-010, Design and Engineering of New Fire Stations 6, 8, and 11.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated February 14, 2022, established Fire Station 6, 8, and 11 Project and Project Account C12205, transferred \$600,000.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$600,000.00.

Ordinance 10188, dated June 13, 2022, transferred \$609,245.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$609,245.00.

Ordinance, 10202, dated June 27, 2022, transferred \$270,000.00 from the "2022" unappropriated fund balance of the general fund, and budgeted and appropriated \$270,000.00.

Resolution 14938, dated July 11, 2022, awarded an agreement for Professional Design Services to Allred and Associates for Design and Engineering services of new Fire

Stations 6, 8, and 11.

On October 23, 2023, by Ordinance No. 10570, City Council authorized a site lease and lease purchase agreement between the City, and BOKF, N.A. (solely in its capacity as trustee) for the purpose of financing the construction, improvement, and equipping of three fire stations by issuing Series 2023 Certificates of Participation to not exceed \$37,000,000.

On January 22, 2024, by Ordinance No. 10640, City Council authorized the establishment of the Debt Service Fund No. 304 - COP-Fire Stations.

On March 11, 2024, by Ordinance No. 10670, City Council authorized the establishment of the Capital Projects Fund No. 456 – Fire Stations, budgeted and appropriated the proceeds received from the issuance of the Series 2023 Certificates of Participation and all future funds received into Fund No. 456.

Pending approval on May 13, 2024 City Council agenda establishes Project CI2435 - Fire Station No. 6, 8, and 11 in Fund 456 - Fire Stations.

BACKGROUND:

This project is part of infrastructure and response improvements for the City of Pueblo and its Fire Departments, relocating Fire Stations 1, 6, and 8, and building a new Fire Station 11.

In April 2022, the City of Pueblo solicited Requests for Proposals (RFP 22-010) for design and engineering services for new Fire Stations 6, 8, and 11. A total of nine (9) firms provided a proposal for the work. City Staff provided evaluations of the proposals using project approach, work schedule, fee schedule and statement of qualifications evaluation criteria. Upon compilation of staff evaluations, the top five (5) firms were interviewed. Allred and Associates was then chosen by the interview committee.

Amendment No. 1 to the Professional Architectural Services Agreement, approved by the Director of Purchasing, due to the amount of change being less than 10% of the overall contract amount, was for additional redesign survey work.

Amendment No. 2 to the Professional Architectural Services Agreement, also approved by the Director of Purchasing, was for additional testing bore holes and reporting for geothermal.

The design was completed in December 2023, and the Information for Bid for the construction of the new fire stations was published to the three (3) pre-qualified contractors in January 2024. Bids received from the contractors were significantly over budget, so a process of value engineering was started. In order to provide a complete set of plans with the changes made during value engineering, additional funding is required in the contract with the architect.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$59,025.00 will be paid from Project Account CI2436, Fire

Stations 6, 8, and 11 Project.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution will result in the cancelation of additional services. However, the additional services are necessary to provide a final set of documents to the contractor for construction of the fire stations.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 22-010 DRAFT Allred Amendment No 3

RESOLUTION NO. 15641

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES IN THE AMOUNT OF \$59,025 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND ALLRED AND ASSOCIATES, A COLORADO CORPORATION., FOR PROJECT NO. 22-010 DESIGN AND ENGINEERING OF NEW FIRE STATIONS 6, 8, AND 11 PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME.

WHEREAS, an Agreement for Professional Architectural Services was awarded to Allred and Associates, on July 12, 2022, and,

WHEREAS, Amendment No. 1 to the Agreement for Professional Architectural Services was awarded to Allred and Associates on September 28, 2022, and,

WHEREAS, Amendment No. 2 to the Agreement for Professional Architectural Services was awarded to Allred and Associates on October 13, 2023, and,

WHEREAS, the City of Pueblo and Allred and Associates, desire to modify the Agreement for additional services; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Amendment 3 to the Agreement for Professional Architectural Services for Project No. 22-010 Design and Engineering of New Fire Stations 6, 8, and 11 Project, by and between the City of Pueblo, a Municipal Corporation, and Allred and Associates, Inc., a Colorado Corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by the Amendment to be performed in the amount of \$59,025.00.

SECTION 2.

Funds in the amount of \$59,025.00 shall be paid from Project Account C12435 – Fire Stations 6, 8 and 11 Project.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said Amendment on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 4.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution and the attached Amendment to implement the policies and procedures described herein.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: May 28, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Bliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vincent Petkosek
DEPUTY CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: June 10, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES IN THE AMOUNT OF \$196,470.00 TO GROUND ENGINEERING CONSULTANTS, INC., A COLORADO CORPORATION, FOR PROJECT NO. 24-040 SPECIAL INSPECTION AND MATERIALS TESTING - FIRE STATIONS 6, 8, AND 11, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards an Agreement for Professional Consulting Services to GROUND Engineering Consultants, Inc., to render certain professional materials testing, special inspection services, and related services. GROUND Engineering Consultants, Inc., was determined to be the most responsible bidder and will be awarded a contract in the amount of \$196,470.00.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated February 14, 2022, established Fire Station 6, 8, and 11 Project, account Project CI2205, transferred \$600,000.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$600,000.00.

Ordinance 10188, dated June 13, 2022, transferred \$609,245.00 from the unappropriated fund balance of the general fund, and budgeted and appropriated \$609,245.00.

Ordinance, 10202, dated June 27, 2022, transferred \$270,000.00 from the "2022" unappropriated fund balance of the general fund, and budgeted and appropriated \$270,000.00.

Resolution 14938, dated July 11, 2022, awarded an agreement for Professional Design Services to Allred and Associates for Design and Engineering services of new Fire Stations 6, 8, and 11.

On October 23, 2023, by Ordinance No. 10570, City Council authorized a site lease and lease purchase agreement between the City, and BOKF, N.A. (solely in its capacity as trustee) for the purpose of financing the construction, improvement, and equipping of three fire stations by issuing Series 2023 Certificates of Participation to not exceed \$37,000,000.

On January 22, 2024, by Ordinance No. 10640, City Council authorized the establishment of the Debt Service Fund No. 304 - COP-Fire Stations.

On March 11, 2024, by Ordinance No. 10670, City Council authorized the establishment of the Capital Projects Fund No. 456 – Fire Stations, budgeted and appropriated the proceeds received from the issuance of the Series 2023 Certificates of Participation and all future funds received into Fund No. 456.

Resolution 15609, dated April 22, 2024, awarded a construction contract in the amount of \$32,686,806 to Nunn Construction for Project No. 24-010, Construction of Fire Stations 6, 8, and 11, setting forth \$1,518,194 for contingencies.

Resolution 15637, dated May 13, 2024 established Project CI2435 - Fire Station No. 6, 8, and 11 in Fund 456 - Fire Stations for \$33,500,000.

BACKGROUND:

The Fire Station 6, 8, and 11 project consists of the construction of three (3) fire stations of approximately 14,000 square feet each, which will incorporate Net-Zero Energy principals, and are relatively similar in design. Each fire station incorporates similar floor plan and building structure. Nunn Construction was awarded a construction contract to build all 3 fire stations.

As part of the construction, the Pueblo Regional Building Department and the City of Pueblo require additional 3rd party material testing and special inspections. GROUND Engineering Consultants, Inc were selected as the most advantageous and in the best interest of the City of Pueblo to provide the testing and inspections during construction.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$196,470.00 will be paid from CI2435 – Fire Stations 6, 8, and 11.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Resolution.

STAKEHOLDER PROCESS:

Not Applicable to this Resolution.

ALTERNATIVES:

Denial of this Resolution will result in cancelation of the special inspection and material

testing; which are required for the construction of the fire stations. Canceling the special inspections and material testing project will require that the construction of the fire stations be canceled as well.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 24-040 DRAFT Ground Engineering Agreement for Special Inspections Fire Stations 6 8 11

RESOLUTION NO. 15651

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES IN THE AMOUNT OF \$196,470.00 TO GROUND ENGINEERING CONSULTANTS, INC., A COLORADO CORPORATION, FOR PROJECT NO. 24-040 SPECIAL INSPECTION AND MATERIALS TESTING - FIRE STATIONS 6, 8, AND 11, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, the Proposal of GROUND Engineering Consultants, Inc., for Project No. 24-040 Special Inspection and Materials Testing - Fire Stations 6, 8, and 11, has been received and examined; AND,

WHEREAS, the Proposal of GROUND Engineering Consultants, Inc., was determined to be the most advantageous to the City of Pueblo, and in the best interest of the City of Pueblo, based on the evaluation factors set forth in the Request for Proposals; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 24-040 Special Inspection and Materials Testing - Fire Stations 6, 8, and 11 to be performed, and the Contract for said services is hereby awarded to GROUND Engineering Consultants, Inc., in the amount of \$196,470.00.

SECTION 2.

Funds for said Agreement shall be paid from Project No. CI2435 - Fire Stations 6, 8, and 11.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

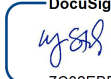
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 10, 2024

BY: Regina Maestri
MEMBER OF CITY COUNCIL

APPROVED: Mark Bliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND CRISTY GONZALES, RELATED TO SETTLEMENT OF UNITED STATES DISTRICT COURT OF COLORADO ACTION NO. 23-CV-03125-DDD-MDB

SUMMARY:

This Resolution approves and authorizes a General Release ("Agreement" or "Settlement Agreement and Release of Claims") formalizing the settlement reached in United States District Court of Colorado Action no. 23-CV-03125-DDD-MDB concerning Cristy Gonzales' claims against the police department related to a use of force that occurred during enforcement action taken to recover a stolen vehicle

PREVIOUS COUNCIL ACTION:

No prior Council action exists with respect to this matter.

BACKGROUND:

Cristy Gonzales ("Gonzales") filed a Complaint in the United States District Court of Colorado on November 26, 2023, Case No. 23-CV-03125-DDD-MDB, asserting claims against the City, arising out of contact Gonzales had with police department officers on February 21, 2022. Both sides are desirous of settling the litigation before it proceeds further. In order to do so, the attached Settlement Agreement and Release of Claims ("Agreement") must be approved by the City Council.

The attached Agreement is recommended by both outside legal counsel and CIRSA as a reasonable settlement of this matter.

The Agreement requires the City to pay the sum of One Hundred Eighty-Two Thousand Five Hundred Dollars (\$182,500) to Gonzales.

FINANCIAL IMPLICATIONS:

The Settlement Agreement and Release of Claims requires the City to pay the sum of One Hundred Eighty-Two Thousand Five Hundred Dollars (\$182,500) to Gonzales.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to approve the Settlement Agreement and Release of Claims. If this occurs, the litigation will continue in federal district court.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Gonzales - notarized release

RESOLUTION NO. 15733

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND CRISTY GONZALES, RELATED TO SETTLEMENT OF UNITED STATES DISTRICT COURT OF COLORADO ACTION NO. 23-CV-03125-DDD-MDB

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The General Release ("Agreement" or "Settlement Agreement and Release of Claims"), attached hereto, between the City of Pueblo, a Colorado Municipal Corporation, and Cristy Gonzales ("Gonzales"), having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the attached Agreement to implement the actions described herein.

SECTION 3.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

GENERAL RELEASE

RECITALS

1. CRISTY GONZALES, and any and all of her heirs, personal representatives, executors, administrators, attorneys, successors, and assigns are hereinafter collectively referred to as "**RELEASOR**."

2. THE CITY OF PUEBLO, COLORADO, Colorado Intergovernmental Risk Sharing Agency, and any and all of their current or former entities, officials, officers, employers, successors, assigns, attorneys, employees, agents, servants, insurers, self-insurers, reinsurers, and excess insurers are hereinafter collectively referred to as "**RELEASEES**."

3. **RELEASOR** and **RELEASEES** are collectively referred to as "the Parties."

4. **RELEASOR** filed her Complaint in this matter on November 26, 2023, in the United States District Court for the District of Colorado, in Case No. 23-CV-03125-DDD-MDB, hereinafter referred to as "the Civil Action." The Civil Action arose out of events that are alleged to have occurred on February 21, 2022 ("the Incident"). The factual allegations and claims made by **RELEASOR** have been and continue to be denied and disputed by **RELEASEES**.

5. Prior to the entry of this General Release, **RELEASOR** has stipulated to the voluntary dismissal with prejudice of individually named defendants employed by the City of Pueblo in the Civil Action, each party to pay their own costs and attorney fees.

6. **RELEASOR** has decided to enter into this General Release on the terms set out in these recitals and agreement below and reach a complete resolution of any claims arising out of the Incident and/or the Civil Action, as well as any and all claims of any kind **RELEASOR** may have against **RELEASEES** occurring up to the date of the execution by **RELEASOR** of this General Release for damages and/or injuries of any kind, known and unknown, foreseen and unforeseen. For the purpose of this General Release, all of the claims asserted in the Civil Action, whether remaining or dismissed, and all other actual or potential claims or disputes among the Parties shall be referred to hereafter collectively as the "Claims."

7. In entering into this General Release, it is acknowledged that both **RELEASOR** and **RELEASEES** have incurred costs and fees in pursuing and defending this litigation. **RELEASEES** assert that they enter into this agreement to avoid the cost of further litigation.

RELEASE

Release, Covenant Not to Sue, Hold Harmless, and Indemnification.

1. **RELEASOR** agrees irrevocably and unconditionally to release, discharge, and hold harmless and does release and forever discharge **RELEASEES** from any and all claims occurring up to the date of the execution by **RELEASOR** of this General Release for any and all damages and/or injuries pursuant to any federal or state statute, constitution, common law, contract or otherwise, known and unknown, foreseen and unforeseen, including but not limited to those which may now or hereafter arise out of, or result in any way from the Incident described in the recitals and/or the Civil Action, and/or which have or could have been made, as well as any and all matters relating thereto, and any and all consequences thereof.

2. **RELEASOR** understands and agrees that this General Release prevents any appeal of any of the dismissals, stipulated or otherwise, against the Parties or for any claims made in the Civil Action.

3. **RELEASOR** represents and warrants that, other than that which is set forth in the Recitals to this General Release, Plaintiff has not and will not file any claim or charge in or with any court or agency based on or related to the Incident or Claims against **RELEASEES**, other than the pre-existing POST Board Complaint filed by Plaintiff in November 2023, File #C-000017451. Plaintiff will not be prohibited from participation in any administrative or criminal investigation, as required by law.

4. **RELEASOR** agrees that to the extent any Medicaid, Medicare, Social Security or other lien, assignment, subrogation or other right of substitution is asserted, they will be satisfied by the consideration set forth in the General Release, to the extent the consideration set out in this General Release is sufficient to satisfy them and in accordance with the requirements of state and federal law, before the proceeds are distributed to **RELEASOR**. **RELEASOR** further certifies and affirmatively represents that, in the event that any of **RELEASEES** are subjected to any claims by Medicaid, Medicare, Social Security or by any person, firm, corporation, hospital, court, or governmental entity under any actual or purported lien or right of substitution, assignment or subrogation, or other claim of right, **RELEASOR** will hold **RELEASEES** harmless from any such claims, demands, or judgment and agrees to indemnify and defend **RELEASEES** from any such claims, demands, or judgments together with the costs of defense, including attorney fees.

5. **RELEASOR** agrees that, should any medical bills or liens arise including any Medicare or Medicaid bills or any other liens, **RELEASOR** will be financially responsible for payment and/or reimbursement of these bills or liens.

6. **RELEASOR** understands and agrees that she is solely responsible for all tax obligations, including all reporting and payment obligations, that may arise as a consequence of this General Release and the monetary consideration provided to her pursuant to it. **RELEASOR** agrees that **RELEASEES** have provided no representation or advice as to how this consideration is to be characterized or allocated as to the tax treatment or tax reporting or payment obligations for the monetary consideration set out herein.

7. **RELEASOR** further warrants that she fully realizes that she may have sustained unknown and unforeseen losses; costs; expenses; damages; liabilities; claims; bodily, personal, or psychological injuries; damage to property; or business losses, and the consequences thereof which may be at this time, heretofore, and hereafter unknown, unrecognized, and not contemplated by **RELEASOR**, which resulted or may or will result from the Incident and all matters incident or related thereto, that no promise or inducement has been offered except as herein set forth, that all agreements and understandings between the Parties are expressed herein, that this General Release was executed without reliance upon any statement or representation by **RELEASEES**, and that **RELEASOR** is legally competent to execute this General Release. **RELEASOR** accepts full responsibility and assumes the risk of any mistake of fact or law as to any damages, losses, or injuries, whether disclosed or undisclosed, including any mistake in medical diagnosis or prognosis for any injuries, known or unknown, sustained as a result of the Incident and all matters incident and related thereto applicable to the Claims and any potential claims **RELEASOR** has or may have against **RELEASEES**.

Consideration

8. **RELEASEES** agree to pay **RELEASOR** the total amount of One-Hundred Eighty-Two Thousand and 500/100 DOLLARS (\$182,500) by tendering a check to **RELEASOR** in the following amount: \$182,500 payable to Mehr Law PLLC COLTAF account.

9. It is agreed that consideration for this General Release is as set forth herein, and includes the above monetary consideration which shall be full and final settlement and payment for all claims released herein and all claims that might have been asserted in any state or federal judicial or administrative forum up to the date of execution of this General Release against **RELEASEES**, including any claims for attorney fees and costs.

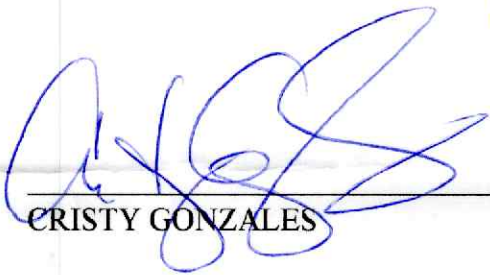
Voluntariness, Denial of Liability, Entire Agreement

10. **RELEASOR** has carefully read the above and foregoing General Release and knows the contents thereof and has signed the same as her own free and voluntary act and after having had the opportunity to have the same explained by counsel. **RELEASOR** expressly states that she has been advised of her right to consult additional professionals of her choice, including physicians, lawyers, and accountants, regarding any and all known and unknown, foreseen and unforeseen, damages, losses, injuries, costs, losses of services, expenses, liabilities, claims, and the consequences thereof, of whatsoever kind and nature, that **RELEASOR** may have or will incur, whether suspected or unsuspected. **RELEASOR** further expressly understands and agrees that the signing of this General Release shall be forever binding and no rescission, modification, or release of **RELEASOR** from the terms of this General Release will be made for any mistake.

11. It is expressly understood and agreed that the acceptance of the above-mentioned consideration is in full accord and satisfaction of a disputed claim and that payment of said sum is not to be construed in any way as an admission of liability on the part of **RELEASEES** but, on the contrary, **RELEASEES** specifically deny any wrongdoing, misconduct, or liability on account of the Incident or any matters related or incidental hereto, or otherwise.

12. **RELEASOR** understands and agrees that all agreements and understandings between **RELEASOR** and **RELEASEES** are embodied and expressed herein and that the terms of this General Release are contractual and not mere recitals.

13. **RELEASOR** certifies that she has fully read and understands the foregoing General Release and hereby affixes her signature this 22 day of July, 2024, as her own free and voluntary act.

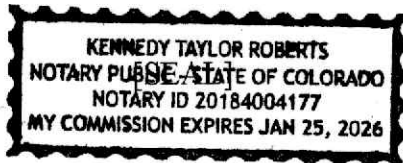

CRISTY GONZALES

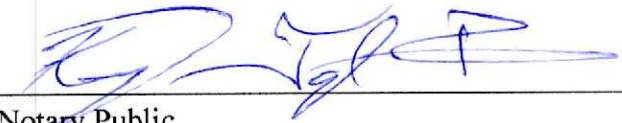
STATE OF COLORADO)
) ss
COUNTY OF Denver)

SWORN TO AND SUBSCRIBED by CRISTY GONZALES this 22nd day of July, 2024 by Cristy Gonzales.

WITNESS my hand and official seal.

My commission expires: 01-25-2026





Notary Public

I, Kevin Mehr, as attorney for CRISTY GONZALES, have reviewed the within General Release with my client and have fully explained each and every term, condition, limitation, and obligation set forth herein to her and believe that she is competent and understands the same. By my signature below, I further signify my approval of the form of the within General Release.

MEHR LAW PLLC

Date: _____

Kevin Mehr



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-051-2024 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$239,529 FOR COSTS RELATED TO THE CONSTRUCT HANGAR AND REHABILITATE TAXILANE (PHASE I DESIGN) PROJECT AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$239,529 TO PROJECT NO. AP1804 – SOUTH T-HANGAR #1, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance will approve and accept an Airport Improvement Program (AIP) grant agreement from the United States of America acting through the Federal Aviation Administration (FAA) to provide funding for costs related to the Construct Hangar and Rehabilitate Taxilane (Phase I Design) project, budgeting and appropriating funds to AP1804 – South T-Hangar #1.

PREVIOUS COUNCIL ACTION:

Ordinance No. 9308, passed and approved on July 9, 2018, established Project No. AP1804 – South T-Hangar #1 budgeting and appropriating funds from insurance claim for damage to t-hangars.

BACKGROUND:

The City owned a set of ten T-Hangars that were built in the late 1970s. In May of 2015, the Airport was hit by a severe hailstorm that damaged the roof. Then, in July of 2016, the T-Hangars were further damaged by a DC-10 that severely damaged the northernmost hangar unit. Insurance funds have been received and used to seed a project to construct new hangars. The damaged hangars were disassembled and donated to Otero County for use at Fowler Airport. The 2022 Airport Master Plan

identified the need to construct new general aviation hangars and rehabilitate taxiway infrastructure at the Pueblo Memorial Airport. The FAA has awarded a grant from the Bi-partisan Infrastructure Legislation (BIL) funds to reimburse 95% of project costs.

FINANCIAL IMPLICATIONS:

The total design project cost is \$245,636.44. The FAA AIP Grant is (95%) of the total project costs not to exceed \$239,529.00. Funds will be budgeted and appropriated to Project No. AP1804-South T-Hangar #1. Local and State matching funds were budgeted and appropriated in a previous ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the grant will not be accepted from the federal government and the project will not occur.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. PUB-NMG-3-08-0046-051-2024-Draft Grant Agreement
2. AIP51 - Grant Certification

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-051-2024 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$239,529 FOR COSTS RELATED TO THE CONSTRUCT HANGAR AND REHABILITATE TAXILANE (PHASE I DESIGN) PROJECT AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$239,529 TO PROJECT NO. AP1804 – SOUTH T-HANGAR #1, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo has received a Grant Agreement from the Federal Aviation Administration (FAA) for costs related to the Construct Hangar and Rehabilitate Taxilane (Phase I Design) project; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Federal Aviation Administration Grant Agreement No. 3-08-0046-051-2024 (“Grant Agreement”), a copy of which is attached hereto and made a part hereof by reference, by and between the City of Pueblo, a Colorado Municipal Corporation, and the United States of America through the Federal Aviation Administration (“FAA”), making available \$236,529.00 in federal funds for costs related to the Construct Hangar and Rehabilitate Taxilane (Phase I Design) project, after having been approved as to form by the City Attorney, is here by accepted and approved.

SECTION 2.

The Mayor is hereby authorized to execute the Grant Agreement in the name and on behalf of the City of Pueblo, where the Mayor may execute the Grant Agreement by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

Funds in the amount of \$236,529.00 shall be accepted pursuant to the Grant Agreement and budgeted and appropriated to Project No. AP1804-South T-Hangar #1.

SECTION 4.

Pursuant to the Grant Agreement, the FAA may make unilateral amendments to the grant terms and its obligation thereunder, including the increasing or decreasing of its grant obligation. In accordance therewith, such amendments shall be effective without the need for an additional ordinance or other action by City Council. Should the FAA increase the maximum grant obligation, said funds shall be automatically budgeted and appropriated to Project No. AP1804-South T-Hangar #1 without the need for further action.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent

with this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Northwest Mountain Region
Colorado

Denver Airports District Office:
26805 E 68th Ave, Ste 224
Denver, CO 80249-6339

{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}

The Honorable Heather Graham
Mayor, City of Pueblo
1 City Hall Place
Pueblo, Colorado 81003

Dear Mayor Graham:

The Grant Offer for the Bipartisan Infrastructure Law (BIL) - Airport Infrastructure Grant (AIG) Project No. 3-08-0046-051-2024 at Pueblo Memorial Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 13, 2024**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws

on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Paulette Lugo, (303) 342-1256, paulette.lugo@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

{Sig_es_:signer1: signature}}

John P. Bauer
Manager, Denver Airports District Manager



U.S. Department
of Transportation
Federal Aviation
Administration

**FY 2024 AIRPORT INFRASTRUCTURE GRANT
GRANT AGREEMENT
Part I - Offer**

Federal Award Offer Date	{{DateTime_es_.signer1:calc(now()):format(date," mmmm d, yyyy")}}	
Airport/Planning Area	Pueblo Memorial Airport	
Airport Infrastructure Grant Number	3-08-0046-051-2024	[Contract No. Dot-FA24NM-1087]
Unique Entity Identifier	NJK3BNUDRHJ7	
TO:	City of Pueblo, Colorado (herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)	
FROM:	The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")	

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated January 16, 2024, and amended on July 9, 2024, for a grant of Federal funds for a project at or associated with the Pueblo Memorial Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Pueblo Memorial Airport (herein called the "Project") consisting of the following:

Construct Hangar and Rehabilitate Taxilane (Phase I Design)

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay (95) % of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$239,529.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$239,529 for airport development or noise program implementation; and,

\$0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period. Eligible project-related costs incurred on or after November 15, 2021 that comply with all Federal funding procurement requirements and FAA standards are allowable costs.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

- c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, BIL (Public Law 117-58), the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 13, 2024, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
 - a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its

information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).

- b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Informal Letter Amendment of BIL Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can, subject to the availability of Federal funds, also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Environmental Standards.** The Sponsor is required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.
15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.
17. **Build America, Buy American.** The Sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant:

- a. May not be increased for a planning project;

- b. May be increased by not more than 15 percent for development projects, if funds are available;
- c. May be increased by not more than the greater of the following for a land project, if funds are available:
 - 1. 15 percent; or
 - 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in BIL (Public Law 117-58), or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. Audits for Sponsors.

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. Suspension or Debarment. When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 - 1. Checking the Responsibility/Qualification records in the Federal Awardee Performance and Integrity Information System (FAPIIS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 - 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 - 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. Ban on Texting While Driving.

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:

1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. *Posting of contact information.*
 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph (b) of this Grant Condition; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (b) of this Grant Condition through conduct that is either –
 - a) Associated with performance under this Grant; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.
- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –

1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - i. Associated with performance under this Grant; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. “Private entity”:
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:
 - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).

b) A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

23. **BIL Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.

24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated January 06, 2022, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.

25. **Employee Protection from Reprisal.**

a. Prohibition of Reprisals.

1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:

- i. Gross mismanagement of a Federal grant;
- ii. Gross waste of Federal funds;
- iii. An abuse of authority relating to implementation or use of Federal funds;
- iv. A substantial and specific danger to public health or safety; or
- v. A violation of law, rule, or regulation related to a Federal grant.

2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:

- i. A member of Congress or a representative of a committee of Congress;
- ii. An Inspector General;
- iii. The Government Accountability Office;
- iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
- v. A court or grand jury;
- vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
- vii. An authorized official of the Department of Justice or other law enforcement agency.

b. Investigation of Complaints.

1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.

2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the OIG's office are established under 41 U.S.C. § 4712(b).
- c. Remedy and Enforcement Authority.
1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.
27. **Title VI of the Civil Rights Act.** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities. This may include, as applicable, providing a current Title VI Program Plan and a Community Participation Plan (alternatively may be called a Public Participation Plan) to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is also required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin (including limited English proficiency), sex (including sexual orientation and gender identity), creed, age, disability, genetic information, or environmental justice in consideration for federal financial assistance. The Sponsor, who have not sufficiently demonstrated the conditions of compliance with civil rights requirements will be required to do so before receiving funds. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

SPECIAL CONDITIONS

28. **Solid Waste Recycling Plan.** The Sponsor certifies that it has a solid waste recycling plan as part of an existing Airport Master Plan, as described by 49 U.S.C. § 47106(a)(6).
29. **Design Grant.** This Grant Agreement is being issued in order to complete the design of the project. The Sponsor understands and agrees that within two (2) years after the design is completed that the Sponsor will accept, subject to the availability of the amount of Federal funding identified in the Airport Capital Improvement Plan (ACIP), a grant to complete the construction of the project in order to provide a useful and usable unit of work. The Sponsor also understands that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the FAA may suspend or terminate grants related to the design.
30. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
31. **Final Project Documentation.** The Sponsor understands and agrees that in accordance with 49 USC 47111, and with the Airport District Office's (ADO) concurrence, that no payments totaling more than 90.0 percent of United States Government's share of the project's estimated allowable cost may be made before the project is determined to be substantially complete. Substantially complete means the following: (1) The project results in a complete, usable unit of work as defined in the grant agreement and (2) The sponsor submits necessary documents showing that the project is substantially complete per the contract requirements, or has a plan (that FAA agrees with) that addresses all elements contained on the punch list. Furthermore, no payments totaling more than 97.5 percent of the United States Government's share of the project's estimated allowable cost may be made until: (1) The sponsor submits all necessary closeout documentation and (2) The sponsor receives final payment notification from the ADO.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

{{Sig_es_:signer1:signature:dimension(height=12mm,width=70mm)}}

(Signature)

{{N_es_:signer1:fullname }}

(Typed Name)

{{N_es_:signer1:title }}

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated {{DateTime_es_:signer2:calc(now()):format(date," mmmm d, yyyy")}}

CITY OF PUEBLO, COLORADO

(Name of Sponsor)

{{Sig_es_:signer2:signature:dimension(height=12mm, width=70mm)}}

(Signature of Sponsor's Authorized Official)

By: {{N_es_:signer2:fullname }}

(Typed Name of Sponsor's Authorized Official)

Title: {{*Ttl_es_:signer2:title }}

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, **{{N_es :signer3: fullname}}**, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL), Division J, Title VIII; and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at **{{DateTime_es :signer3:calc(now()):format(date," mmmm d, yyyy")}}** %}

By: **{{Sig_es :signer3:signature:dimension(height=12mm, width=70mm)}}**

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Public Law 117-58, Division J, Title VIII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.¹
- g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act – 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.²

- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 - Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹

- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the

Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of 49 U.S.C. § 47107(s) and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying aviators of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and

which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The **(City of Pueblo, Colorado)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. § 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-

sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., or Public Law 117-58, Division J, Title VIII it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under a Bipartisan Infrastructure Law grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for BIL projects as of January 16, 2024.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

GRANT CERTIFICATION

To: Mark Aliff, President of the City Council
Heather Graham, Mayor

Re: Grant No. 3-08-0046-051-2024

Construct Hangar and Rehabilitate Taxilane (Phase I Design)

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Greg Pedroza

Date: Aug 13, 2024

Signature: 

Title: Director of Aviation



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING LEASE NO. GS-08P-LCO00780 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE UNITED STATES OF AMERICA TO LEASE SPACE AT THE PUEBLO MEMORIAL AIRPORT FOR USE BY THE TRANSPORTATION SECURITY ADMINISTRATION (TSA), AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves an Agreement with the United States of America ("Government") for the use of office space inside 31201 Bryan Circle, also known as the Terminal Building, ("Terminal") at the Pueblo Memorial Airport to the City of Pueblo.

PREVIOUS COUNCIL ACTION:

City Council has approved agreements with the United States of America to lease space at the Airport for TSA since 2002. The current lease was approved under Resolution No. 13093 and expired July 31, 2024.

BACKGROUND:

After September 11, 2001, the Federal government assumed responsibility for the screening of airline passengers at commercial service airports by federal employees through the Transportation Security Administration (TSA). This resolution is to approve the negotiated On-Airport Lease with the United States of America for office and related space in the terminal building for use by the TSA. The lease commencement date is August 1, 2024.

FINANCIAL IMPLICATIONS:

The 10-year Lease is for a total of 429 square feet of office, break room, and server closet at a rate of \$22.42 per square foot per annum. The total annual cost is \$9,619.20 paid in twelve monthly installments.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the TSA would not lease space inside the Terminal resulting in the inability to efficiently operate.

RECOMMENDATION:

The Department of Aviation recommends approval of this Ordinance.

ATTACHMENTS:

1. 31201 Bryan TSA 2024 08 01 GSA AGREEMENT unsigned

ORDINANCE NO.

AN ORDINANCE APPROVING LEASE NO. GS-08P-LCO00780 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE UNITED STATES OF AMERICA TO LEASE SPACE AT THE PUEBLO MEMORIAL AIRPORT FOR USE BY THE TRANSPORTATION SECURITY ADMINISTRATION (TSA), AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, Lessor owns and operates the Pueblo Memorial Airport ("Airport"); and

WHEREAS, Lessee is desirous of leasing space at 31201 Bryan Circle at the Airport upon the terms and conditions hereinafter set forth; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Lease Agreement, by and between the City of Pueblo, a Colorado Municipal Corporation, and the United States of America, for office and related space located at the Pueblo Memorial Airport for use by the Transportation Security Administration (TSA), a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved, subject to the conditions as set forth in said On-Airport Lease.

SECTION 2.

The Mayor is hereby authorized to execute and deliver the Agreement in the name of the City and the City Clerk shall affix the Seal of the City thereto and attest the same.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with this Ordinance and the Agreement to implement the transactions, policies, and procedures described herein.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

LEASE NO. GS-08P-LCO00780

On-Airport Lease
GSA TEMPLATE L201D (OCT 2023)

A. This Lease is made and entered into between

City of Pueblo

(Lessor), whose principal place of business is 1 City Hall Place, Pueblo, CO 81003-4201, and whose interest in the Property described herein is that of Fee Owner, and

The United States of America

(Government), acting by and through the designated representative of the General Services Administration (GSA), upon the terms and conditions set forth herein.

B. Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

Lessor hereby leases to the Government the Premises described herein, being all or a portion of the Property located at

Pueblo Memorial Airport, 31201 Bryan Circle, Pueblo, CO 81001-4803

and more fully described in Section 1 and Exhibit A, together with rights to the use of parking and other areas as set forth herein, to be used for such purposes as determined by GSA.

C. LEASE TERM

To Have and To Hold the said Premises with its appurtenances for the term beginning upon **August 1, 2024**, and continuing for a period of

10 Years, 5 Years Firm,

subject to termination and renewal rights as may be hereinafter set forth.

In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

FOR THE LESSOR:

Name: _____
Title: _____
Entity: _____
Date: _____

FOR THE GOVERNMENT:

Name: _____
Title: Lease Contracting Officer
General Services Administration, Public Buildings Service
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

The information collection requirements contained in this Solicitation/Contract, that are not required by regulation, have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0086.

SECTION 1 THE PREMISES, RENT, AND OTHER TERMS	3
1.01 THE PREMISES (OCT 2022)	3
1.02 EXPRESS APPURTENANT RIGHTS (SEP 2013)	3
1.03 RENT AND OTHER CONSIDERATION (ON-AIRPORT) (OCT 2023)	3
1.04 TERMINATION RIGHTS (ON-AIRPORT) (SEP 2013)	4
1.05 RENEWAL RIGHTS (OCT 2016)	4
1.06 DOCUMENTS INCORPORATED IN THE LEASE (ON-AIRPORT) (OCT 2023)	4
1.07 OPERATING COST BASE (OCT 2016)	4
1.08 LESSOR'S UNIQUE ENTITY IDENTIFIER (OCT 2022)	4
SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS	5
2.01 DEFINITIONS AND GENERAL TERMS (OCT 2023)	5
2.02 AUTHORIZED REPRESENTATIVES (OCT 2016)	6
2.03 WAIVER OF RESTORATION (OCT 2023)	6
2.04 OPERATING COSTS ADJUSTMENT (JUN 2012)	6
2.05 RELOCATION RIGHTS (OCT 2021)	6
2.06 RECITALS FOR TRANSPORTATION SECURITY ADMINISTRATION (ON-AIRPORT) (JUN 2012)	7
2.07 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (ON-AIRPORT) (MAY 2015)	7
2.08 ALTERATIONS PRIOR TO ACCEPTANCE (JUN 2012)	7
2.09 SYSTEM FOR AWARD MANAGEMENT (MAR 2020)	7
2.10 SECURITY UPGRADES DUE TO IMMEDIATE THREAT (APR 2011)	7
2.11 ENTITY NAME (OCT 2023)	7
SECTION 3 CONSTRUCTION STANDARDS AND SHELL COMPONENTS	8
3.01 BUILDING SHELL REQUIREMENTS (ON-AIRPORT) (SEP 2013)	8
3.02 MEANS OF EGRESS (MAY 2015)	8
3.03 AUTOMATIC FIRE SPRINKLER SYSTEM (OCT 2023)	8
3.04 FIRE ALARM SYSTEM (SEP 2013)	8
3.05 ENERGY INDEPENDENCE AND SECURITY ACT (MAR 2016)	9
3.06 ACCESSIBILITY (FEB 2007)	10
3.07 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)	10
3.08 RESTROOMS (ON-AIRPORT) (JUN 2012)	10
3.09 HEATING, VENTILATION, AND AIR CONDITIONING (ON-AIRPORT) (OCT 2022)	10
3.10 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (ON-AIRPORT) (SEP 2013)	10
3.11 GOVERNMENT PROJECT MANAGEMENT SYSTEM (ON-AIRPORT) (OCT 2022)	10
SECTION 4 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM	11
4.01 SERVICES, UTILITIES, AND MAINTENANCE (ON-AIRPORT) (OCT 2020)	Error! Bookmark not defined.
4.02 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS FOR AIRPORT OCCUPANCIES (SEP 2013)	11
4.04 RECYCLING (ON-AIRPORT) (OCT 2023)	11
4.05 RANDOLPH-SHEPPARD COMPLIANCE (SEP 2013)	11
4.06 SAFEGUARDING AND DISSEMINATION OF CONTROLLED UNCLASSIFIED INFORMATION (CUI) BUILDING INFORMATION (OCT 2022)	11
4.07 INDOOR AIR QUALITY (OCT 2023)	12
4.08 HAZARDOUS MATERIALS AND MOLD (ON-AIRPORT) (OCT 2023)	13
4.09 OCCUPANT EMERGENCY PLANS (OCT 2020)	13
SECTION 5 ADDITIONAL TERMS AND CONDITIONS	15
5.01 PROVISIONAL ACCEPTANCE (FEB 2021)	15

SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.01 THE PREMISES (OCT 2022)

The Premises are described as follows:

- A. Office and Related Space. **429** rentable square feet (RSF), yielding **429** ANSI/BOMA Occupant Area (ABOA) square feet (SF) of office and related Space located on the **first** floor of the Building, as depicted on the floor plan attached hereto as Exhibit **A**.
- B. Common Area Factor. The Common Area Factor (CAF) is established as **0** percent. This factor, which represents the conversion from ABOA to rentable square feet, rounded to the nearest whole percentage, shall be used for purposes of rental adjustments in accordance with the Payment Clause of the General Clauses.

1.02 EXPRESS APPURTENANT RIGHTS (SEP 2013)

The Government shall have the non-exclusive right to the use of Appurtenant Areas and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Lessor's standards. Appurtenant to the Premises and included in the Lease are rights to use the following:

- A. Parking. **0** parking spaces reserved for the exclusive use of the Government, of which **0** shall be structured/inside parking spaces and **0** shall be surface/outside parking spaces. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.
- B. Antennas, Satellite Dishes and Related Transmission Devices. (1) Space located on the roof of the Building sufficient in size for the installation and placement of telecommunications equipment, (2) the right to access the roof of the Building, and (3) use of all Building areas (e.g., chases, plenums, etc.) necessary for the use, operation, and maintenance of such telecommunications equipment at all times during the term of this Lease.

1.03 RENT AND OTHER CONSIDERATION (ON-AIRPORT) (OCT 2023)

- A. The Government shall pay the Lessor annual rent payable monthly in arrears at the following rates:

	8/1/2024 – 7/31/2034	
	Annual Rent	Annual Rate / RSF (as rounded to the nearest penny)
Shell Rental Rate	\$9,619.20	\$22.42
Operating Costs	\$0.00	\$0.00
Full Service Rate	\$9,619.20	\$22.42

- B. INTENTIONALLY DELETED
- C. INTENTIONALLY DELETED
- D. Rent is subject to adjustment based upon a mutual measurement of the Space upon acceptance, not to exceed **429** ABOA SF. based upon the methodology outlined under the "Payment" clause of GSA 3517, General Clauses.
- E. INTENTIONALLY DELETED
- F. If the Government occupies the Premises for less than a full calendar month, then rent shall be prorated based on the actual number of days of occupancy for that month.
- G. Rent shall be paid to Lessor by electronic funds transfer (EFT) in accordance with the provisions of the General Clauses. Rent shall be payable using the EFT information contained in the System for Award Management (SAM). In the event the EFT information changes, the Lessor shall be responsible for providing the updated information to SAM. Failure by the Lessor to maintain an active registration in SAM may result in delay of rental payments until such time as the SAM registration is activated. This registration service is free of charge.
- H. The Lessor shall provide to the Government, in exchange for the payment of rental and other specified consideration, the following:
- The leasehold interest in the Property described herein in the paragraph entitled "The Premises;"
 - INTENTIONALLY DELETED
 - Performance or satisfaction of all other obligations set forth in this Lease; and,

4. All services, utilities, and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements, and improvements required to be made thereto to meet the requirements of this Lease.

1.04 TERMINATION RIGHTS (ON-AIRPORT) (SEP 2013)

- A. The Government may terminate this Lease, in whole or in part, at any time during the term of this lease with **90** days' prior written notice to the Lessor if (i) regularly scheduled commercial air services cease, (ii) the airport opts to replace TSA screeners with private contractors, (iii) the checkpoint supported by the leased Space is closed, or (iv) the Government reduces its presence at the airport due to a reduction in enplanements. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

1.05 RENEWAL RIGHTS (OCT 2016)

This Lease may be renewed at the option of the Government for a term of **XX YEARS** at the following rental rate(s):

	OPTION TERM, YEARS XX - XX	
	ANNUAL RENT	ANNUAL RATE / RSF
SHELL RENTAL RATE	\$XX	\$XX
OPERATING COSTS	OPERATING COST BASIS SHALL CONTINUE FROM THE EFFECTIVE YEAR OF THE LEASE. OPTION TERM IS SUBJECT TO CONTINUING ANNUAL ADJUSTMENTS.	

provided notice is given to the Lessor at least **120** days before the end of the original lease term, all other terms and conditions of this Lease, as same may have been amended, shall remain in full force and effect during any renewal term.

Termination rights outlined "Termination Rights" paragraph apply to all renewal terms.

1.06 DOCUMENTS INCORPORATED IN THE LEASE (ON-AIRPORT) (OCT 2023)

The following documents are attached to and made part of the Lease:

DOCUMENT NAME	NO. OF PAGES	EXHIBIT
Floor Plan	1	A
GSA 3517B, General Clauses	23	B
Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment	4	C

1.07 ~~OPERATING COST BASE (OCT 2016)~~ INTENTIONALLY DELETED

1.08 LESSOR'S UNIQUE ENTITY IDENTIFIER (OCT 2022)

Lessor's Unique Entity Identifier

UEI: **NJK3BNUDRHJ7**

SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.01 DEFINITIONS AND GENERAL TERMS (OCT 2023)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

A. General Contract Terms.

1. "Contract" means lease.
2. "Contractor" means Lessor.
3. "Days" means calendar days, unless specified otherwise.
4. "Delivery Date" means the date specified in or determined pursuant to the provisions of the lease for delivery of the premises to the Government, improved in accordance with the provisions of the lease and substantially complete, as such date may be modified in accordance with the provisions of the lease.
5. "Excusable Delays" mean delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation:
 - a. Acts of God or of the public enemy,
 - b. Acts of the United States of America in either its sovereign or contractual capacity,
 - c. Acts of another contractor in the performance of a contract with the Government,
 - d. Fires,
 - e. Floods,
 - f. Epidemics,
 - g. Quarantine restrictions,
 - h. Strikes,
 - i. Freight embargoes,
 - j. Unusually severe weather, or
 - k. Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.
6. "Lease Award Date" means the date the LCO executes the lease and furnishes written notification of the executed lease to the successful offeror (usually the date on which the parties' obligations under the lease begin).
7. "Lease Term Commencement Date" means the date on which the lease term commences.
8. "Substantially Complete" or "Substantial Completion" means that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use or enjoyment. The space shall be considered substantially complete only if the space may be used for its intended purpose.
9. "Work" means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

B. Real Property Terms.

1. "ANSI/BOMA" is an acronym for American National Standards Institute/Building Owners and Managers Association.
2. "ANSI/BOMA Occupant Area" or "ABOA" means the measurement standard (Z65.1-2017) provided by ANSI/BOMA for Occupant Area, which is "the total aggregated area used by an Occupant before Load Factors are applied, consisting of Tenant Area and Tenant Ancillary Area." The Method A – Multiple Load Factor Method shall apply.

3. "Appurtenant Areas" means those areas and facilities on the property that are not located within the premises, or for which rights are expressly granted under this lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the premises and express appurtenant rights (e.g. parking areas).
4. "Broker" means GSA's broker, if GSA awarded this lease using a contract real estate broker.
5. "Building" means building(s) situated on the property in which the premises are located.
6. "Commission Credit" means the amount of commission that is credited to the lease, if GSA's broker agreed to forgo a percentage of its commission, in connection with the award of this lease.
7. "Common Area Factor (CAF)" means a conversion factor determined and applied by the building owner to determine the rentable square feet for the leased space. The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. The CAF shall be determined in accordance with the applicable ANSI/BOMA standard for the type of space to which the CAF shall apply.
8. "Firm Term" means the part of the lease term that is not subject to termination rights.
9. "Non-Firm Term" means the part of the lease term following the end of the firm term, which is subject to termination rights.
10. "Premises" means the total occupant area or other type of space, together with all associated common areas described in the lease. Appurtenant areas (e.g., parking areas) to which the Government has rights under this lease are not included in the premises.
11. "Property" means the land and buildings in which the premises are located, including all appurtenant areas (e.g., parking areas) to which the Government is granted rights.
12. "Rentable Space or Rentable Square Feet (RSF)" means the area for which a tenant is charged rent. It is determined by the building owner and may vary by city or by building within the same city. Rentable space may include a share of common areas such as elevator lobbies, building corridors, and floor service areas. Floor service areas typically include restrooms, janitor rooms, telephone closets, electrical closets, and mechanical rooms. Rentable space does not include vertical building penetrations and their enclosing walls, such as stairs, elevator shafts, and vertical ducts. To determine the RSF, the ABOA SF is multiplied by the sum of one (1) plus the CAF, for each type of space included in the premises.
13. "Space" means that part of the premises to which the Government has exclusive use, such as occupant area, or other types of space. Appurtenant areas (e.g., parking areas) to which the Government has rights under the lease are not included in the space.

2.02 AUTHORIZED REPRESENTATIVES (OCT 2016)

Signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals, except to the extent that such authority may be explicitly delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its Lease Contracting Officer (LCO) by notice, without an express delegation by the prior LCO.

2.03 WAIVER OF RESTORATION (OCT 2023)

Lessor shall have no right to require the Government to restore the Premises upon expiration or earlier termination (full or partial) of the Lease, and waives all claims against the Government for:

- A. Waste, or,
- B. Damages or restoration arising from or related to:
 1. The Government's normal and customary use of the Premises during the term of the Lease (including any extensions thereof), as well as
 2. Any initial or subsequent alteration to the Premises regardless of whether such alterations are performed by the Lessor or by the Government.

At its sole option, the Government may abandon property in the Space following expiration or earlier termination (full or partial) of the Lease, in which case the property will become the property of the Lessor and the Government will be relieved of any liability in connection therewith.

2.04 ~~OPERATING COSTS ADJUSTMENT (JUN 2012)~~ INTENTIONALLY DELETED

2.05 RELOCATION RIGHTS (OCT 2021)

If it becomes necessary in the orderly development of the Airport, Lessor may require the relocation of Premises to other space at the Airport which, in the reasonable judgment of Lessor, is similar and suitable for the purposes for which this Lease is entered as such purposes are set forth herein. Should such relocation be necessary, the Lessor shall provide the GSA a minimum of 120 days prior written notice. Lessor shall be responsible for all costs for such relocation, including all costs for moving furniture, office equipment, telephone and data lines, and any other costs associated with replicating necessary operational features provided in the space originally leased. The Airport shall provide such relocated Premises at the same rental rate as the

original Premises, unless the new Premises are located in an area for which the Airport charges tenants a lower rate, in which event the parties shall negotiate a reduction in the rental rate. The Government will not reimburse the Lessor for any increased square footage as a result of such relocation.

2.06 RECITALS FOR TRANSPORTATION SECURITY ADMINISTRATION (ON-AIRPORT) (JUN 2012)

- A. The Transportation Security Administration (TSA) is required, pursuant to 49 U.S.C. 40101—The Aviation and Transportation Security Act (ATSA), to oversee security measures at the Airport.
- B. TSA is responsible for airline passenger and baggage screening services at the Airport.
- C. The U.S. General Services Administration (GSA), on behalf of TSA, leases certain facilities on the Airport premises for administrative offices and/or break rooms in support of airport passenger and baggage screening services by the TSA.
- D. Space for TSA to screen passengers and baggage is expressly excluded from this Lease.

2.07 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (ON-AIRPORT) (MAY 2015)

- A. The Lessor shall provide floor plans for the Space and a valid Certificate of Occupancy (C of O), issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue C of O's or if the C of O is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that verifies that the Space complies with all applicable local fire protection and life safety codes and ordinances and all fire protection and life safety-related requirements of this Lease.
- B. Neither the Government's acceptance of the Premises for occupancy or acceptance of related appurtenances, nor the Government's occupancy of the Premises, shall be construed as a waiver of any requirement or right of the Government under this lease, or as otherwise prejudicing the Government with respect to any such requirement or right, or as an acceptance of any latent defect or condition.

2.08 ALTERATIONS PRIOR TO ACCEPTANCE (JUN 2012)

The Government's rights stated under the General Clause "Alterations" also apply to initial build-out of the Premises.

2.09 SYSTEM FOR AWARD MANAGEMENT (MAR 2020)

The Offeror must have an active registration in the System for Award Management (SAM), via the Internet at, [HTTPS://WWW.SAM.GOV/SAM/](https://www.sam.gov/SAM/) prior to the Lease Award Date. Registration must be for purposes of "All Awards" and include completion of all required representations and certifications within SAM. Registration must be active throughout the life of the Lease. To remain active, the Offeror/Lessor is required to update or renew its registration annually. The Government will not process rent payments to Lessors without an active registration in SAM. No change of ownership of the leased Premises will be recognized by the Government until the new owner registers in SAM.

2.10 SECURITY UPGRADES DUE TO IMMEDIATE THREAT (APR 2011)

The Government reserves the right, at its own expense and with its own personnel, to heighten security in the Building under Lease during heightened security conditions due to emergencies such as terrorist attacks, natural disaster, and civil unrest.

2.11 ENTITY NAME (OCT 2023)

Lessor may not use Federal agency name(s) and/or acronym(s), e.g., General Services Administration, GSA, in its entity name that owns and/or leases Space to GSA

SECTION 3 CONSTRUCTION STANDARDS AND SHELL COMPONENTS

3.01 BUILDING SHELL REQUIREMENTS (ON-AIRPORT) (SEP 2013)

- A. The Building Shell shall be designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of Space. For pricing, fulfillment of all requirements not specifically designated as operating costs or other rent components as indicated shall be deemed included in the Shell Rent.
- B. Base structure and Building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed Building shell components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, installed, and coordinated with TIs. Circulation corridors are provided as part of the base Building only on multi-tenanted floors where the corridor is common to more than one tenant. On single tenant floors, only the fire egress corridor(s) necessary to meet code is provided as part of the shell.

3.02 MEANS OF EGRESS (MAY 2015)

- A. Prior to occupancy, the Premises and any parking garage areas shall meet or will be upgraded to meet, either the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101), or the International Code Council, International Building Code (IBC), each current as of the Lease Award Date, or use an alternative approach or method that achieves an equivalent level of safety deemed acceptable by the Government.
- B. The Space shall have unrestricted access to a minimum of two remote exits on each floor of Government occupancy.
- C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.
- D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.
- E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.03 AUTOMATIC FIRE SPRINKLER SYSTEM (OCT 2023)

- A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- B. For Buildings in which any portion of the Space on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.
- C. For Buildings in which the Government occupies, either through this Lease or in combination with other Government Leases in the Building any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Occupant Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.
- D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.
- E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).
- F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.04 FIRE ALARM SYSTEM (SEP 2013)

- A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.
- B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code that was in effect on the actual date of installation.
- C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).
- D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.

- E. If the Building's fire alarm control unit is over 25 years old as of the Lease Award Date, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.05 ENERGY INDEPENDENCE AND SECURITY ACT (MAR 2016)

A. Energy-related Requirements.

1. The Energy Independence and Security Act (EISA) establishes the following requirements for Government Leases in Buildings that have not earned the ENERGY STAR® Label conferred by the Environmental Protection Agency (EPA) within one year prior to the due date for final proposal revisions ("most recent year").
2. If this Lease was awarded under any of EISA's Section 435 statutory exceptions, the Lessor shall either:
 - a. Earn the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); or
 - b.
 - I. Complete energy efficiency and conservation improvements if any, agreed to by Lessor in lieu of earning the ENERGY STAR® Label prior to acceptance of the Space (or not later than one year after the Lease Award Date of a succeeding or superseding Lease); and
 - II. Obtain and publicly disclose the Building's current ENERGY STAR® score (using EPA's Portfolio Manager tool), unless the Lessor cannot access whole building utility consumption data, or there is no building category within Portfolio Manager to benchmark against, including spaces—
 - (i) That are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and
 - (ii) For which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner. (A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph D).
 - (iii) That cannot be benchmarked (scored) using EPA's Portfolio Manager tool because of excessive vacancy; in which case Lessor agrees to obtain the score and publicly disclose it within 120 days of the eligibility to obtain a score using the EPA Portfolio Manager tool.

Note: "public disclosure" means posting the Energy Star® score on state or local websites in those areas that have applicable disclosure mandates and reporting the score to the Government via Portfolio Manager. In the absence of an applicable state or local disclosure mandate, Lessor shall either generate and display the Energy Star® score in a public space at the building location or post the score on Lessor's or Lessor's Parent/Affiliate website.

3. If this Lease was awarded to a Building to be built or to a Building predominantly vacant as of the due date for final proposal revisions and was unable to earn the ENERGY STAR® label for the most recent year (as defined above) due to insufficient occupancy, but was able to demonstrate sufficient evidence of capability to earn the ENERGY STAR® label, then Lessor must earn the ENERGY STAR® label within 18 months after occupancy by the Government.
 4. The Lessor is encouraged to purchase at least 50 percent of the Government tenant's electricity from renewable sources.
- B. Hydrology-related Requirements. Per EISA Section 438, the sponsor of any development or redevelopment project involving a Federal facility with a footprint that exceeds 5,000 square feet shall use site planning, design, construction, and maintenance strategies for the property to maintain or restore, to the maximum extent technically feasible, the predevelopment hydrology of the Property with regard to the temperature, rate, volume, and duration of flow. If the Lessor proposes to satisfy the Government's space requirements through a development or redevelopment project, and the Government will be the sole or predominant tenant such that any other use of the Property will be functionally or quantitatively incidental to the Government's use, the Lessor is required to implement hydrology maintenance and restoration requirements as required by EISA Section 438.
1. For the purposes of applying EISA Section 438 in this Lease, "sponsor" shall mean "Lessor", and "exceeds 5,000 square feet" shall mean construction that disturbs 5,000 square feet or more of land area at the Property or on adjoining property to accommodate the Government's requirements, or at the Property for whatever reason. Information regarding implementation of the hydrology maintenance and restoration requirements can be found at [HTTP://WWW.EPA.GOV/GREENINGEPA](http://www.epa.gov/greeninge).
 2. Lessor is required to implement these hydrology maintenance and restoration requirements to the maximum extent technically feasible, prior to acceptance of the Space, (or not later than one year after the Lease Award Date or Lease Term Commencement Date, whichever is later, of a succeeding or superseding Lease). Additionally, this Lease requires EISA Section 438 storm water compliance not later than one year from the date of any applicable disturbance (as defined in EISA Section 438) of more than 5,000 square feet of ground area if such disturbance occurs during the term of the Lease if the Government is the sole or predominant tenant. In the event the Lessor is required to comply with EISA Section 438, Lessor shall furnish the Government, prior to the filing for permits for the associated work, with a certification from Lessor's engineer that the design meets the hydrology maintenance and restoration requirements of EISA Section 438.

3.06 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.07 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office Space.

3.08 RESTROOMS (ON-AIRPORT) (JUN 2012)

Government employees shall have access to all public restroom facilities for men and women in the Airport terminal at all times without additional payment.

3.09 HEATING, VENTILATION, AND AIR CONDITIONING (ON-AIRPORT) (OCT 2022)

- A. Temperatures shall conform to local commercial equivalent temperature levels and operating practices to maximize tenant satisfaction. Thermostats shall be set to maintain temperatures of 72 degrees F (+/- 3 degrees) during the heating season and 75 degrees F (+/- 3 degrees) during the cooling season. These temperatures shall be maintained throughout the leased Premises and service areas, regardless of outside temperatures, during the hours of operation specified in this Lease. The Lessor shall perform any necessary systems start-up required to meet the commercially equivalent temperature levels prior to the first hour of each day's operation. At all times, the dew point shall be maintained below 55 degrees F in occupied spaces, and below 60 degrees F in unoccupied spaces.
- B. The Lessor shall conduct HVAC system balancing after all HVAC system alterations during the term of the Lease and shall make a reasonable attempt to schedule major construction outside of office hours.
- C. Normal HVAC systems maintenance shall not disrupt tenant operations.

3.10 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (ON-AIRPORT) (SEP 2013)

- A. The Government may elect to contract its own telecommunications (voice, data, video, Internet, or other emerging technologies) service in the Space. The Government may contract with one or more parties to have inside wiring (or other transmission medium) and telecommunications equipment installed.
- B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space. If the existing Building wiring is insufficient to handle the transmission requirements of the Government's designated telecommunications providers, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.
- C. The Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas (high frequency, mobile, microwave, satellite, or other emerging technologies), subject to weight and wind load conditions, to roof, parapet, or Building envelope as required.

3.11 GOVERNMENT PROJECT MANAGEMENT SYSTEM (ON-AIRPORT) (OCT 2022)

The Government may require the Lessor to use the Government's project management system for post-award and post-occupancy activities. Licensing costs and access to the system are the responsibility of the Government.

SECTION 4 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

4.01 PROVISION OF SERVICES, ACCESS, AND NORMAL HOURS FOR AIRPORT OCCUPANCIES (SEP 2013)

The Government shall have access to the Premises and its Appurtenant Areas at all times without additional payment, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed after tenant working hours unless daytime cleaning is specified as a special requirement elsewhere in this Lease. Janitorial Services shall not be required on weekends or Federal holidays. Services, maintenance, and utilities shall be provided from **7:30 AM to 3:30 PM**.

4.02 MAINTENANCE AND TESTING OF SYSTEMS (SEP 2013)

- A. The Lessor is responsible for the total maintenance and repair of the leased Premises. Such maintenance and repairs include the site and private access roads. All equipment and systems shall be maintained to provide reliable, energy efficient service without unusual interruption, disturbing noises, exposure to fire or safety hazards, uncomfortable drafts, excessive air velocities, or unusual emissions of dirt. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative.
- B. At the Lessor's expense, the Government reserves the right to require documentation of proper operations, inspection, testing, and maintenance of fire protection systems, such as, but not limited to, fire alarm, fire sprinkler, standpipes, fire pump, emergency lighting, illuminated exit signs, emergency generator, prior to occupancy to ensure proper operation. These tests shall be witnessed by the Government's designated representative.

4.03 RECYCLING (ON-AIRPORT) (OCT 2023)

Where state or local law, code, or ordinance requires recycling programs (including mercury-containing lamps) for the Space to be provided pursuant to this Lease, the Lessor shall comply with such state and local law, code, or ordinance in accordance with GSA 3517, General Clauses, 552.270-8, *Compliance with Applicable Law*. During the lease term, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Leased Space.

4.04 RANDOLPH-SHEPPARD COMPLIANCE (SEP 2013)

During the term of the Lease, the Lessor may not establish vending facilities within the leased Space that will compete with any Randolph-Sheppard vending facilities.

4.05 SAFEGUARDING AND DISSEMINATION OF CONTROLLED UNCLASSIFIED INFORMATION (CUI) BUILDING INFORMATION (OCT 2022)

This clause applies to all recipients of CUI building information (which falls within the CUI Physical Security category), including offerors, bidders, awardees, contractors, subcontractors, lessors, suppliers and manufacturers.

Marking CUI. Contractors must submit any contractor-generated documents that contain building information to GSA for review and identification of any CUI building information that may be included. In addition, any documents GSA identifies as containing CUI building information must be marked in accordance with the Order and the Marking Controlled Unclassified Information Handbook (the current version may be found at [HTTPS://WWW.ARCHIVES.GOV/FILES/CUI/20161206-CUI-MARKING-HANDBOOK-V1-1.PDF](https://www.archives.gov/files/cui/20161206-CUI-MARKING-HANDBOOK-V1-1.PDF)) before the original or any copies are disseminated to any other parties. If CUI content is identified, the CO may direct the contractor, as specified elsewhere in this contract, to imprint or affix CUI document markings (CUI) to the original documents and all copies, before any dissemination, or authorized GSA employees may mark the documents.

1. Authorized recipients.

- a. Building information designated as CUI must be protected with access strictly controlled and limited to those individuals having a Lawful Government Purpose to access such information, as defined in 32 C.F.R. § 2002.4(bb). Those with such a Lawful Government Purpose may include Federal, state and local government entities, and non-governmental entities engaged in the conduct of business on behalf of or with GSA. Non-governmental entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, utilities, and others submitting an offer or bid to GSA, or performing work under a GSA contract or subcontract. Recipient contractors must be registered as "active" in the System for Award Management (SAM) database at WWW.SAM.GOV, and have a Lawful Government Purpose to access such information. If a subcontractor is not registered in the SAM database and has a Lawful Government Purpose to possess CUI building information in furtherance of the contract, the subcontractor must provide to the contractor its DUNS number or its tax ID number and a copy of its business license. The contractor must keep this information related to the subcontractor for the duration of the contract and subcontract.
- b. All GSA personnel and contractors must be provided CUI building information when needed for the performance of official Federal, state, and local government functions, such as for code compliance reviews and the issuance of building permits. Public safety entities such as fire and utility departments may have a Lawful Government Purpose to access CUI building information on a case-by-case basis. This clause must not prevent or encumber the necessary dissemination of CUI building information to public safety entities.

2. Dissemination of CUI building information:

- a. By electronic transmission. Electronic transmission of CUI information outside of the GSA network must use session encryption (or alternatively, file encryption) consistent with National Institute of Standards and Technology (NIST) SP 800-171. Encryption must be through an approved NIST algorithm with a valid certification, such as Advanced Encryption Standard or Triple Data Encryption Standard, in accordance with Federal Information Processing Standards Publication 140-2, Security Requirements for Cryptographic Modules, as required by GSA policy.
- b. By nonelectronic form or on portable electronic data storage devices. Portable electronic data storage devices include CDs, DVDs, and USB drives. Nonelectronic forms of CUI building information include paper documents, photographs, and film, among other formats.
 - i. By mail. Contractors must only use methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt. CUI markings must not appear on the exterior of packages.
 - ii. In person. Contractors must provide CUI building information only to authorized recipients with a Lawful Government Purpose to access such information. Further information on authorized recipients is found in section 1 of this clause.
3. Record keeping. Contractors must maintain a list of all entities to which CUI is disseminated, in accordance with sections 2 and 3 of this clause. This list must include, at a minimum: (1) the name of the state, Federal, or local government entity, utility, or firm to which CUI has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the CUI building information, with access strictly controlled and limited to those individuals having a Lawful Government Purpose to access such information; (3) contact information for the named individual; and (4) a description of the CUI building information provided. Once "as built" drawings are submitted, the contractor must collect all lists maintained in accordance with this clause, including those maintained by any subcontractors and suppliers, and submit them to the CO. For Federal buildings, final payment may be withheld until the lists are received.
4. Safeguarding CUI documents. CUI building information (both electronic and paper formats) must be stored within controlled environments that prevent unauthorized access. GSA contractors and subcontractors must not take CUI building information outside of GSA or their own facilities or network, except as necessary for the performance of that contract. Access to the information must be limited to those with a Lawful Government Purpose for access.
5. Destroying CUI building information. When no longer needed, CUI building information must either be returned to the CO or destroyed in accordance with guidelines in NIST Special Publication 800-88, Guidelines for Media Sanitization.
6. Notice of disposal. The contractor must notify the CO that all CUI building information has been returned or destroyed by the contractor and its subcontractors or suppliers in accordance with paragraphs 4 and 5 of this clause, with the exception of the contractor's record copy. This notice must be submitted to the CO at the completion of the contract to receive final payment. For leases, this notice must be submitted to the CO at the completion of the lease term.
7. CUI security incidents. All improper disclosures or receipt of CUI building information must be immediately reported to the CO and the GSA Incident Response Team Center at gsa-ir@gsa.gov. If the contract provides for progress payments, the CO may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of CUI building information. Progress payments may also be withheld for failure to comply with any provision in this clause until the contractor provides a corrective action plan explaining how the contractor will rectify any noncompliance and comply with the clause in the future.
8. Subcontracts. The contractor and subcontractors must insert the substance of this clause in all subcontracts.

4.06 INDOOR AIR QUALITY (OCT 2023)

- A. The Lessor shall control airborne contaminants at the source and/or operate the Space in such a manner that indoor air quality action limits identified in the PBS Desk Guide for Indoor Air Quality Management (Companion to GSA Order PBS 1000.8), OSHA regulatory limits, and generally accepted consensus standards are not exceeded.
- B. The Lessor shall avoid the use of products containing toxic, hazardous, carcinogenic, flammable, or corrosive ingredients as determined from the product label or manufacturer's safety data sheet. The Lessor shall use available odor-free or low odor products when applying paints, glues, lubricants, and similar wet products. When such equivalent products are not available, lessor shall use the alternate products outside normal working hours. Except in an emergency, the Lessor shall provide at least 72 hours advance notice to the Government before applying chemicals or products with noticeable odors in occupied Spaces and shall adequately ventilate those Spaces during and after application.
- C. The Lessor shall serve as first responder to any occupant complaints about indoor air quality (IAQ). The Lessor shall promptly investigate such complaints and implement the necessary controls to address each complaint. Investigations shall include testing as needed, to ascertain the source and severity of the complaint. The Lessor shall provide written results of any testing along with recommendations to GSA.
- D. The Government reserves the right to conduct independent IAQ assessments and detailed studies in Space that it occupies, as well as in space serving the Space (e.g., common use areas, mechanical rooms, HVAC systems, etc.). The Lessor shall assist the Government in its assessments and detailed studies by:
 1. Making available information on Building operations and Lessor activities;
 2. Providing access to Space for assessment and testing, if required; and

3. Implementing corrective measures required by the LCO. The Lessor shall take corrective action to correct any tests or measurements that do not meet GSA policy action limits in the PBS Desk Guide for Indoor Air Quality Management (Companion to GSA Order PBS 1000.8), OSHA regulatory limits and generally accepted consensus standards.
- E. The Lessor shall provide to the Government safety data sheets (SDS) upon request for the following products prior to their use during the term of the Lease: adhesives, caulking, sealants, insulating materials, fireproofing or firestopping materials, paints, carpets, floor and wall patching or leveling materials, lubricants, clear finish for wood surfaces, janitorial cleaning products, pesticides, rodenticides, and herbicides. The Government reserves the right to review such products used by the Lessor within the Space, common building areas, ventilation systems and zones serving the Space, and the area above suspended ceilings and engineering space in the same ventilation zone as the Space.
- F. The Lessor shall use high efficiency (HEPA) filtration vacuums for cleaning.
- G. Air handling units shall have the highest-level MERV filtration that is compatible with the HVAC system and does not significantly diminish airflow. Upon request, the Lessor shall provide to the Government a list of the highest-level of MERV filtration that each air handling unit is designed to handle.
- H. The Lessor is encouraged to comply with best practices outlined in Appendix D- Indoor Air Quality in GSA Leased Facilities (Best Practices) within the PBS Desk Guide for Indoor Air Quality Management (Companion to GSA Order PBS 1000.8).

4.07 HAZARDOUS MATERIALS AND MOLD (ON-AIRPORT) (OCT 2023)

The leased Space shall be free of hazardous materials, substances, and wastes, as defined by and according to applicable Federal, state, and local environmental regulations including, but not limited to, the following:

- A. The leased Space shall be free of all asbestos containing materials, except undamaged asbestos flooring in the Space or undamaged boiler or pipe insulation outside the Space, in which case an asbestos management program conforming to EPA guidance shall be implemented.
- B. The Lessor shall provide Space to the Government that is free from ongoing water leaks or moisture infiltration. The Space and ventilation zones serving the Space shall also be free of visible mold or actionable airborne mold.
 1. Actionable mold is either visible mold or airborne mold of types and concentrations in excess of that found in the local outdoor air or non-problematic control areas elsewhere in the same building, whichever is lower. The Lessor shall safely remediate all actionable mold in accordance with sub-paragraph B.2 below.
 2. The Lessor shall be responsible for conducting the remediation in accordance with the relevant provisions of the document entitled "Mold Remediation in Schools and Commercial Buildings" (EPA 402-K-01-001, September 2008 or the current version of ANSI/IICRC S520-2015 Standard for Professional Mold Remediation), published by EPA, as same may be amended or revised from time to time, and any other applicable Federal, state, or local laws, regulatory standards, and guidelines. The Lessor shall provide GSA with a detailed work plan from the remediation contractor on how they plan to address the actionable conditions and include qualifications of the remediation contractor. The Lessor shall employ a qualified industrial hygienist, independent of the remediation contractor to verify that remediation has been completed per the industry standards listed above and that the space is safe for re-occupancy.
 3. The Lessor acknowledges and agrees that the Government shall have a reasonable opportunity to inspect the leased Space after conclusion of the remediation. If the results of the Government's inspection indicate that the remediation does not comply with the plan or any other applicable Federal, state, or local laws, regulatory standards, or guidelines, the Lessor, at its sole cost, expense, and risk, shall immediately take all further actions necessary to bring the remediation into compliance.
 4. If the Lessor fails to exercise due diligence, or is otherwise unable to remediate the actionable mold, the Government may implement a corrective action program and deduct its costs from the rent.

4.08 OCCUPANT EMERGENCY PLANS (OCT 2020)

The Lessor is required to cooperate, participate, and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP. The Plan, among other things, will include evacuation procedures and an annual emergency evacuation drill, emergency shutdown of air intake procedures, and emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

4.09 JANITORIAL SERVICES (OCT 2021)

The Lessor shall maintain the Premises and all areas of the Property to which the Government has routine access, including high-touch surfaces (e.g., door knobs, light switches, handles, handrails, and elevator buttons) in a clean condition and shall provide supplies and equipment for the term of the Lease. The following schedule describes the level of services intended. Performance will be based on the LCO's evaluation of results, not the frequency or method of performance.

A. Daily. Empty trash receptacles. Sweep entrances, lobbies, and corridors. Spot sweep floors, and spot vacuum carpets. Clean drinking fountains. Sweep and damp mop or scrub restrooms. Clean all restroom fixtures and replenish restroom supplies. Dispose of all trash and garbage generated in or about the Building. Wash inside and out or steam clean cans used for collection of food remnants from snack bars and vending machines. Dust horizontal surfaces that are readily available and visibly require dusting. Spray buff resilient floors in main corridors, entrances, and lobbies. Clean elevators and escalators. Remove carpet stains. Police sidewalks, parking areas, and driveways. Sweep loading dock areas and platforms. Clean glass entry doors to the Space. Clean all high-touch surfaces.

B. Three times a week. Sweep or vacuum stairs.

C. Weekly. Damp mop and spray buff all resilient floors in restrooms and health units. Sweep sidewalks, parking areas, and driveways (weather permitting).

D. Every two weeks. Spray buff resilient floors in secondary corridors, entrance, and lobbies. Damp mop and spray buff hard and resilient floors in office Space.

E. Monthly. Thoroughly dust furniture. Completely sweep and/or vacuum carpets. Sweep storage Space. Spot clean all wall surfaces within 70 inches of the floor.

F. Every two months. Damp wipe restroom wastepaper receptacles, stall partitions, doors, windowsills, and frames. Shampoo entrance and elevator carpets.

G. Three times a year. Dust wall surfaces within 70 inches of the floor, vertical surfaces and under surfaces. Clean metal and marble surfaces in lobbies. Wet mop or scrub garages.

H. Twice a year. Wash all interior and exterior windows and other glass surfaces. Strip and apply four coats of finish to resilient floors in restrooms. Strip and refinish main corridors and other heavy traffic areas.

I. Annually. Wash all venetian blinds, and dust 6 months from washing. Vacuum or dust all surfaces in the Building more than 70 inches from the floor, including light fixtures. Vacuum all draperies in place. Strip and refinish floors in offices and secondary lobbies and corridors. Shampoo carpets in corridors and lobbies. Clean balconies, ledges, courts, areaways, and flat roofs.

J. Every two years. Shampoo carpets in all offices and other non public areas.

K. Every five years. Dry clean or wash (as appropriate) all draperies.

L. As required. Properly maintain plants and lawns. Provide initial supply, installation, and replacement of light bulbs, tubes, ballasts, and starters. Provide and empty exterior ash cans and clean area of any discarded cigarette butts.

M. Pest control. Control pests as appropriate, using Integrated Pest Management techniques, as specified by the U.S. Environmental Protection Agency at [HTTPS://WWW.EPA.GOV/IPM/INTRODUCTION-INTEGRATED-PEST-MANAGEMENT](https://www.epa.gov/ipm/introduction-integrated-pest-management)

SECTION 5 **ADDITIONAL TERMS AND CONDITIONS**

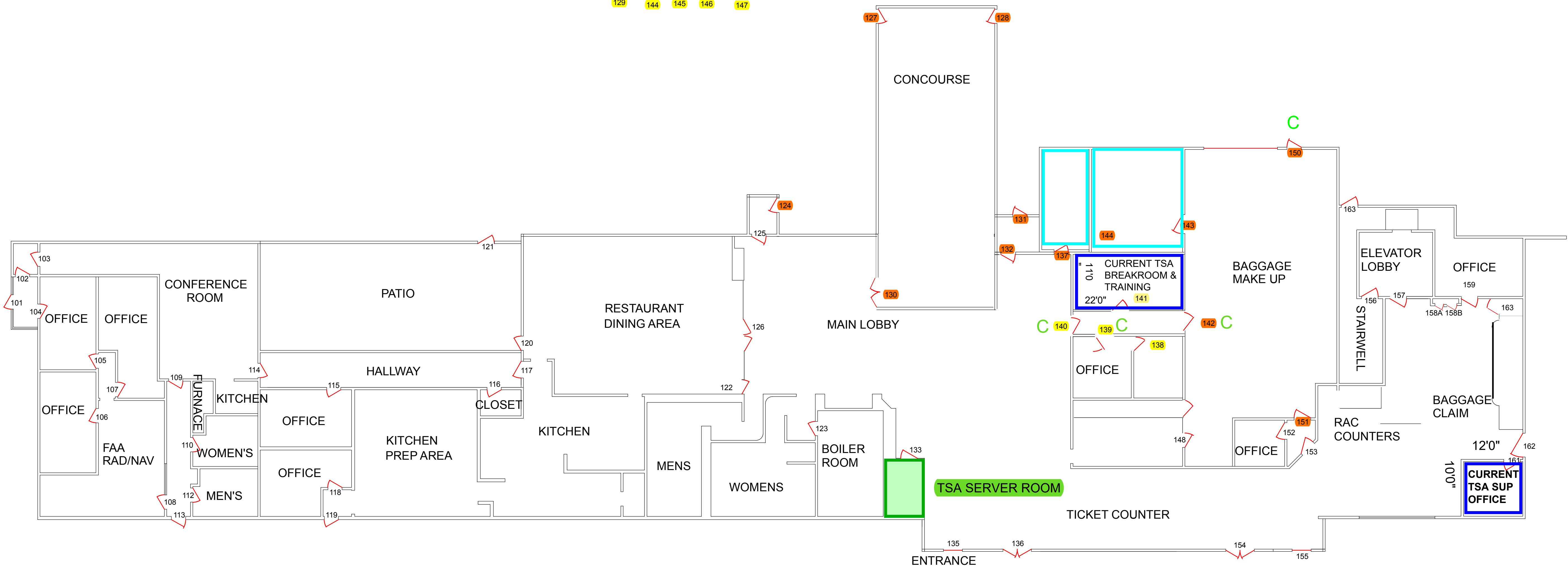
5.01 ~~**PROVISIONAL ACCEPTANCE (FEB 2021)**~~ **INTENTIONALLY DELETED****5.02** **5.02** **AIRPORT DE-FEDERALIZED**

The Government reserves the right to terminate the lease with sixty (60) days written notice to the Lessor at any point during the term of the lease including the firm term, should the airport become de-federalized.

STERILE AREA DOOR

DOOR NUMBERS NO LONGER IN USE

129 144 145 146 147



PUEBLO MEMORIAL AIRPORT
TERMINAL FLOOR PLAN
FIRST LEVEL

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

CATEGORY	CLAUSE NO.	48 CFR REF.	CLAUSE TITLE
GENERAL	1	GSAR 552.270-4	DEFINITIONS (DEVIATION)
	2	GSAR 552.270-5	SUBLETTING AND ASSIGNMENT (DEVIATION)
	3	GSAR 552.270-11	SUCCESSORS BOUND
	4	GSAR 552.270-23	SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN
	5	GSAR 552.270-24	STATEMENT OF LEASE
	6	GSAR 552.270-25	SUBSTITUTION OF TENANT AGENCY
	7	GSAR 552.270-26	NO WAIVER
	8	GSAR 552.270-27	INTEGRATED AGREEMENT (DEVIATION)
	9	GSAR 552.270-28	MUTUALITY OF OBLIGATION
PERFORMANCE	10	GSAR 552.270-10	DEFAULT BY LESSOR (DEVIATION)
	11	GSAR 552.270-9	INSPECTION – RIGHT OF ENTRY
	12	GSAR 552.270-17	DELIVERY AND CONDITION (DEVIATION)
	13	GSAR 552.270-19	PROGRESSIVE OCCUPANCY
	14	GSAR 552.270-6	MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (DEVIATION)
	15	GSAR 552.270-7	FIRE AND CASUALTY DAMAGE (DEVIATION)
	16	GSAR 552.270-8	COMPLIANCE WITH APPLICABLE LAW (DEVIATION)
	17	GSAR 552.270-12	ALTERATIONS
PAYMENT	18	GSAR 552.270-29	ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (DEVIATION)
	19	FAR 52.204-13	SYSTEM FOR AWARD MANAGEMENT MAINTENANCE
	20	GSAR 552.270-31	PROMPT PAYMENT
	21	FAR 52.232-23	ASSIGNMENT OF CLAIMS
	22	GSAR 552.270-20	PAYMENT (DEVIATION)
STANDARDS OF CONDUCT	23	FAR 52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT
	24	FAR 52.203-13	CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT
	25	GSAR 552.270-32	COVENANT AGAINST CONTINGENT FEES
	26	FAR 52.203-7	ANTI-KICKBACK PROCEDURES

LESSOR: _____ GOVERNMENT: _____

	27	FAR 52.223-6	DRUG-FREE WORKPLACE
	28	FAR 52.203-14	DISPLAY OF HOTLINE POSTER(S)
ADJUSTMENTS	29	GSAR 552.270-30	PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY
	30	FAR 52.215-10	PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA
	31	GSAR 552.270-13	PROPOSALS FOR ADJUSTMENT
	32	GSAR 552.270-14	CHANGES (DEVIATION)
AUDITS	33	GSAR 552.215-70	EXAMINATION OF RECORDS BY GSA
	34	FAR 52.215-2	AUDIT AND RECORDS—NEGOTIATION
DISPUTES	35	FAR 52.233-1	DISPUTES
LABOR STANDARDS	36	FAR 52.222-26	EQUAL OPPORTUNITY
	37	FAR 52.222-21	PROHIBITION OF SEGREGATED FACILITIES
	38	FAR 52.219-28	POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION
	39	FAR 52.222-35	EQUAL OPPORTUNITY FOR VETERANS
	40	FAR 52.222-36	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES
	41	FAR 52.222-37	EMPLOYMENT REPORTS ON VETERANS
SMALL BUSINESS	42	FAR 52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT
	43	FAR 52.215-12	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA
	44	FAR 52.219-4	NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS
	45	FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS
	46	FAR 52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN
	47	FAR 52.219-16	LIQUIDATED DAMAGES—SUBCONTRACTING PLAN
	48	FAR 52.204-10	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS
CYBERSECURITY	49	FAR 52.204-2	SECURITY REQUIREMENTS
	50	FAR 52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL

LESSOR: _____ GOVERNMENT: _____

	51	GSAR 552.204-9	PERSONAL IDENTITY VERIFICATION REQUIREMENTS
	52	FAR 52.204-21	BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS
	53	FAR 52.204-23	PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES
	54	FAR 52.204-25	PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT
	55	FAR 52.204-27	PROHIBITION ON A BYTEDANCE COVERED APPLICATION
	56	FAR 52.204-30	FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS - PROHIBITION
OTHER	57	FAR 52.204-19	INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS
	58	FAR 52.252-2	CLAUSES INCORPORATED BY REFERENCE

The information collection requirements contained in this solicitation/contract that are not required by regulation have been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act and assigned the OMB Control No. 3090-0086.

GENERAL CLAUSES
(Acquisition of Leasehold Interests in Real Property)

1. GSAR 552.270-4 DEFINITIONS (AUG 2023) (DEVIATION)

When a solicitation or contract uses a word or term that is defined in the Federal Acquisition Regulation (FAR) or General Services Acquisition Manual (GSAM), the word or term has the same meaning as the definition in FAR 2.101, GSAM 502.101, or GSAM 570.102 in effect at the time the solicitation was issued or lease contract was awarded, unless

- (a) The solicitation, amended solicitation, or lease contract provides a different definition (e.g., R100, L100);
- (b) An applicable part, subpart, or section of the FAR or GSAM provides a different meaning.

2. GSAR 552.270-5 SUBLETTING AND ASSIGNMENT (SEP 2022) (DEVIATION)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any, that have accrued to the date of said assignment. Any subletting or assignment shall be subject to prior written consent of the Lessor, which shall not be unreasonably withheld.

3. GSAR 552.270-11 SUCCESSORS BOUND (SEP 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors, and assigns.

4. GSAR 552.270-23 SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT (SEP 1999)

- (a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.
- (b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate non-disturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.
- (c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of

LESSOR: _____ GOVERNMENT: _____

estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

- (d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

5. GSAR 552.270-24 STATEMENT OF LEASE (SEP 1999)

- (a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.
- (b) Letters issued pursuant to this clause are subject to the following conditions:

- (1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;
- (2) That the Government shall not be held liable because of any defect in or condition of the premises or building;
- (3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and
- (4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable pre-purchase and pre-commitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

6. GSAR 552.270-25 SUBSTITUTION OF TENANT AGENCY (SEP 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

7. GSAR 552.270-26 NO WAIVER (SEP 1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

8. GSAR 552.270-27 INTEGRATED AGREEMENT (SEP 2022) (DEVIATION)

This lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the lease. Except as expressly attached to and made a part of the lease, neither the request for lease proposals nor any pre-award communications by either party shall be incorporated in the lease.

9. GSAR 552.270-28 MUTUALITY OF OBLIGATION (SEP 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon

LESSOR: _____ GOVERNMENT: _____

issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

10. GSAR 552.270-10 DEFAULT BY LESSOR (JUL 2023) (DEVIATION)

Occurrence of the following constitutes default by the Lessor and gives rise to the following rights and remedies of the Government:

- (a) *Prior to acceptance of the space.* Failure by the Lessor to perform diligently any obligations required for acceptance of the space or other required improvements within the times specified, other than due to an excusable delay, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may, in its sole discretion, terminate the lease on account of the Lessor's default.
- (b) *After acceptance of the space.* Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this lease, other than due to an excusable delay, constitutes a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may, in its sole discretion, take one or more of the following actions:
 - (1) Perform the service, provide the item, or obtain satisfaction of the requirement by its own employees or contractors. If the Government elects to take such action, the Government may deduct from rental payments its costs, including administrative costs, incurred in connection with taking the action;
 - (2) Reduce the rent by an amount reasonably calculated to approximate the cost or value of the service not performed, item not provided, or requirement not satisfied, such reduction effective as of the date of the commencement of the default condition. If default renders the leased premises untenable, the reduction of rent may be calculated as the prorated portion of the monthly rent represented by all such days the leased premises is untenable;
 - (3) Terminate the lease if:
 - (i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or
 - (ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions, and such conditions substantially impair the safe and healthful occupancy of the premises, or render the premises unusable for its intended purposes.
- (c) *Damages.* The Lessor and the Lessor sureties, if any, are jointly and severally liable for any damages to the Government resulting from default or termination, as provided in this clause.
 - (1) Damages include all costs associated with the replacement lease(s), which include but are not limited to the following: the Government's aggregate rent, estimated real estate taxes, operating costs, administrative costs, or other procurement costs.
 - (2) If the Government procures replacement premises for a term (including all option terms) in excess of this lease term, the Lessor is not liable for excess Government rent or adjustments during such excess lease term.
 - (3) Damages to which the Government is entitled to under this clause are due and payable thirty (30) days following the date the Lessor receives notice from the Contracting Officer specifying such damages.

LESSOR: _____ GOVERNMENT: _____

(d) *Excusable delays.*

- (1) The Government shall not terminate this lease under this clause nor charge the Lessor with damages under this clause, if:
 - (i) the delay in substantially completing any work or performing any services arises from excusable delays, and
 - (ii) the Lessor, within ten (10) days from the beginning of any such delay (unless extended in writing by the Contracting Officer) provides notice to the Contracting Officer of the causes of delay.
 - (2) The Contracting Officer shall ascertain the facts and the extent of delay. If the facts warrant, the Contracting Officer shall extend the delivery date commensurate with the delay at no additional costs to the Government. A time extension is the sole remedy of the Lessor.
- (e) No deduction from rent, termination of lease, or any other action pursuant to this clause will constitute a default by the Government under this lease.
- (f) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law.

11. GSAR 552.270-9 INSPECTION – RIGHT OF ENTRY (SEP 1999)

- a) At any time and from time to time after receipt of an offer (until the same has been duly withdrawn or rejected), after acceptance thereof and during the term, the agents, employees and contractors of the Government may, upon reasonable prior notice to Offeror or Lessor, enter upon the offered premises or the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Offeror or Lessor with the requirements of the solicitation or this lease, which purposes shall include, but not be limited to:
- (1) Inspecting, sampling and analyzing suspected asbestos-containing materials and air monitoring for asbestos fibers;
 - (2) Inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises;
 - (3) Inspecting for any leaks, spills, or other potentially hazardous conditions which may involve tenant exposure to hazardous or toxic substances; and
 - (4) Inspecting for any current or past hazardous waste operations, to ensure that appropriate mitigative actions were taken to alleviate any environmentally unsound activities in accordance with Federal, State and local law.
- b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

12. GSAR 552.270-17 DELIVERY AND CONDITION (SEP 2022) (DEVIATION)

- (a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit.
- (b) The Government may elect to accept the space notwithstanding the Lessor's failure to deliver the space substantially complete; if the Government so elects, it may reduce the rent payments.

LESSOR: _____ GOVERNMENT: _____

13. GSAR 552.270-19**PROGRESSIVE OCCUPANCY (SEP 1999)**

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which it was substantially complete. The commencement date of the firm lease term will be a composite determined from all rent commencement dates.

14. GSAR 552.270-6**MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (SEP 2022) (DEVIATION)**

The Lessor shall maintain the property, including the building, building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this lease, in good repair and tenantable condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, safety systems, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease.

- (a) For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.
- (b) Upon request of the Lease Contracting Officer (LCO), the Lessor shall provide written documentation that building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards.
- (c) The Lessor shall maintain the premises in a safe and healthful condition according to applicable OSHA standards and all other requirements of this lease, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc.
- (d) The Government shall have the right, at any time after the lease award date and during the term of the lease, to inspect all areas of the property to which access is necessary for the purpose of determining the Lessor's compliance with this clause.

15. GSAR 552.270-7**FIRE AND CASUALTY DAMAGE (SEP 2022) (DEVIATION)**

- (a) If the building in which the premises are located is totally destroyed or damaged by fire or other casualty, this lease shall immediately terminate.
- (b) If the building in which the premises are located are only partially destroyed or damaged, so as to render the premises untenable, or not usable for their intended purpose:
 - (1) The Lessor shall have the option to elect to repair and restore the premises or terminate the lease.
 - (2) Unless otherwise approved by the Lease Contracting Officer, the Lessor shall be permitted a reasonable amount of time, not to exceed 270 days from the event of destruction or damage, to repair or restore the premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the premises within 60 days of the event of destruction or damage.
 - (i) If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the lease effective as of the date of the event of destruction or damage.
 - (ii) If the Lessor elects to repair or restore the premises, but fails to repair or restore the premises within 270 days from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the lease effective as of the date of the destruction or damage.

LESSOR: _____ GOVERNMENT: _____

GSA Template 3517B –
REV (12/23)
Page 8

- (3) During the time that the premises are unoccupied, rent shall be abated. Termination of the lease by either party under this clause shall not give rise to liability for either party.
- (4) Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

16. GSAR 552.270-8 COMPLIANCE WITH APPLICABLE LAW (SEP 2022) (DEVIATION)

Lessor shall comply with all Federal, state, tribal, and local laws applicable to its ownership and leasing of the property, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, state, tribal, and local laws applicable to and enforceable against it as a tenant under this lease, provided that nothing in this lease shall be construed as a waiver of the sovereign immunity of the Government. This lease shall be governed by Federal law.

17. GSAR 552.270-12 ALTERATIONS (SEP 1999)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

18. GSAR 552.270-29 ACCEPTANCE OF SPACE AND CERTIFICATE OF OCCUPANCY (SEP 2022) (DEVIATION)

- (a) Ten (10) working days prior to the completion of the space, the Lessor shall issue written notice to the Government to schedule the inspection of the space for acceptance. The Government shall accept the space only if the construction of building shell and tenant improvements conforming to this lease and the approved design intent drawings (DIDs) is substantially complete, and a certificate of occupancy has been issued as set forth below.
- (b) The space shall be considered substantially complete only if the space may be used for its intended purpose and completion of remaining work will not unreasonably interfere with the Government's enjoyment of the space. Acceptance shall be final and binding upon the Government with respect to conformance of the completed tenant improvements to the approved DIDs, with the exception of items identified on a punchlist generated as a result of the inspection, concealed conditions, latent defects, or fraud, but shall not relieve the Lessor of any other lease requirements.
- (c) The Lessor shall provide a valid certificate of occupancy, issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction does not issue certificates of occupancy or if the certificate of occupancy is not available, the Lessor may satisfy this condition by providing a report prepared by a licensed fire protection engineer that indicates that the premises and building are compliant with all applicable local codes and ordinances and all fire protection and life safety-related requirements of this lease to ensure an acceptable level of safety is provided. Under such circumstances, the Government shall only accept the space without a certificate of occupancy if a licensed fire protection engineer determines that the offered space is compliant with all applicable local codes and ordinances and fire protection and life safety-related requirements of this lease.

LESSOR: _____ GOVERNMENT: _____

This clause is incorporated by reference.

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Payment due date—*

- (1) *Rental payments.* Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.
 - (i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.
 - (ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.
- (2) *Other payments.* The due date for making payments other than rent shall be the later of the following two events:
 - (i) The 30th day after the designated billing office has received a proper invoice from the Contractor.
 - (ii) The 30th day after Government acceptance of the work or service. However, if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) *Invoice and inspection requirements for payments other than rent.*

- (1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:
 - (i) Name and address of the Contractor.
 - (ii) Invoice date.
 - (iii) Lease number.
 - (iv) Government's order number or other authorization.
 - (v) Description, price, and quantity of work or services delivered.
 - (vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order).
 - (vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

- (2) The Government will inspect and determine the acceptability of the work performed or services delivered within seven days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the seven day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the seven days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) *Interest Penalty.*

- (1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.
- (2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the "Renegotiation Board Interest Rate," and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.
- (3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233-1, Disputes, or for more than one year. Interest penalties of less than \$1.00 need not be paid.
- (4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233-1, Disputes.

(d) *Overpayments.* If the Lessor becomes aware of a duplicate payment or that the Government has otherwise overpaid on a payment, the Contractor shall—

- (1) Return the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—
 - (i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);
 - (ii) Affected lease number; (iii) Affected lease line item or sub-line item, if applicable; and
 - (iii) Lessor point of contact.
- (2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

21. FAR 52.232-23

ASSIGNMENT OF CLAIMS (MAY 2014)

(Applicable to leases over the micro-purchase threshold.)

- (a) The Contractor, under the Assignment of Claims Act, as amended, [31 U.S.C. 3727](#), [41 U.S.C. 6305](#) (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or

LESSOR: _____ GOVERNMENT: _____

reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

- (b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.
- (c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

22. GSAR 552.270-20 PAYMENT (AUG 2023) (DEVIATION)

- (a) When space is offered and accepted, ANSI/BOMA Occupant Area (ABOA) square footage delivered will be confirmed by either:
 - (1) The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space conforms with such plans; or
 - (2) A mutual on-site measurement of the space if the Contracting Officer determines it necessary.
- (b) The Government will not pay for space in excess of the amount of ABOA square footage stated in the lease.
- (c) If the amount of ABOA square footage delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of ABOA space delivered and the annual rental will be adjusted as follows:

ABOA square feet not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is:

$$(1 + \text{CAF}) \times \text{Rate per RSF} = \text{Reduction in Annual Rent}$$

- (d) Common Area Factor (CAF). The CAF is expressed as a percentage of the difference between the amount of rentable square feet (SF) and ABOA SF, divided by the ABOA SF. For example 11,500 RSF and 10,000 ABOA SF will have a CAF of 15% $(11,500 \text{ RSF} - 10,000 \text{ ABOA SF}) / 10,000 \text{ ABOA SF}$.
- (e) Rentable Square Footage (RSF). The RSF is calculated using the following formula for each type of space (e.g., office, warehouse, etc.) included in the premises: $\text{ABOA SF of Space} \times (1 + \text{CAF}) = \text{RSF}$.

23. FAR 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—SYSTEM FOR AWARD MANAGEMENT (OCT 2018)

This clause is incorporated by reference.

24. FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (NOV 2021)

(Applicable to leases over \$6 million total contract value and performance period is 120 days or more.)

This clause is incorporated by reference.

25. GSAR 552.270-32 COVENANT AGAINST CONTINGENT FEES (JUN 2011)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

- (a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.
- (b) *Bona fide agency*, as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.
 - (1) *Bona fide employee*, as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.
 - (2) *Contingent fee*, as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.
 - (3) *Improper influence*, as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

26. FAR 52.203-7 ANTI-KICKBACK PROCEDURES (JUN 2020)

(Applicable to leases over \$150,000 total contract value.)

This clause is incorporated by reference.

27. FAR 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

(Applicable to leases over the Simplified Lease Acquisition Threshold, as well as to leases of any value awarded to an individual.)

This clause is incorporated by reference.

LESSOR: _____ GOVERNMENT: _____

28. FAR 52.203-14 DISPLAY OF HOTLINE POSTER(S) (NOV 2021)

(Applicable to leases over \$6 Million total contract value.)

This clause is incorporated by reference.

29. GSAR 552.270-30 PRICE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JUN 2011)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

- (a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—
 - (1) Reduce the monthly rental under this lease by five percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover five percent of the rental already paid;
 - (2) Reduce payments for alterations not included in monthly rental payments by five percent of the amount of the alterations agreement; or
 - (3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.
- (b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis thereof. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.
- (c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

30. FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011)

(Applicable when cost or pricing data are required for work or services over \$2,000,000.)

This clause is incorporated by reference.

31. GSAR 552.270-13 PROPOSALS FOR ADJUSTMENT (OCT 2016)

This clause is incorporated by reference.

32. GSAR 552.270-14 CHANGES (SEP 2022) (DEVIATION)

- (a) The Lease Contracting Officer (LCO) may at any time, by written order, direct changes to the tenant improvements within the space, building security requirements, or the services required under the lease.
- (b) If any such change causes an increase or decrease in Lessor's cost or time required for performance of its obligations under this lease, whether or not changed by the order, the Lessor shall be entitled to an amendment to the lease providing for one or more of the following:
 - (1) An adjustment of the delivery date.
 - (2) An equitable adjustment in the rental rate.

LESSOR: _____ GOVERNMENT: _____

- (3) A lump sum equitable adjustment. or
- (4) An adjustment of the operating cost base, if applicable.
- (c) The Lessor must assert its right to an amendment under this clause within 30 days from the date of receipt of the change order and must submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, the pendency of an adjustment or existence of a dispute shall not excuse the Lessor from proceeding with the change as directed.
- (d) Absent a written change order from the LCO, or from a Government official to whom the LCO has explicitly and in writing delegated the authority to direct changes, the Government is not liable to Lessor under this clause.

33. GSAR 552.215-70 EXAMINATION OF RECORDS BY GSA (JUN 2016)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

This clause is incorporated by reference.

34. FAR 52.215-2 AUDIT AND RECORDS—NEGOTIATION (JUN 2020)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

This clause is incorporated by reference.

35. FAR 52.233-1 DISPUTES (MAY 2014)

This clause is incorporated by reference.

36. FAR 52.222-26 EQUAL OPPORTUNITY (SEP 2016)

This clause is incorporated by reference.

37. FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

This clause is incorporated by reference.

38. FAR 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (SEP 2023)

(Applicable to leases exceeding the micro-purchase threshold.)

This clause is incorporated by reference.

39. FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020)

(Applicable to leases \$150,000 or more, total contract value.)

- (a) *Definitions.* As used in this clause-

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at Federal Acquisition Regulation (FAR) [22.1301](#).

- (b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

LESSOR: _____ GOVERNMENT: _____

- (c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts valued at or above the threshold specified in FAR [22.1303](#)(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

40. FAR 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020)

(Applicable to leases over \$15,000 total contract value.)

- (a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.
- (b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of the threshold specified in Federal Acquisition Regulation (FAR) [22.1408](#)(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

41. FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020)

(Applicable to leases \$150,000 or more, total contract value.)

This clause is incorporated by reference.

42. FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (NOV 2021)

(Applicable to leases over \$35,000 total contract value.)

This clause is incorporated by reference.

43. FAR 52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (JUN 2020)

(Applicable if over \$2,000,000 total contract value.)

This clause is incorporated by reference.

44. FAR 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (OCT 2022)

This clause is incorporated by reference.

45. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (SEP 2023)

(Applicable to leases over the Simplified Lease Acquisition Threshold.)

This clause is incorporated by reference.

LESSOR: _____ GOVERNMENT: _____

46. FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (SEP 2023) ALTERNATE III (JUN 2020)

(Applicable to leases over \$750,000 total contract value.)

This clause is incorporated by reference.

47. FAR 52.219-16 LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (SEP 2021)

(Applicable to leases over \$750,000 total contract value.)

This clause is incorporated by reference.

48. FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUN 2020)

(Applicable if over \$30,000 total contract value.)

This clause is incorporated by reference.

49. FAR 52.204-2 SECURITY REQUIREMENTS (MAR 2021)

(Applicable when the contract may require access to classified information.)

This clause is incorporated by reference.

50. FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)

This clause is incorporated by reference.

51. GSAR 552.204-9 PERSONAL IDENTITY VERIFICATION REQUIREMENTS (APR 2023)

This clause is incorporated by reference.

52. FAR 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)

(a) *Definitions.* As used in this clause—

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information ([44 U.S.C. 3502](#)).

LESSOR: _____ GOVERNMENT: _____

Safeguarding means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

- (1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:
 - (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
 - (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
 - (iii) Verify and control/limit connections to and use of external information systems.
 - (iv) Control information posted or processed on publicly accessible information systems.
 - (v) Identify information system users, processes acting on behalf of users, or devices.
 - (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
 - (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
 - (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
 - (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
 - (x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
 - (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
 - (xii) Identify, report, and correct information and information system flaws in a timely manner.
 - (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
 - (xiv) Update malicious code protection mechanisms when new releases are available.
 - (xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.
- (2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

- (c) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

53. FAR 52.204-23 PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (DEC 2023)

This clause is incorporated by reference.

54. FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

This clause is incorporated by reference.

55. FAR 52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

This clause is incorporated by reference.

56. FAR 52.204-30 FEDERAL ACQUISITION SUPPLY CHAIN SECURITY ACT ORDERS – PROHIBITION (DEC 2023)

(a) *Definitions*. As used in this clause—

Covered article, as defined in [41 U.S.C. 4713\(k\)](#), means—

- (1) Information technology, as defined in [40 U.S.C. 11101](#), including cloud computing services of all types;
- (2) Telecommunications equipment or telecommunications service, as those terms are defined in section 3 of the Communications Act of 1934 ([47 U.S.C. 153](#));
- (3) The processing of information on a Federal or non-Federal information system, subject to the requirements of the Controlled Unclassified Information program (see [32 CFR part 2002](#)); or
- (4) Hardware, systems, devices, software, or services that include embedded or incidental information technology.

FASCSA order means any of the following orders issued under the Federal Acquisition Supply Chain Security Act (FASCSA) requiring the removal of covered articles from executive agency information systems or the exclusion of one or more named sources or named covered articles from executive agency procurement actions, as described in [41 CFR 201–1.303\(d\)](#) and [\(e\)](#):

- (1) The Secretary of Homeland Security may issue FASCSA orders applicable to civilian agencies, to the extent not covered by paragraph (2) or (3) of this definition. This type of FASCSA order may be referred to as a Department of Homeland Security (DHS) FASCSA order.
- (2) The Secretary of Defense may issue FASCSA orders applicable to the Department of Defense (DoD) and national security systems other than sensitive compartmented information systems. This type of FASCSA order may be referred to as a DoD FASCSA order.
- (3) The Director of National Intelligence (DNI) may issue FASCSA orders applicable to the intelligence community and sensitive compartmented information systems, to the extent not covered by

LESSOR: _____ GOVERNMENT: _____

paragraph (2) of this definition. This type of FASCSA order may be referred to as a DNI FASCSA order.

Intelligence community, as defined by [50 U.S.C. 3003\(4\)](#), means the following—

- (1) The Office of the Director of National Intelligence;
- (2) The Central Intelligence Agency;
- (3) The National Security Agency;
- (4) The Defense Intelligence Agency;
- (5) The National Geospatial-Intelligence Agency;
- (6) The National Reconnaissance Office;
- (7) Other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;
- (8) The intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Federal Bureau of Investigation, the Drug Enforcement Administration, and the Department of Energy;
- (9) The Bureau of Intelligence and Research of the Department of State;
- (10) The Office of Intelligence and Analysis of the Department of the Treasury;
- (11) The Office of Intelligence and Analysis of the Department of Homeland Security; or
- (12) Such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

National security system, as defined in [44 U.S.C. 3552](#), means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

- (1) The function, operation, or use of which involves intelligence activities; involves cryptologic activities related to national security; involves command and control of military forces; involves equipment that is an integral part of a weapon or weapons system; or is critical to the direct fulfillment of military or intelligence missions, but does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications); or
- (2) Is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of any covered articles, or any products or services produced or provided by a source. This applies when the covered article or the source is subject to an applicable FASCSA order. A reasonable inquiry excludes the need to include an internal or third-party audit.

Sensitive compartmented information means classified information concerning or derived from intelligence sources, methods, or analytical processes, which is required to be handled within formal access control systems established by the Director of National Intelligence.

Sensitive compartmented information system means a national security system authorized to process or store sensitive compartmented information.

Source means a non-Federal supplier, or potential supplier, of products or services, at any tier.

(b) *Prohibition.*

- (1) Unless an applicable waiver has been issued by the issuing official, Contractors shall not provide or use as part of the performance of the contract any covered article, or any products or services produced or provided by a source, if the covered article or the source is prohibited by an applicable FASCSA orders as follows:
 - (i) For solicitations and contracts awarded by a Department of Defense contracting office, DoD FASCSA orders apply.
 - (ii) For all other solicitations and contracts DHS FASCSA orders apply.
- (2) The Contractor shall search for the phrase "FASCSA order" in the System for Award Management (SAM) at <https://www.sam.gov> to locate applicable FASCSA orders identified in paragraph (b)(1).
- (3) The Government may identify in the solicitation additional FASCSA orders that are not in SAM, which are effective and apply to the solicitation and resultant contract.
- (4) A FASCSA order issued after the date of solicitation applies to this contract only if added by an amendment to the solicitation or modification to the contract (see FAR [4.2304](#)(c)). However, see paragraph (c) of this clause.
- (5)
 - (i) If the contractor wishes to ask for a waiver of the requirements of a new FASCSA order being applied through modification, then the Contractor shall disclose the following:
 - (A) Name of the product or service provided to the Government;
 - (B) Name of the covered article or source subject to a FASCSA order;
 - (C) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied or supplies the covered article or the product or service to the Offeror;
 - (D) Brand;
 - (E) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);
 - (F) Item description;
 - (G) Reason why the applicable covered article or the product or service is being provided or used;

LESSOR: _____ GOVERNMENT: _____

- (ii) *Executive agency review of disclosures.* The contracting officer will review disclosures provided in paragraph (b)(5)(i) to determine if any waiver is warranted. A contracting officer may choose not to pursue a waiver for covered articles or sources otherwise covered by a FASCSA order and to instead pursue other appropriate action.

(c) *Notice and reporting requirement.*

- (1) During contract performance, the Contractor shall review *SAM.gov* at least once every three months, or as advised by the Contracting Officer, to check for covered articles subject to FASCSA order(s), or for products or services produced by a source subject to FASCSA order(s) not currently identified under paragraph (b) of this clause.
- (2) If the Contractor identifies a new FASCSA order(s) that could impact their supply chain, then the Contractor shall conduct a reasonable inquiry to identify whether a covered article or product or service produced or provided by a source subject to the FASCSA order(s) was provided to the Government or used during contract performance.
- (3)
 - (i) The Contractor shall submit a report to the contracting office as identified in paragraph (c)(3)(ii) of this clause, if the Contractor identifies, including through any notification by a subcontractor at any tier, that a covered article or product or service produced or provided by a source was provided to the Government or used during contract performance and is subject to a FASCSA order(s) identified in paragraph (b) of this clause, or a new FASCSA order identified in paragraph (c)(2) of this clause. For indefinite delivery contracts, the Contractor shall report to both the contracting office for the indefinite delivery contract and the contracting office for any affected order.
 - (ii) If a report is required to be submitted to a contracting office under (c)(3)(i) of this clause, the Contractor shall submit the report as follows:
 - (A) If a Department of Defense contracting office, the Contractor shall report to the website at <https://dibnet.dod.mil>.
 - (B) For all other contracting offices, the Contractor shall report to the Contracting Officer.
- (4) The Contractor shall report the following information for each covered article or each product or service produced or provided by a source, where the covered article or source is subject to a FASCSA order, pursuant to paragraph (c)(3)(i) of this clause:
 - (i) Within 3 business days from the date of such identification or notification:
 - (A) Contract number;
 - (B) Order number(s), if applicable;
 - (C) Name of the product or service provided to the Government or used during performance of the contract;
 - (D) Name of the covered article or source subject to a FASCSA order;
 - (E) If applicable, name of the vendor, including the Commercial and Government Entity code and unique entity identifier (if known), that supplied the covered article or the product or service to the Contractor;

(F) Brand;

(G) Model number (original equipment manufacturer number, manufacturer part number, or wholesaler number);

(H) Item description; and

(I) Any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (c)(4)(i) of this clause:

(A) Any further available information about mitigation actions undertaken or recommended.

(B) In addition, the Contractor shall describe the efforts it undertook to prevent submission or use of the covered article or the product or service produced or provided by a source subject to an applicable FASCSA order, and any additional efforts that will be incorporated to prevent future submission or use of the covered article or the product or service produced or provided by a source that is subject to an applicable FASCSA order.

(d) *Removal.* For Federal Supply Schedules, Governmentwide acquisition contracts, multi-agency contracts or any other procurement instrument intended for use by multiple agencies, upon notification from the Contracting Officer, during the performance of the contract, the Contractor shall promptly make any necessary changes or modifications to remove any product or service produced or provided by a source that is subject to an applicable FASCSA order.

(e) *Subcontracts.*

(1) The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (c)(1) of this clause, in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products and commercial services.

(2) The Government may identify in the solicitation additional FASCSA orders that are not in SAM, which are effective and apply to the contract and any subcontracts and other contractual instruments under the contract. The Contractor or higher-tier subcontractor shall notify their subcontractors, and suppliers under other contractual instruments, that the FASCSA orders in the solicitation that are not in SAM apply to the contract and all subcontracts.

57. FAR 52.204-19 INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

This clause is incorporated by reference.

58. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<https://www.acquisition.gov/browse/index/far>

<https://www.acquisition.gov/browse/index/gsam>.

LESSOR: _____ GOVERNMENT: _____

Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment

See instructions within the representation regarding whether or not completion of this form is required. If required, complete appropriate boxes, sign the form, and return form, along with any other required disclosure information, to LCO or his/her designee.

NOTE: The "Offeror," as used on this form, is the owner of the property offered, not an individual or agent representing the owner.

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications—Commercial Products or Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

(a) *Definitions.* As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It ☐ will, ☐ will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ does, ☐ does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

OFFEROR OR LEGALLY AUTHORIZED REPRESENTATIVE	NAME, ADDRESS (INCLUDING ZIP CODE)	TELEPHONE NUMBER
	Signature	Date



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE APPROVING THE LA BELLA PIAZZA SUBDIVISION
GENERALLY LOCATED SOUTH OF WEST PUEBLO BOULEVARD
AND WEST OF GRANADA BOULEVARD

SUMMARY:

The applicant is requesting to subdivide 2.22-acres into three lots for commercial development.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting a commercial plan review (C-23-34).

BACKGROUND:

The property is a 96,748 square foot parcel, located west of the intersection of Prairie Avenue and South Pueblo Boulevard (SH45). The property was originally subdivided and rezoned from R-2, Single Family Residential to Planned Unit Development (PUD) in December of 2006. This subdivision established Lot 1 (645,216 square feet), non-buildable Parcel A (96,748 square feet), and non-buildable Parcel B (418,930 square feet). Lot 1 was later developed into Lowe's Home Improvement which currently occupies that location. According to the plat (note #7) "The City of Pueblo shall not issue any building permits for Parcel A or Parcel B until an application to re-subdivide said parcels has been reviewed by the Planning and Zoning Commission and approved by City Council." The owners of the subject property (Parcel A) are currently in the process of developing a Whataburger restaurant at this location. This process requires the parcel to be re-subdivided as prescribed by the plat. The applicant is requesting that Parcel A be subdivided into three lots; Lot 1 (47,065 square feet), Lot 2 (26,632 square feet), and Lot 3 (23,051 square feet). All proposed lots meet the minimum 20,000 square feet lot size and 50 feet lot frontage required by the PUD Development Guide. Lot 1 is the site for the proposed Whataburger. The restaurant use aligns with the Commercial Mixed Use future land use designation and is a use-by-right in the PUD Guide. Primary access to the property will be taken from eastbound traffic on West

Pueblo Boulevard or Granada Boulevard and Lowes' parking lot. The Lowes parking lot includes a "blanket" ingress/egress easement allowing access to the pad sites through the parking lot. The City Transportation Department is requesting that a similar ingress/egress easement be provided on the proposed subdivision.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 13, 2024 Regular Meeting, voted 7-0 to recommend approval with conditions.

STAKEHOLDER PROCESS:

The Planning Department sent out Notice of the Planning and Zoning Commission Public Hearing to all property owners located within 300 feet of the subject property.

ALTERNATIVES:

If City Council does not approve this Ordinance, the site will not be resubdivided which will impede development of the site.

Upon request of City Council, the Ordinance could be returned to the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. S-23-10 Combined Attachments

ORDINANCE NO.

AN ORDINANCE APPROVING THE LA BELLA PIAZZA
SUBDIVISION GENERALLY LOCATED SOUTH OF WEST
PUEBLO BOULEVARD AND WEST OF GRANADA BOULEVARD

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The final plat of the La Bella Piazza Subdivision, being a subdivision of land legally described as:

PARCEL A

A PORTION OF PARCEL A OF LA BELLA PIAZZA SUBDIVISION FILING NO. 1, ACCORDING TO FINAL PLAT RECORDED ON DECEMBER 13, 2006 AT RECEPTION NO. 1706244 IN THE OFFICIAL RECORDS OF PUEBLO COUNTY, COLORADO.

PARCEL B

THOSE EASEMENTS FOR INGRESS AND EGRESS DESCRIBED IN THE EASEMENTS, COVENANTS CONDITIONS, RESTRICTIONS TOGETHER WITH NOTICE AND DISCLOSURE TO RESIDENTIAL USES DESCRIBED RECORDED ON DECEMBER 18, 2006 UNDER RECEPTION NO. 1706721 IN THE OFFICIAL RECORDS OF PUEBLO COUNTY, COLORADO.

CONTAINING A CALCULATED AREA OF 96,776 SQUARE FEET OR 2.222 ACRES, MORE OR LESS.

SECTION 2.

The acceptance of such dedicated streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces by the City does not obligate the City to maintain or repair same until such streets, rights-of-way, utility and drainage easements, public sites, parks and open spaces have been constructed and installed in compliance and in accordance with the requirements and provisions of Chapter 4, Title XII of the Pueblo Municipal Code, as amended and any agreement entered into pursuant thereto.

SECTION 3.

Neither the adoption of this Ordinance nor the requirements imposed hereby shall create any duty or obligation of any person, firm, corporation or other entity with regard to the enforcement or nonenforcement of this Ordinance or the City's Subdivision Ordinances and regulations. No person, firm, corporation or other entity shall have any private right of action, claim or demand against the City or its officers, employees or agents, for any injury, damage or liability arising out of or in any way connected with the adoption, enforcement, or nonenforcement of this Ordinance or the Subdivision Ordinance and Regulations of the City, or the engineering, surveying, drainage improvement or other work or improvements required thereby. Nothing in this Ordinance or in the City's subdivision Ordinances and regulations shall create or be construed to create any claim, demand or liability against the City or its officers, employees or agents, or to waive any of the immunities, limitations on liability, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, et seq. Colorado Revised Statutes, or to waive any immunities or limitations on liability otherwise available to the

City or its officers, employees or agents.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to implement the policies and procedures described herein.

SECTION 5.

This Ordinance shall be approved upon final passage but shall not become effective until: (a) all information, documents, drawings, profiles, and plat required by Chapter 4 of Title XII of the Pueblo Municipal Code meeting and complying with the subdivision requirements of the City with such modifications, if any, approved by City Council, have been filed with and approved by the Director of Public Works, and (b) the final subdivision plat is recorded in the office of the Pueblo County Clerk and Recorder. If any such filings and approvals have been deferred pursuant to Section 12-4-5(b)(2) of the Pueblo Municipal Code and are not for any reason filed and approved within one (1) year after final passage of this Ordinance, or within any extended period granted by Resolution of the City Council, this Ordinance shall automatically be rescinded and repealed thirty (30) days after written notice of such rescission and repeal is given to the Subdivider. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

File: C:\10244 Dunkin - Pueblo Blvd and Prairie\Drawings\100244P-reading Plotstamp: 2/20/2024 3:09 PM

LA BELLA PIAZZA SUBDIVISION FILING NO. 2

A RE-SUBDIVISION OF PARCEL A, LA BELLA PIAZZA SUBDIVISION FILING NO. 1,
LYING WITHIN THE SE 1/4 OF SECTION 15, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS: KURT D. BYRNES AND PATRICIA J. BYRNES, BEING THE OWNERS OF THE FOLLOWING DESCRIBED TRACTS OF LAND TO WIT:

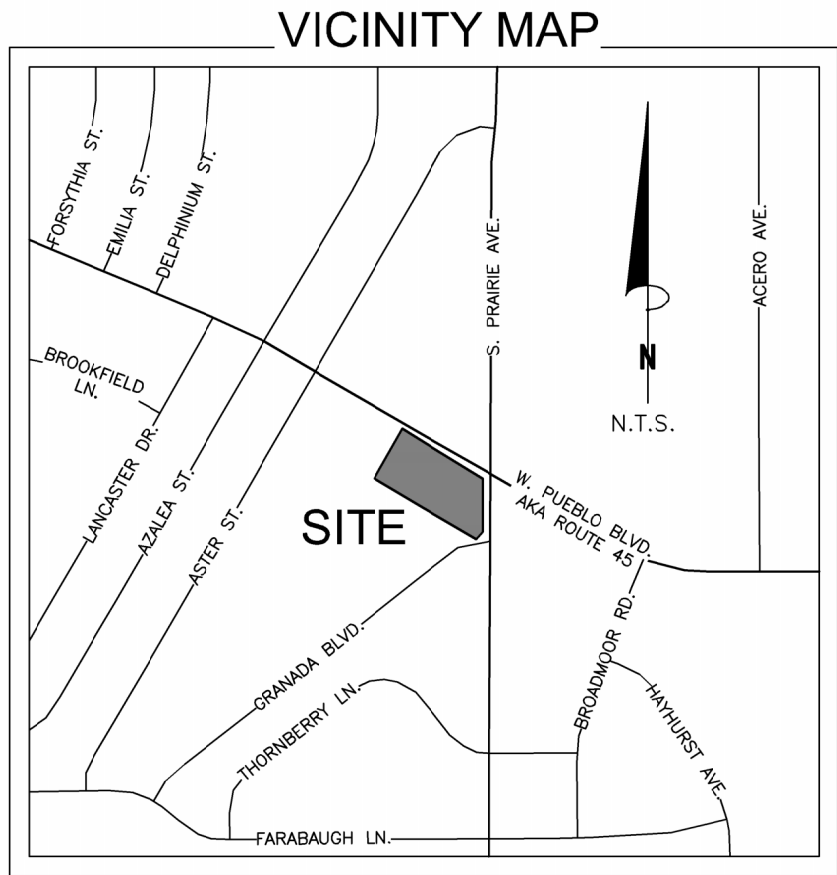
PARCEL A OF LA BELLA PIAZZA SUBDIVISION FILING NO. 1, ACCORDING TO FINAL PLAT
RECORDED ON DECEMBER 13, 2006 AT RECEPTION NO. 1706244 IN THE OFFICIAL RECORDS OF
PUEBLO COUNTY, COLORADO.

CONTAINING A CALCULATED AREA OF 96,776 SQUARE FEET OR 2.222 ACRES, MORE OR LESS.

HAS CAUSED THE AFOREGOING DESCRIBED PROPERTY TO BE SURVEYED, PLATTED AND SUBDIVIDED INTO LOTS AND HAS SHOWN HEREON CERTAIN EASEMENTS FOR PUBLIC UTILITIES AND PEDESTRIANS AND THE SAME TO BE NUMBERED, PLATTED, SUBDIVIDED, DIMENSIONED AND NAMED AS SHOWN ON THE ANNEXED PLAT FOR THE PURPOSE OF CREATING A SUBDIVISION TO BE KNOWN AS "LA BELLA SUBDIVISION FILING NO. 2".

ALL OF PUBLIC UTILITY AND CITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED TO THE CITY FOR THE PERPETUAL USE OF THE PUBLIC. WITH RESPECT TO ALL EASEMENTS FOR CITY UTILITIES INCLUDING BUT NOT LIMITED TO SANITARY AND STORMWATER SERVICES AND WHETHER DESIGNATED AS A DRAINAGE EASEMENT, PUBLIC UTILITY EASEMENT OR OTHERWISE HEREON, THE CITY OF PUEBLO SHALL HAVE THE RIGHT, WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE CONSENT OR PERMISSION OF ANYONE, TO REMOVE ANY BUILDING, FENCE, TREE, STREET OR OTHER IMPROVEMENT OR GROWTH LOCATED UPON SUCH EASEMENT THAT MAY IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, INSPECTION OR REMOVAL OF ALL OR ANY PARTS OF SAID CITY UTILITIES AND TO RECOVER THE COSTS THEREOF, PLUS AN ADMINISTRATIVE CHARGE OF 15% FORM THE OWNER(S) OF THE LOTS OR PARCELS UPON WHICH THE EASEMENTS ARE LOCATED.

A FORMAL ENVIRONMENTAL ASSESSMENT FOR THIS SUBDIVISION HAS NOT BEEN PERFORMED; HOWEVER, TO THE BEST OF THE UNDERSIGNED OWNER(S) KNOWLEDGE, INFORMATION, AND BELIEF, THERE ARE NO KNOWN HAZARDOUS SUBSTANCES PRESENT WITHIN THIS SUBDIVISION.



NOTICE:

NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THE PLATTED SUBDIVISION BY THE CITY OF PUEBLO, DOES NOT CONSTITUTE AN ACCEPTANCE OF THE DEDICATED PUBLIC ROADS, PARKS AND OTHER PUBLIC IMPROVEMENTS FOR MAINTENANCE BY THE CITY. UNTIL SUCH DEDICATED PUBLIC ROADS, OTHER PARKS, AND PUBLIC IMPROVEMENTS MEET THE REQUIREMENTS, STANDARDS, AND SPECIFICATIONS OF THE CITY, ITS SUBDIVISION ORDINANCE AND WHERE APPROPRIATE, ITS PARK'S DEPARTMENT SPECIFICATIONS, AND SUCH ARE SPECIFICALLY APPROVED AND ACCEPTED IN WRITING BY THE CITY DIRECTOR OF PUBLIC WORKS AND WHERE APPLICABLE, THE CITY DIRECTOR OF PARKS AND RECREATION, THE MAINTENANCE, CONSTRUCTION AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING AND DEDICATED PUBLIC ROADS, PARK, AND OTHER PUBLIC IMPROVEMENTS AND RIGHTS-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE SUBDIVIDER OR ANY SUBSEQUENT OWNER(S) OF THE LAND WITHIN THE SUBDIVISION. CITY DOES NOT ACCEPT THE PRIVATE ROADS, EASEMENTS AND FACILITIES DEDICATED HEREON, NOR SHALL THE CITY BE OBLIGATED TO MAINTAIN, CONSTRUCT OR REPAIR SUCH PRIVATE ROAD, EASEMENTS AND FACILITIES.

PLANNING COMMISSION CERTIFICATION:

THIS IS TO CERTIFY THAT THIS SUBDIVISION WAS APPROVED BY THE PLANNING COMMISSION OF THE CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

CHAIRPERSON, PLANNING COMMISSION _____ DATE _____

CERTIFICATION BY CITY CLERK:

APPROVAL OF RECORDING

APPROVED BY THE CITY COUNCIL OF PUEBLO, COLORADO BY ORDINANCE NO. _____. THIS IS TO CERTIFY THAT THE PLAT OF "LA BELLA PIAZZA SUBDIVISION FILING NO. 2" HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF PUEBLO, STATE OF COLORADO.

CITY CLERK _____ DATE _____

IMPROVEMENT CERTIFICATION:

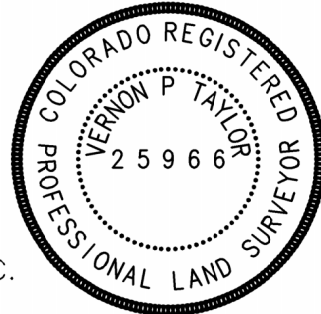
THIS IS TO CERTIFY THAT THE SUBDIVIDER HAS COMPLIED WITH ALTERNATE NO. 4 OF SECTION 12-4-7(J)(1) AND SECTION 12-4-5(B), OF 1971 CODE OF ORDINANCES, CITY OF PUEBLO COUNTY OF PUEBLO, STATE OF COLORADO.

DIRECTOR OF PUBLIC WORKS _____ DATE _____

SURVEYOR'S CERTIFICATION:

THE UNDERSIGNED COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR DOES HEREBY CERTIFY THAT THE ACCOMPANYING PLAT WAS SURVEYED AND DRAWN UNDER HIS DIRECT RESPONSIBILITY AND SUPERVISION AND TO THE NORMAL STANDARD OF PRACTICE BY SURVEYORS IN THE STATE OF COLORADO AND ACCURATELY SHOWS THE DESCRIBED TRACT OF LAND THEREOF, AND THAT THE REQUIREMENTS OF TITLE 38 OF THE COLORADO REVISED STATUTES, 1973, AS AMENDED, HAVE BEEN MET TO THE BEST OF HIS PROFESSIONAL KNOWLEDGE, BELIEF AND OPINION.

THIS STATEMENT IS NEITHER A WARRANTY NOR GUARANTEE, EITHER EXPRESSED OR IMPLIED.



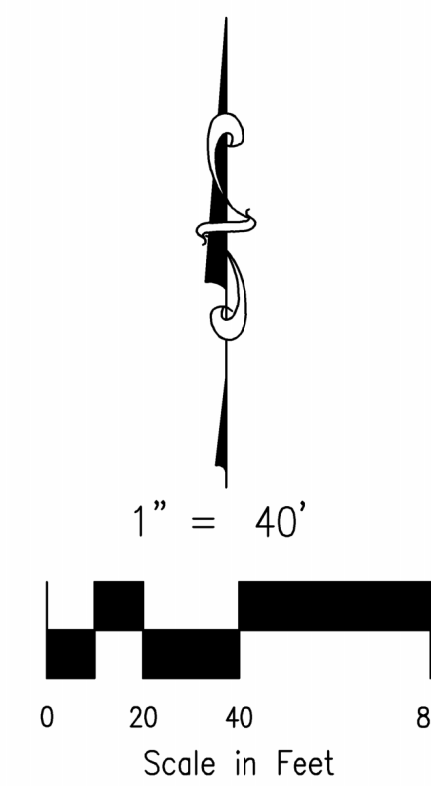
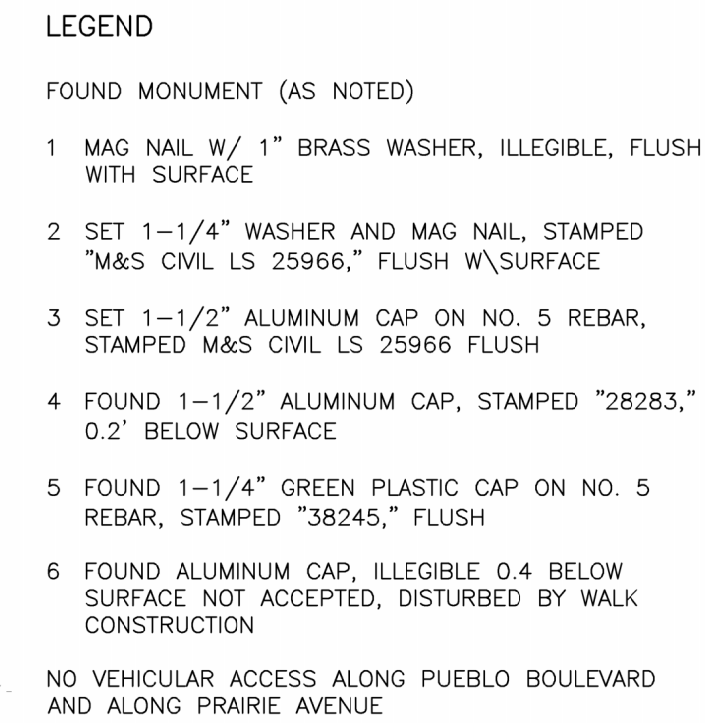
VERNON P. TAYLOR,
COLORADO PROFESSIONAL LAND SURVEYOR NO. 25966
FOR AND ON BEHALF OF M&S CIVIL CONSULTANTS, INC.

70024FP(231129)
LA BELLA PIAZZA SUBDIVISION
FILING NO. 2
JOB NO. 10-024
DATE PREPARED: 11/29/2023
DATE REVISED: 02/20/2024



212 N. WAHSATCH AVE., STE 305
COLORADO SPRINGS, CO 80903
PHONE: 719.955.5485

A RE-SUBDIVISION OF PARCEL A, LA BELLA PIAZZA SUBDIVISION FILING NO. 1,
LYING WITHIN THE SE 1/4 OF SECTION 15, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



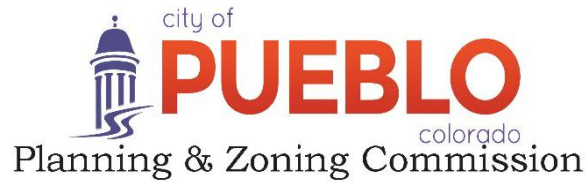
ACS
CIVIL CONSULTANTS, INC.

212 N. WAHSATCH AVE., STE 305
COLORADO SPRINGS, CO 80903
PHONE: 719.955.5485

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Roger Gomez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING

City of Pueblo, Colorado

Wednesday, March 13, 2024 – 3:30 p.m.

City Council Chambers, 1 City Hall Place

The meeting was called to order at 3:31 p.m. with Commissioner Castellucci presiding.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Lisa Bailey, Roger Gomez, Alexander Aznar, Christopher Pasternak.

Commissioners Absent:

Staff Members Present: David Wyatt, Assistant City Attorney; Scott Hobson, Acting Director of Planning and Community Development, Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner, Mikaylin Hackley, Planner, and Cindy Capritta, Land Use Tech. Kelly Grisham, Project Coordinator, Public Works, Joe Martellaro, Engineer, Public Works.

Staff Members Absent: None

Approval of the Agenda: Bailey motioned to approve the agenda, seconded by Avalos.

Motion Passed: 7-0

Public Hearing:

7. S-23-10 Subdivision: La Bella Piazza Subdivision Filing No. 2, subdivision of 2.21 acres into three commercial lots, generally located south of W. Pueblo Blvd. and west of Granada Blvd. Staff Report by Beritt Odom.

Hearing: Applicant Virgil Sanchez was sworn in and spoke in favor of the application. No one appeared in opposition.

Commission Action: Bailey motioned to recommend the application to City Council once Conditions 1-2 and 3 sub conditions are met, seconded by Spinuzzi.

Motion Passed: 7-0.



DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: S-23-10 La Bella Piazza, Filing No. 2

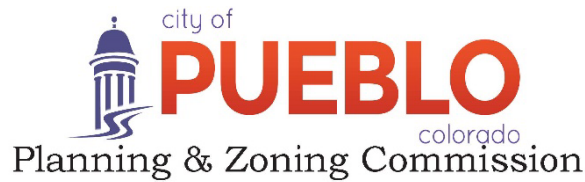
DATE: August 7, 2024

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Roger Gomez
City Council Representative



Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

S-23-10

TO: City of Pueblo, Planning and Zoning Commission

FROM: Bart I Mikitowicz, Senior Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: March 13, 2024

SUBJECT: La Bella Piazza Subdivision

APPLICANT: Brian Zurek, Doubletree Venture, LLC

PROPERTY OWNER: Kurt and Patricia Barns

LOCATION: 2.22 acres generally located south of Pueblo Blvd west of the intersection of Prairie Avenue and Pueblo Boulevard (SH45).

EXISTING ZONE: PUD Planned Unit Development

CONCURRENT REQUESTS: C-23-34 – W Pueblo Blvd, Whataburger

REQUEST:

Brian Zurek, of Doubletree Ventures, LLC is requesting to subdivide, 2.22 acres, into three lots for commercial development.

STAFF REVIEW AND FINDINGS:

The property is a 96,748 sq. ft. parcel, located west of the intersection of Prairie Avenue and South Pueblo Blvd. (SH45). The property was originally subdivided and rezoned from Single Family Residential (R-2) to Planned Unit Development (PUD) in December of 2006. This subdivision established Lot 1 (645,216 sqft), non-buildable Parcel A (96,748 sqft), and non-buildable Parcel B (418,930 sqft). Lot 1 was later developed into Lowe's Home Improvement which currently occupies that location. According to the plat (note #7) "The City of Pueblo shall not issue any building permits for Parcel A or Parcel B until an application to re-subdivide said parcels has been reviewed by the Planning and Zoning Commission and approved by City Council."

The owners of the subject property (Parcel A) are currently in the process of developing a Whataburger restaurant at this location. This process requires the parcel to be re-subdivided as prescribed by the plat. The applicant is requesting that Parcel A be subdivided into three lots; Lot 1 (47,065 sqft), Lot 2 (26,632 sqft), and Lot 3 (23,051 sqft). All proposed lots meet the minimum 20,000 sqft lot size and 50 ft lot frontage required by the PUD Development Guide. Lot 1 is the site for the proposed Whataburger. The restaurant use aligns with the Commercial Mixed Use future land use designation and is a use-by-right in the PUD Development Guide. Primary access to the property will be taken from eastbound traffic on W. Pueblo Blvd. or Granada Blvd. and Lowes' parking lot. The Lowes parking lot includes a "blanket" ingress/egress easement allowing access to the pad sites through the parking lot. The City Transportation Department is requesting that a similar ingress/egress easement be provided on the proposed subdivision.

APPLICABLE REGULATIONS:

Sec. 17-4-1 through 6 of the Pueblo Municipal Code (PMC) concerning zone district regulations; Sec. 12-4-6(b)(1) through (3) concerning the necessary information and supporting documents to be submitted for review and required drawing to be recorded; and Sec. 12-4-7 concerning the minimum standards for all subdivisions.

ANALYSIS:

The proposed Subdivision conforms with the applicable Municipal Codes.

RECOMMENDED MOTION: The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation that the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	not applicable
Request for Deferred Filings	not applicable
Plat Deficiencies:	not applicable
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	1. Storm Water Department: see attached memo from Noah Stamm, Drainage Engineer, February 27, 2024 and annotated subdivision plat. 2. Department of Transportation: a. A traffic impact study is required and must be submitted for review and approval prior to the subdivision being recorded. b. Include a non-exclusive easement for pedestrian and vehicular ingress and egress and parking across all of the lots within this subdivision within all future driveways, parking lots and sidewalks to be maintained in good working order and condition by the owners of all lots. c. Add the name "State Hwy 45" to all instances of "Pueblo Blvd." This must be completed before the plat is recorded.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS
CHARACTER AND COMPATIBILITY:

❑ **Site Character:**

The subject property is unimproved and contains native vegetation.

❑ **Neighborhood Compatibility:**

North	B-4, Regional Business District, 7-Eleven Convenience Store.
East	B-3, Highway and Arterial Business District, Ent Credit Union
South	PUD, Planned Unit Development, Lowe's Home Improvement (Parking Lot)
West	PUD, Planned Unit Development, Lowe's Home Improvement (Retention Pound)

❑ **Comprehensive Plan Compliance:**

The Pueblo Regional Comprehensive Plan, 2022, designates the subdivision site as Commercial Mixed Use.

According to the Comprehensive Plan Commercial Mixed Use, allows for large-format retail, personal services, office, and entertainment uses. According to the 2022 Comprehensive Plan, this is an auto oriented corridor that should prioritize the safety and comfort of all road users and provide for a mixture of uses that include multi-family residential, employment, and commercial uses. This site is consistent with the Commercial Mixed Use designation.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:**❑ Minimum lot size and width:**

The PUD Development guide has a minimum lot size of 20,000 sqft and lot width of 50 ft.

REFERRAL AGENCIES AND COMMENTS:

- City Public Works – no comment
- City Transportation - comments addressed in conditions
- Pueblo Regional Building Department - no comment
- City Fire Department - no comment
- Pueblo Board of Water Works - no comment
- City Wastewater - no comment
- City Stormwater - see attached memo from Noah Stamm, Drainage Engineer, February 27, 2024
- City Parks and Recreation Department - no comment
- City GIS - no comment
- Xcel Energy - no comment
- Black Hills Energy - no comment
- CDOT- see attached memo from Teresa Guagliardo, Access Manager, February 29, 2024

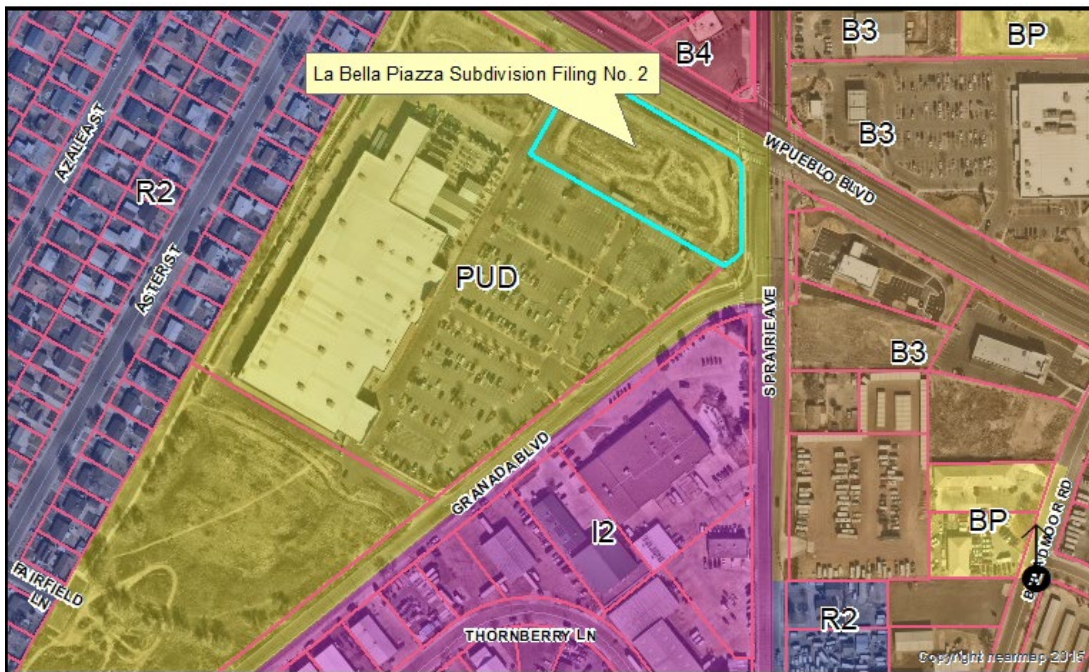
ATTACHMENTS:

- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. SRC Memo March 3, 2024
- F. Plat
- G. Subdivision Application
- H. CDOT Memo, Teresa Guagliardo Access Manager, February 29, 2024
- I. Memo from Noah Stamm, Drainage Engineer, February 27, 2024

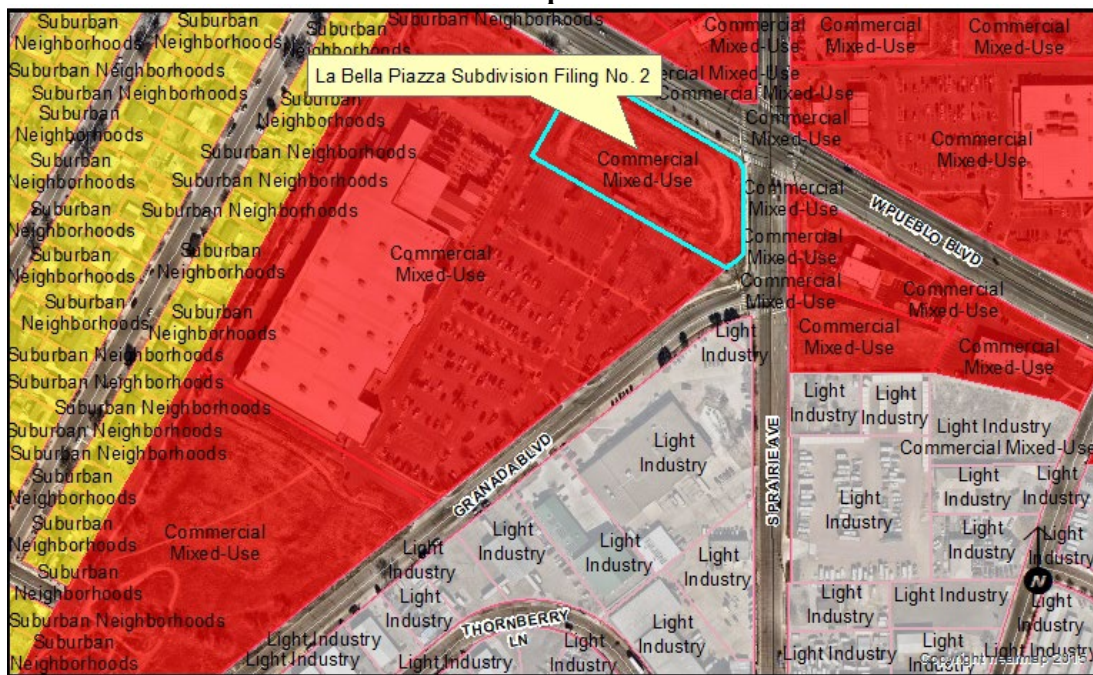
A. Aerial Photograph



B. Zoning Map



C. Comprehensive Plan



D. Site Photographs



Parcel A facing northeast



Parcel A facing Southwest

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation



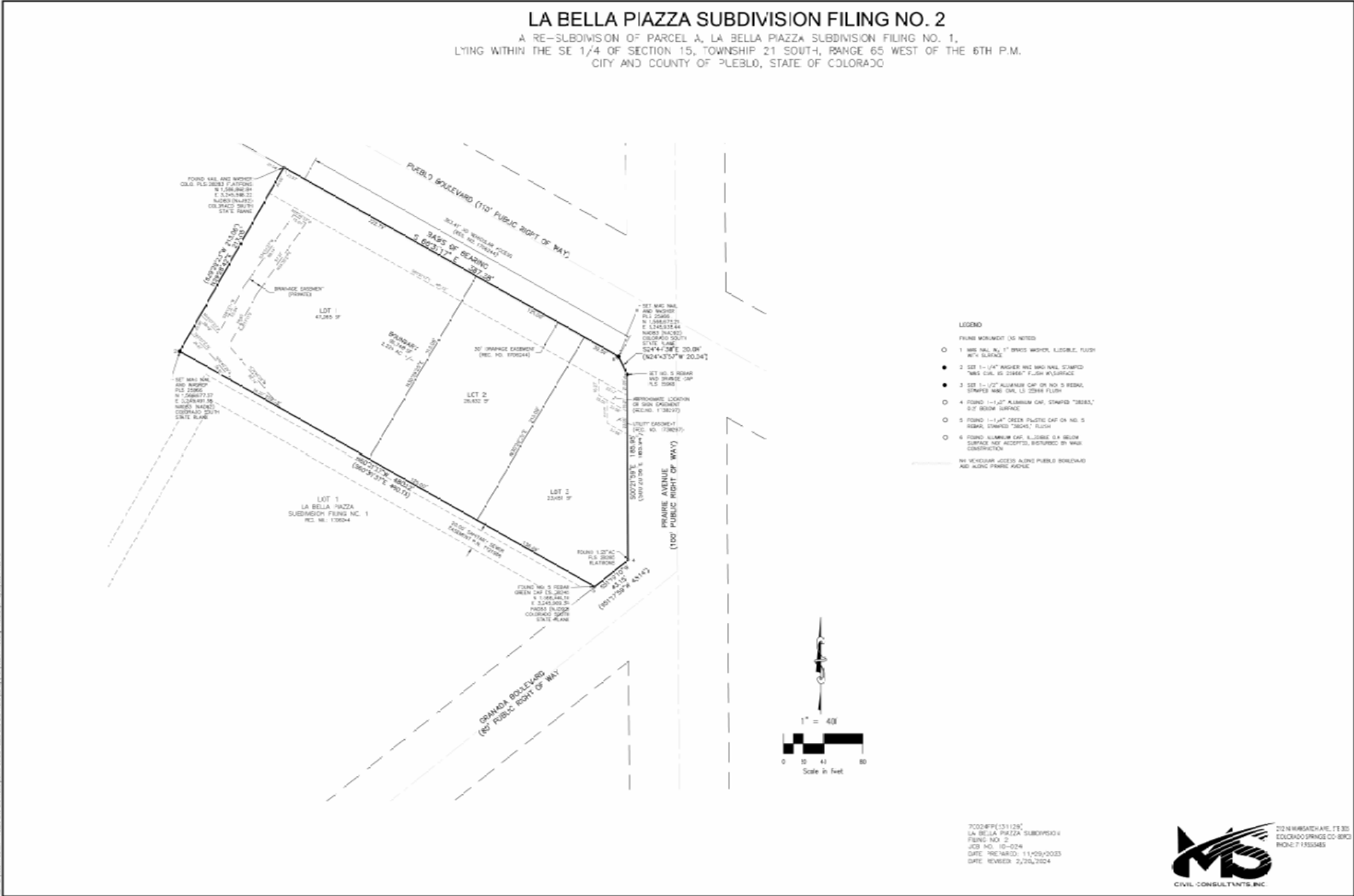
Scott Hobson
Acting Director Planning &
Community Development
Executive Secretary of
Planning & Zoning
Commission

MEMORANDUM

To: Planning and Zoning Commission
From: Subdivision Review Committee
Date: March 3rd 2024
Subject: S-23-10 La Bella Piazza Filing No. 2

The Subdivision Review Committee recommends the Subdivision Plat be approved with the following conditions:

1. Storm Water Department: See attached memo from Noah Stamm, Drainage Engineer, February 27, 2024 and annotated subdivision plat.
2. Department of Transportation:
 - a. A traffic impact study is required and must be submitted for review and approval prior to the subdivision being recorded.
 - b. Include a non-exclusive easement for pedestrian and vehicular ingress and egress and parking across all of the lots within this subdivision within all future driveways, parking lots and sidewalks to be maintained in good working order and condition by the owners of all lots.
 - c. Add the name "State Hwy 45" to all instances of "Pueblo Blvd." This must be completed before the plat is recorded.



11/30/23, 10:31 AM

PZ-23-64



City of Pueblo PLACE

11/30/2023

PZ-23-64
Planning & Zoning
Commission Applications
Status: Active
Submitted On: 11/29/2023

Primary Location
2818 W PUEBLO BLVD
PUEBLO, CO 81005
Owner
BYRNES KURT D/BYRNES
PATRICIA J
19825 BELATRIX DR
MONUMENT , CO 80132-
9707

Applicant
 Georgianne Willard
 719-210-8125
 georgiannew@mscivil.com
 212 N. Wahsatch
Colorado Springs, CO
80901

Hearing Information (Office Use Only)

Number of cases

1

Address Validation by GIS?

☐

Planner Assigned

—

Case 1 - Number

S-23-10

P&Z

P&Z Hearing Date

02/14/2024

Case 1 - P&Z Hearing Results

—

City Council

City Council Hearing Date - First Reading

—

City Council Hearing Date - Final Reading

—

H. CDOT Memo, Teresa Guagliardo Access Manager, February 29, 2024



February 29, 2024

Hwy 045A/MP 1.39 (NR-A)
City of Pueblo

Bart Mikitowicz, Planner (bmikitowicz@pueblo.us)
City of Pueblo Planning & Community Development
211 East D Street
Pueblo, CO 81003

RE: 2818 W Pueblo Boulevard (La Bella Piazza Subdivision, Filing No 2) - 2nd Submittal
S-23-10

Dear Bart Mikitowicz,

I am in receipt of a referral request for comments regarding the re-subdivision of Parcel A, La Bella Piazza, Filing No. 1. The property has the tax schedule No. 1515432002, currently owned by Kurt & Patricia Byrnes. Parcel A is a ±2.22-acre site proposed to be subdivided into 3 lots. The new subdivision will be platted as La Bella Piazza Subdivision, Filing No. 2. Whataburger Restaurant is proposed to be built on Lot 1 of La Bella Piazza Subdivision, Filing No. 2. The proposed subdivision is located southwest of the intersection of West Pueblo Boulevard (SH045A) and South Prairie Avenue in Pueblo, Colorado.

On December 5, 2023, CDOT received the first submittal for the above-referenced project. Our response was emailed to you on December 12, 2023. After review of the submitted documents for the second submittal, the following comments still apply:

- Provide a Drainage Letter/Report.
 - Drainage to the state highway right-of-way shall not exceed the undeveloped historical rate of flow.
 - Provide plans and hydraulic analysis of drainage facilities.
 - Describe hydrology & hydraulics methods, including intensity equations, within the body of the report.
- A Traffic Analysis shall be submitted detailing the traffic volumes to include Peak Hour Traffic. This should include background, existing, proposed, and distribution of traffic for the following accesses:
 - West Pueblo Boulevard (SH045A) (from Lowe's existing access)
 - South Prairie Avenue (from Lowe's existing access)
 - South Prairie Avenue (at SH045A) (south leg)
- The State Highway Access Code requires an access permit if the proposed vehicle volumes increase by 20 percent or more, the development is adjacent to the state highway, and/or significant changes in the use of the property are made which will affect access operation, traffic volume and/or vehicle type.

Additionally,

- On-premise and off-premise signing shall comply with the current Colorado Outdoor Advertising Act, sections 43-1-401 to 421, C.R.S., and all rules and regulations pertaining to outdoor advertising. Please contact Gabe Martinez at (719) 251-7830 for any questions regarding advertising devices.
- Any utility work within the state highway right of way will require a utility permit from the CDOT. Information for obtaining a utility permit can also be obtained by contacting Mr. Martinez.

5615 Wills Blvd Suite A, Pueblo, CO 81008 | P (719) 546-5440 | www.codot.gov/accesspermits

J. Memo from Noah Stamm, Drainage Engineer, February 27, 2024

Jeff Hawkins, PE, CFM
Stormwater Engineering Manager



211 E. "D" Street
Pueblo, CO 81003

Phone (719) 553-2899
Fax (719) 553-2294

Stormwater Utility**MEMO**

TO: Bart Mikitowicz, Senior Planner
FROM: Noah Stamm, Drainage Engineer
DATE: February 27, 2024
SUBJECT: S-23-10 2nd submittal review

This memo is intended to serve as the Stormwater Utility's review of the referenced project submittal. Please forward to the applicant's representative.

Color Code: Black = December 15 comments
Blue = February 27 comments
(Crossed out items indicate they have been addressed.)

Part I

1. See 1st redlined Plat. See 2nd redlined Plat.
2. Provide a preliminary drainage report in accordance with *City of Pueblo Drainage Criteria Manual April 2023*. Pay attention to the report formatting requirement. If this project is disturbing more than 1 acre water quality will be required and if 5000 sf or more of impervious area is being added detention will be required for the added impervious area. A preliminary drainage report needs provided for the entire subdivision not just lot 1 of the subdivision. The drainage report can explain lots 2 and 3 have detention and water quality provided in regional pond but at the time of development will require their own drainage reports for onsite stormwater conveyance.
3. ~~Discuss maintenance responsibilities for the drainage facilities.~~ Goes to existing regional facility.
4. ~~Provide a Stormwater Facility Maintenance Agreement per Pueblo Municipal Code 16.12.10.d. Fillable forms and guidance documents can be found here: <https://www.pueblo.us/2883/Forms>. This will be recorded with the Plat.~~ Not required.
5. Provide a comment response to this memo.

Part II

1. Provide an Erosion and Sediment Control Plan (ESCP) in accordance with "Erosion and Sediment Control Plan Guidance" found in Appendix C in the *City of Pueblo Drainage Criteria Manual April 2023* if total land disturbance is between 1000 sf – 1 acre or Provide a Stormwater Management Plan (SWMP) in accordance with "Stormwater Management Plan Guidance" found in Appendix D if total land disturbance is greater than 1 acre or part of a larger common development.

- ~~2. Provide an Operations and Maintenance Manual (O & M) as required by the SFMA. Use the City of Pueblo's standard O & M manual *Stormwater Facility O&M Manual, April 2023* in preparation. Additionally individual guideline sheets, maintenance forms, and inspection forms can be found here: <https://www.pueblo.us/2882/Forms>~~
3. C.R.S. Please add the details, provided on the City of Pueblo's website to the construction documents. <https://www.pueblo.us/475/2023-Construction-Standards>
4. Show tracer wire access box locations and show symbol in legend.
5. Add this note on plans: **All stormwater facilities and BMPs located in City ROWs or tying into City stormwater system need to be inspected by City Stormwater personnel. Please contact inspector before construction. 719-553-2291 or 719-553-2285.**
6. After final approval of plans, provide an electronic copy of the Final Drainage Report and Drainage Plan, stamped, and signed by Engineer.
7. Upon approval of the drainage report the engineer shall complete the online reporting requirements of new stormwater detention and infiltration facilities per CRS §37-92-602 (8). The facility is required to be reported and approved by the City prior to receiving a CO. The online portal can be found here: <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>
8. Slag may not be shown on the plans, but we include this note, so everyone is aware it is not allowed. Slag is not an acceptable material for parking or driving areas due to its toxic composition per The Colorado Department of Health and Environment Water Quality Division. It is not allowed anywhere on site.

LA BELLA PIAZZA SUBDIVISION FILING NO. 2

A RE-SUBDIVISION OF PARCEL A, LA BELLA PIAZZA SUBDIVISION FILING NO. 1, LYING WITHIN THE SE 1/4 OF SECTION 15, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M. CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



DEDICATION:

KNEW ALL MEN BY THESE PRESENTS, KURT D. BYRNES AND PATRICIA J. BYRNES, BEING THE OWNERS OF THE FOLLOWING DESCRIBED TRACTS OF LAND TO WIT:

PARCEL A OF LA BELLA PIAZZA SUBDIVISION FILING NO. 1, ACCORDING TO FINAL PLAT RECORDED ON DECEMBER 13, 2006 AT RECEPTION NO. 1706244 IN THE OFFICIAL RECORDS OF PUEBLO COUNTY, COLORADO.

CONTAINING A CALCULATED AREA OF 98,776 SQUARE FEET OR 2,222 ACRES, MORE OR LESS. HAS CAUSED THE ABOVE-SIGNED PROPERTY TO BE SURVEYED, PLATTED AND SUBDIVIDED INTO LOTS AND HAS SHOWN HEREIN CERTAIN EASEMENTS FOR PUBLIC UTILITIES AND PEDESTRIANS AND THE SAME TO BE IMMEDIATELY PLATTED, SUBDIVIDED, DIMENSIONED AND NAMED AS SHOWN ON THE ATTACHED PLAT FOR THE PURPOSE OF CREATING A SUBDIVISION TO BE KNOWN AS LA BELLA PIAZZA SUBDIVISION FILING NO. 2.

ALL OF PUBLIC UTILITY AND CITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED TO THE CITY FOR THE PUBLIC USE OF THE PUBLIC, WITH RESPECT TO ALL EASEMENTS FOR CITY UTILITIES INCLUDING BUT NOT LIMITED TO SANITARY AND STORMWATER SERVICES AND WHETHER DESIGNATED AS A DRAINAGE EASEMENT, PUBLIC UTILITY EASEMENT OR OTHERWISE HEREON, THE CITY OF PUEBLO SHALL HAVE THE RIGHT, WITHOUT THE NECESSITY AT ANY TIME OF PROCEEDING, THE CONSULT OR PERMISSION OF ANYONE TO REPAIR, MAINTAIN, REPLACE, REPAIR OR RECONSTRUCT OR OTHERWISE LOCATED UPON SUCH EASEMENT THAT MAY IN ANY WAY ENHANCE OR IMPROVE THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, REPAIR OR RECONSTRUCTION OF ANY CITY UTILITIES AND TO RECOVER THE COSTS THEREOF, PLUS AN ADMINISTRATIVE CHARGE OF 15% FROM THE OWNERS OF THE LOTS OR PARCELS UPON WHICH THE EASEMENTS ARE LOCATED.

A FORMER ENVIRONMENTAL ASSESSMENT FOR THIS SUBDIVISION HAS NOT BEEN PERFORMED, HOWEVER, TO THE BEST OF THE UNDERSIGNED OWNERS' KNOWLEDGE, INFORMATION AND BELIEF, THERE ARE NO KNOWN HAZARDOUS SUBSTANCES PRESENT WITHIN THIS SUBDIVISION.

NOTICE:

NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THE PLATTED SUBDIVISION BY THE CITY OF PUEBLO DOES NOT CONSTITUTE AN ACCEPTANCE OF THE DEDICATED PUBLIC ROADS, PARKS AND OTHER PUBLIC IMPROVEMENTS FOR MAINTENANCE BY THE CITY UNTIL SUCH DEDICATED PUBLIC ROADS, PARKS, AND PUBLIC IMPROVEMENTS MEET THE REQUIREMENTS, STANDARDS AND SPECIFICATIONS OF THE CITY, ITS SUBDIVISION ORDINANCES AND WHERE APPROPRIATE, ITS PARKS DEPARTMENT SUBORDINATIONS, AND SUCH ARE SPECIFICALLY APPROVED AND ACCEPTED IN WRITING BY THE CITY DIRECTOR OF PUBLIC WORKS AND WHERE APPLICABLE, THE CITY DIRECTOR OF PARKS AND RECREATION, THE MAINTENANCE, CONSTRUCTION AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING ANY DEDICATED PUBLIC ROADS, PARKS AND OTHER PUBLIC IMPROVEMENTS AND RIGHTS-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE SUBDIVIDER OR ANY SUBSEQUENT OWNERS OF THE LAND WITHIN THE SUBDIVISION. THE CITY DOES NOT ACCEPT THE PRIVATE ROADS, EASEMENTS AND FACILITIES DEDICATED HEREON, NOR SHALL THE CITY BE OBLIGATED TO MAINTAIN, CONSTRUCT OR REPAIR SUCH PRIVATE ROADS, EASEMENTS AND FACILITIES.

PLANNING COMMISSION CERTIFICATION:

THIS IS TO CERTIFY THAT THIS SUBDIVISION WAS APPROVED BY THE PLANNING COMMISSION OF THE CITY OF PUEBLO, COUNTY OF PUEBLO, STATE OF COLORADO.

CHAIRPERSON, PLANNING COMMISSION _____ DATE _____

CERTIFICATION BY CITY CLERK:

APPROVAL OF RECORDING

APPROVED BY THE CITY CLERK OF PUEBLO, COLORADO BY ORIGINATOR NO. _____ THIS IS TO CERTIFY THAT THE PLAT OF LA BELLA PIAZZA SUBDIVISION FILING NO. 2 HAS BEEN APPROVED FOR RECORDING IN THE OFFICE OF THE CITY CLERK OF THE COUNTY OF PUEBLO, STATE OF COLORADO.

CITY CLERK _____ DATE _____

IMPROVEMENT CERTIFICATION:

THIS IS TO CERTIFY THAT THE SUBDIVIDER HAS COMPLIED WITH ALTERNATE NO. 4 OF SECTION 12-4-(C)(1) AND SECTION 12-4-(5)(B) OF 1971 CODE OF ORDINANCES, CITY OF PUEBLO COUNTY OF PUEBLO, STATE OF COLORADO.

DIRECTOR OF PUBLIC WORKS _____ DATE _____

SURVEY:

THE UNDERSIGNED COLORADO REGISTERED PROFESSIONAL LAND SURVEYOR DOES HEREBY CERTIFY THAT THE ACCOMPANYING PLAT WAS SURVEYED AND DRAWN UNDER HIS DIRECT RESPONSIBILITY AND SUPERVISION AND TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THE SAME ACCURATELY SHOWS THE DESCRIBED TRACT OF LAND THEREOF, AND THAT THE REQUIREMENTS OF TITLE 38 OF THE COLORADO REVISED STATUTES, 1973, AS AMENDED, HAVE BEEN MET TO THE BEST OF HIS PROFESSIONAL KNOWLEDGE, BELIEF AND OPINION.

THIS STATEMENT IS NEITHER A WARRANTY NOR GUARANTEE, EITHER EXPRESSED OR IMPLIED.

VERNON P. TAYLOR,
COLORADO PROFESSIONAL LAND SURVEYOR NO. 22560,
FOR AND ON BEHALF OF M&S CONSULTANTS, INC.



30024PR023-1236
LA BELLA PIAZZA SUBDIVISION
FILING NO. 2
JOB NO. 10-024
DATE PREPARED: 11/29/2023
DATE REVISED: 06/25/2024



NOTES:

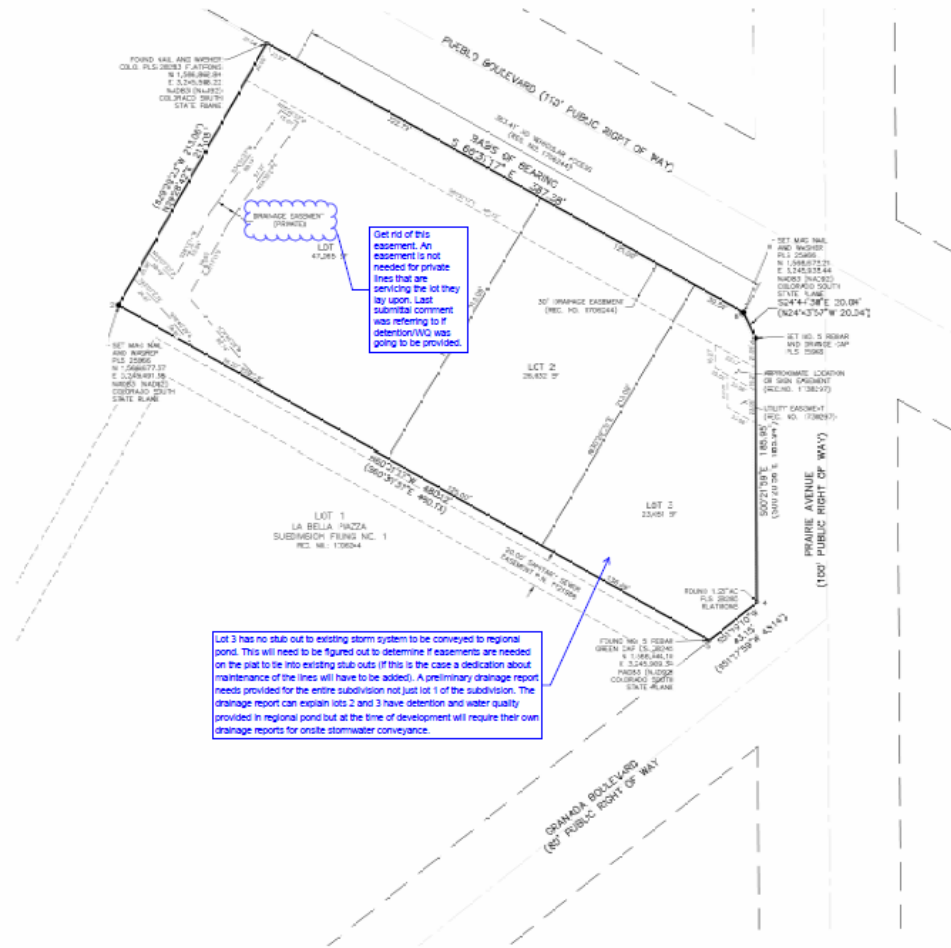
1. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY M&S CONSULTANTS, INC. TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE OF RECORDS, M&S CONSULTANTS, INC. RELIES UPON A TITLE INSURANCE POLICY, PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, COMMITMENT NO. SC535062356-4, COMMITMENT DATE 11/7/2023 AT 5:05 P.M.
2. BASIS OF BEARINGS: 5' N. NORTH LINE OF PARCEL A, LA BELLA PIAZZA SUBDIVISION FILING NO. 1, RECORDED AS RECEPTION NUMBER 1706244, ON DECEMBER 13, 2006, MONUMENTED AT THE NORTH END WITH A 1/2" ALUMINUM BANNER, TELESCOPIC FLUORINATHY OIL GRADE, AND AT THE SOUTH END WITH A 1/2" ALUMINUM BANNER AND ALUMINUM STAMPED "M&S CIVIL, L.S. 10/24/21". AS SHOWN HEREON, MEASURED TO BEAR S60°17'17"E, A DISTANCE OF 387.34 FEET BEARINGS ARE DERIVED FROM COLORADO STATE PLANE COORDINATES.
3. COORDINATES SHOWN ARE COLORADO SOUTH STATE PLANE COORDINATES (NAD83). THE COMBINED SCALE FACTOR IS 1.0000010410. THE LINEAL UNITS USED IN THIS DRAWING ARE U.S. SURVEY FEET.
4. FEDERAL EMERGENCY MANAGEMENT AGENCY, FEMA TRACETT PUBLISHED APRIL 20, 2021, REFERENCING FLOOD INSURANCE RATE MAP, MAP NUMBER 0810257070 EFFECTIVE DATE AUGUST 05, 2020, INDICATES THIS PARCEL OF LAND IS LOCATED IN ZONE X (AREA OF MINIMAL FLOOD HAZARD).
5. FIELD WORK FOR THIS SURVEY WAS COMPLETED ON JANUARY 20, 2023.
6. ALL LOTS ARE SUBJECT TO THE NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN AND VEHICULAR ACCESS AND EGRESS AND PARKING AS DEDICATED ON THE LA BELLA PIAZZA SUBDIVISION FILING NO. 1.
7. DRAINAGE FACILITIES LOCATED WITHIN DRAINAGE EASEMENTS (PRIVATE) SHOWN HEREON SHALL BE INSTALLED, REPAIRED, AND MAINTAINED IN GOOD WORKING ORDER AND CONDITION BY THE OWNERS OF ALL LOTS WITHIN THE SUBDIVISION. THE CITY OF PUEBLO IS HEREBY GRANTED THE RIGHT BUT NOT THE OBLIGATION IN ITS DISCRETION TO MAINTAIN, REPAIR, OR REPLACE THE DRAINAGE FACILITIES WITHIN SUCH EASEMENTS AND TO RECOVER THE COSTS THEREOF, PLUS ADMINISTRATIVE EXPENSES FROM SAID OWNERS. ALL DRAINAGE EASEMENTS SHALL BE FURTHER SUBJECT TO THE STORMWATER FACILITY MAINTENANCE AGREEMENT DATED AND FILED CONTEMPORANEOUSLY WITH THE ATTACHED PLAT.
8. VEHICULAR ACCESS TO PUEBLO BOULEVARD OR PARKING AREAS, THERE IS AN EXISTING NON-EXCLUSIVE, RESTRICTIVE VEHICULAR ACCESS/EGRESS/PARKING EASEMENT ACROSS LA BELLA PIAZZA SUBDIVISION FILING NO. 1 AND ALL FUTURE DRAINAGE, PARKING LOTS, AND SIDEWALKS.
9. THE PLAT IS SUBJECT TO ALL BENEFITS FROM EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS, TOGETHER WITH NOTICE AND DISCLOSURE TO RESIDENTIAL BUYERS BY AND BETWEEN KURT D. BYRNES AND PATRICIA J. BYRNES OR ASSIGNS, AND LINDSEY HAY, INC., A WASHINGTON CORPORATION RECORDED UNDER RECEPTION NO. _____

Since flood control and water quality have been determined to be provided after this decision is no longer needed. Replace this with "STORMWATER DETENTION AND WATER QUALITY ARE PROVIDED IN LA BELLA PIAZZA FILING NO. 1, LOT 1 DRAINAGE EASEMENT FOR LOTS 1-3 IN FILING NO. 2"

FILED: 2023/06/25, Pueblo, Colorado, County of Pueblo, State of Colorado, Planning & Zoning Commission, 2023/06/25 1:08 PM

LA BELLA PIAZZA SUBDIVISION FILING NO. 2

A RE-SUBDIVISION OF PARCEL A, LA BELLA PIAZZA SUBDIVISION FILING NO. 1,
LYING WITHIN THE SE 1/4 OF SECTION 15, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
CITY AND COUNTY OF PUEBLO, STATE OF COLORADO



- LEGEND
- PLUMB MONUMENT (S/N NOTED)
- 1. 1/2" GALV. 1" BRASS WOODEN, ELEVABLE, FLUSH W/ S. SURFACE
 - 2. SET 1-1/4" RATHER WIDE WOOD NAIL STAMPED "MAY 1914" 1/2" ALUMINUM CAP ON NO. 5 REBAR, STAMPED "MAY 1914" 1/2" ALUMINUM FLUSH
 - 3. SET 1-1/2" ALUMINUM CAP ON NO. 5 REBAR, STAMPED "MAY 1914" 1/2" ALUMINUM FLUSH
 - 4. FOUND 1-1/2" ALUMINUM CAP, STAMPED "MAY 1914" 1/2" ALUMINUM FLUSH
 - 5. FOUND 1-1/4" GREEN PLASTIC CAP ON NO. 5 REBAR, STAMPED "MAY 1914" 1/2" ALUMINUM FLUSH
 - 6. FOUND ALUMINUM CAP, 1/2" ALUMINUM CAP, 1/2" ALUMINUM FLUSH, NOT ACCEPTED, DISTURBED BY WALL CONSTRUCTION
- NO VEHICULAR ACCESS ALONG PUEBLO BOULEVARD AND ALONG PRAIRIE AVENUE



700248P(131128)
LA BELLA PIAZZA SUBDIVISION
FILING NO. 2
JOB NO. 10-024
DATE RECORDED: 11/08/2023
DATE REVIEWED: 2/25/2024



February 23, 2024

The City Planning and Zoning Commission will hold a public hearing on a request from **Brian Zurek** for the approval of the following application, generally located South of Pueblo Blvd and West of Prairie Avenue.

S-23-10 La Bella Piazza Subdivision: Subdivision of 2.21 acres into commercial lots.

The Planning and Zoning Commission meeting will be held on **March 13, 2024, at 3:30 p.m.** in City Council Chambers, 1 City Hall Place. The meeting will be recorded and can be viewed via Zoom, but **no testimony will be heard virtually.**

Join by computer, smartphone app, or dial by phone: +1 346 248 7799 or +1 253 215 8782

Meeting ID: 927 1786 7722 Passcode: 195462

<https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNfZnpPWG1Ydz09>

You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on “Most Recent Agenda” no sooner than the Friday prior to the hearing. **Please call the number below if you have questions.**

Scott Hobson, Acting Director
Planning & Community Development
By Bart Mikitowicz, Senior Planner
(719) 553-2259

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Scott Hobson, Acting Director
Planning & Community Development
By Bart Mikitowicz, Senior Planner
(719) 553-2259

CASE NUMBER: S-23-10

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed final plat of the property commonly known as 2818 W. Pueblo Blvd. to be sent to the attached list of owners of the real property lying within three hundred (300) feet of the said property on which the final plat is proposed by depositing the same properly addressed and postage paid in the post office, as set forth in the Code of Ordinances, Section 17-6-2.

February 23, 2024

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By Cindy Caputo

Owner	OwnerStree	OwnerCity	Owne	OwnerZip
LOWES HIW INC + ATTN TAX DEPT NB3TA	1000 LOWES BLVD	MOORESVILLE	NC	28117-8520
ENT CREDIT UNION	11550 ENT PKWY	COLORADO SPRING	CO	80921-4274
BARRY JAMES	13 AVIS AVE	PUEBLO	CO	81005-3101
BACHICHA ANDY A/BACHICHA NANCY L	1812 LIBERTY DR	PUEBLO	CO	81006-1609
BYRNES KURT D/BYRNES PATRICIA J	19825 BELATRIX DR	MONUMENT	CO	80132-9707
REALTY INCOME PROPERTIES 13 LLC + C/O WAL MART STORES INC # 5828 REAL ESTATE MANAGER CO 8313 , PARKER ELIZABETH R	2001 SE 10TH ST 24500 EVERETT RD	BENTONVILLE PUEBLO	AR CO	72712-6489 81006-2022
WESTON TRUST/TAYLOR TRUST/TYLER SOU + REALTYNET CF PROPERTIES LLC/RICKARD R D TR/PARKER T B TR , PIECE OF THE FARM LLC/MARSHALL FAMILY LC/JOHNSON TR	256 N OREM BLVD	OREM	UT	84057-6601
BLACKFORD INVESTMENTS LLC	2715 S PRAIRIE AVE	PUEBLO	CO	81005-4102
PUEBLO DIVERSIFIED INDUSTRIES	2828 GRANADA BLVD	PUEBLO	CO	81005-3104
RUSSELL KAREN Y	2900 S PRAIRIE AVE	PUEBLO	CO	81005-3165
W R B 4 LLC	4048 PEAK VIEW DR	PUEBLO	CO	81008-1716
COLORADO DEPARTMENT OF TRANSPORTATI	4201 E ARKANSAS AVE	DENVER	CO	80222-3406
SPA COTTAGE LLC	640 ANGEL POINT WAY	DANDRIDGE	TN	37725-6781
A S R PROPERTIES LLC	8 AVIS AVE	PUEBLO	CO	81005-3102
SINGLE TENANT EQUITIEIS LLC + LA BELLA PIAZZA LLC ,	PO BOX 2187	MONUMENT	CO	80132-2187



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Eva Cosyleon, MPO Manager

SUBJECT: AN ORDINANCE ESTABLISHING 2025 PUEBLO RURAL TRANSPORTATION PLANNING PROJECT, TP2402, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$12,000 FOR SAID PROJECT

SUMMARY:

This Ordinance establishes the SFY2025 Pueblo Area Council of Government (PACOG) Rural Transportation Planning Project, Project No. TP2402, and budgets and appropriate funds in the amount of \$12,000 from the Pueblo Area Council of Governments (PACOG) received from the Colorado Department of Transportation (CDOT) Rural Planning Grant (RPG) funds.

PREVIOUS COUNCIL ACTION:

The establishment of the Project and budgeting of funds has been approved by City Council on an annual basis once the purchase order is issued by the State of Colorado to PACOG.

BACKGROUND:

The PACOG receives an annual award of funds from CDOT for rural and statewide transportation planning and associated allowable expenses that provides \$12,000 in RPG funds to PACOG for July 1, 2024 through June 30, 2025. The City and PACOG annually enters a delegation agreement that authorizes the City to complete the transportation planning tasks on behalf of PACOG and be reimbursed at 100% for eligible expenses. This Ordinance establishes the TP2402 Pueblo Rural Transportation Planning Project and budgets and appropriates funds in the amount of \$12,000 allocated for PACOG to complete rural transportation planning services in compliance with the state requirements for the use of the RPG grant funds.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$12,000 shall be budgeted and appropriated for the Rural Transportation Planning Project. It is estimated that approximately two (2%) of the Project cost or approximately \$150 in staff time from the Finance department will be spent on the Project.

BOARD/COMMISSION RECOMMENDATION:

The Rural Planning Grant funding is included as a component of the Delegation Agreement between the City of Pueblo and PACOG and approved by Ordinance No. 10588 on November 13, 2023.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, the CDOT funding will not be expended by the City's Urban Transportation Planning Division and funds for transportation planning outside of the urbanized area, and travel expenses for outside of Pueblo will not be reimbursed through these funds.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CDOT Purchase Order 411039179 FY2025

ORDINANCE NO.

AN ORDINANCE ESTABLISHING 2025 PUEBLO RURAL
TRANSPORTATION PLANNING PROJECT, TP2402, AND
BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT
OF \$12,000 FOR SAID PROJECT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The 2025 Pueblo Rural Transportation Planning Project No. TP2402 is hereby established.

SECTION 2.

Funds in the amount of \$12,000 from the SFY2025 Pueblo Area Council of Governments (PACOG) Rural Transportation Planning Grant as authorized in the 2024 City and PACOG Delegation Agreement approved by Ordinance No. 10588 on November 13, 2023 are hereby budgeted and appropriated for said Project.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

Colorado Dept of Transportation
2829 W. Howard Place
Denver CO 80204

DATE: 07/10/2024



Purchase Order
State of Colorado

Buyer: Natalie Martinez
Phone Number: 303-757-9374
Agency Contact: Kathleen Collins
Phone Number: 303-757-9434

IMPORTANT

The PO# and Line#
must appear on all
invoices, packing
slips, cartons and
correspondence

PO# 411039179

Award#:

BID#:



Page# 1 of 1

Vendor Master#: 2000241

Phone: 719-583-6379

Vendor Contact: LOUELLA SALAZAR

V
E PUEBLO AREA COUNCIL OF GOVERNMENTS
N 229 WEST 12TH STREET
D PUEBLO CO 81003-2810
O
R

Invoice

TO: CDOT DTD Business Office
2829 W. Howard Place
Denver CO 80204

Payment will be made by this agency

Ship

TO: Colorado Dept of Transportation
2829 W. Howard Place
Denver CO 80204

Delivery/Installation Date: 06/30/2025

INSTRUCTIONS TO VENDOR

1. If for any reason, delivery of this order is delayed beyond the delivery/Installation date shown, please notify the agency contact named at the top left (Right of cancellation is reserved in instances in which timely delivery is not made). 2. All chemicals, equipment and materials must conform to the standards required by OSHA.
3. NOTE: Additional terms and conditions on reverse side or at address shown in Special Instructions.

SPECIAL INSTRUCTIONS

LINE	PRODUCT NUMBER PRODUCT CATEGORY DESCRIPTION	UOM PLANT	QUANTITY	UNIT COST	TOTAL ITEM COST
00001	96287 FY25 RPA	AU 7001	12,000.00	1.00	12,000.00

DOCUMENT TOTAL: 12,000.00

THIS PO IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS

<https://osc.colorado.gov/spco/central-contracts-unit/purchase-order-terms-conditions>

DP-01 (R-02/06)

FOR THE STATE OF COLORADO

Authorized Signature

Date

Signature not required if PO transmitted
electronically.

RURAL PLANNING WORK PROGRAM

Pueblo Area Regional Planning Commission (RPC) and Transportation Planning Region (TPR)

AMOUNT NOT TO EXCEED: \$12,000

Designated Contacts for TPR:

For the purpose of this Purchase order, Aaron Willis is hereby designated representative of the State and Eva Cosyleon is hereby designated representative of Pueblo Area Council of Governments (a.k.a. Vendor), fiscal entity for the Pueblo Area TPR. The Vendor's representative (or Administrator) is responsible for providing the TPR's Representative and Alternate(s) to the State Transportation Advisory Committee (STAC) with copies of this Scope of Work, so they are aware of the tasks for which the TPR is responsible and related eligible expenses. Either party may from time to time designate in writing new or substitute representatives including new or substitute addresses where notices shall be sent. All notices required to be given by the parties hereunder shall be sent by US mail (certified, registered or regular postal) to the individuals at the addresses set forth below:

To CDOT:
Aaron Willis
DTD Statewide & Regional Planning Section
Colorado Department of Transportation
2829 W. Howard Place, 4th Floor
Denver, CO 80204

To STAC Representative:
Zach Swearingen
Pueblo County Commissioner
Pueblo County Courthouse
215 W. 10th Street
Pueblo, CO 81003

To the Vendor/Contract Administrator:
Eva Cosyleon, MPO Manager
PACOG/Pueblo MPO
229 W. 12th Street
Pueblo, CO 81003

REQUIREMENTS

Conforming to the standards set forth in Sections IV, V, VI, VII and VIII of 2 CCR 601-22 (the Rules) for the expenditure standards of State Planning and Research (SPR) funds during the Program Period (beginning July 1 of the issuing year and expiring June 30 of the ending year), the Vendor shall cooperatively undertake the activities related to the statewide and regional transportation planning process to perform the tasks identified in the Scope of Work herein.

The State and FHWA are specifically authorized to review and inspect, at all reasonable times, all such records, including all technical and financial aspects of the tasks described in the Scope of Work. The State will arrange such reviews and inspections with monitoring to be done no more than quarterly. The State reserves the right to a mid-year review of the cost data and other progress associated with the tasks. The State will provide at least one week's notice of the date and time for any meeting to discuss said review.

The Vendor shall assure that SPR funds spent during the Program Period are for activities directly related to the statewide and regional transportation planning process as articulated in the tasks section of the Scope of Work. Throughout the duration, all activities must be in accordance with all applicable State and Federal requirements and within the terms and conditions of this purchase order.

The State has the right to disallow any costs incurred by the Vendor which are inconsistent with or not in compliance with the authorized tasks of the Scope of Work. Prior approval must be obtained in writing from the State's designated representative for any expenses not explicitly authorized in the tasks section below.

All requests for reimbursement shall include documentation of all expenditures in accordance with 2 CFR 200, 49 CFR Part 18, 23 CFR 420 and the attached Scope of Work Guidance. The attached Rural Planning Assistance Contract Reimbursement Request Form must be filled out in its entirety and include specific tasks and the date the tasks were performed.

Requests for reimbursement for the expenditure of funds must be submitted to the State at least quarterly. Pursuant to 49 CFR 18.41, grantees are required to submit invoices on at least a quarterly basis and within 30 days of the close of each billing period. Vendors may elect to submit invoices on a more frequent basis, but at a minimum, invoices must be submitted no less frequent than the billing schedule below:

Quarter	End Date	Billing Due Date
1st	September 30	October 30
2nd	December 31	January 31
3rd	March 31	April 1
4th	June 30	July 30

Final billings are due to the State by July 30. Upon the expiration of this purchase order, all unclaimed funds will revert to the State, and will not carry forward into the next year.

To assure SPR funds conform with the tasks of the Scope, pursuant to 49 CFR 18.42, the Vendor shall maintain a complete file of all records, communications, and other written materials which pertain to the performance and cost of services for the duration of this purchase order and further such period (up to three years) as may be necessary to resolve all financial matters. The Vendor shall permit the State, FHWA or the Comptroller General of the United States to audit and/or inspect Vendor's records pertaining to the services of this purchase order for the specified period to evaluate Vendor's performance assuring compliance with the terms and conditions hereof. Copies of these records shall be furnished, if requested, to the State, FHWA, or the Comptroller General. The Vendor shall include this record keeping/audit requirement in any purchase order with any consultant who performs tasks, by expressly requiring the consultant, and/or other agencies, to comply with this requirement.

All reports pertaining to the performance of this purchase order shall be reviewed and approved pursuant to the procedures established under 2 CCR 601-22, but no report will be published without the prior approval of FHWA. Any published material shall acknowledge the participation of the State and the FHWA in recognition of the cooperative nature of the statewide transportation planning process, for example, "FUNDED BY THE FHWA AND THE FTA". Published materials include any non-internal documents, reports, maps, photographs, computer software or like materials that are intended to be viewed by those outside of FTA, FHWA, CDOT and the TPR.

Vendor shall take responsibility to ensure the fulfillment of the Scope of Work and take all reasonable steps to obtain the necessary staff, or consultant services, required to carry out all tasks described and identified in the Scope and this section. The selection for consultant services, pursuant to 49 CFR 18.36, shall be in compliance with all federal procurement requirements. In addition, any Request for Proposal (RFP) used by the Vendor to secure consultant services must be reviewed and approved by the State prior to release. The Vendor shall obtain written authorization from the State before executing any contract for consultant services, which utilizes SPR funds.

SCOPE OF WORK

The purpose of the Scope of Work is to present procedures for the statewide and regional transportation planning process within the TPRs. If you have any questions, please contact your MPO & Regional Planning Liaison.

The following tasks are incorporated herein to describe the work program for the continuation of the statewide and regional transportation planning process within the TPRs. The purpose of the work is to implement the provisions of C.R.S. § 43-1-1101 et seq. and Rules and Regulations for the Statewide Transportation Planning Process and the Transportation Planning Regions, 2 CCR 601-22 (The Rules). **The primary intended use for these funds are described in tasks 1 and 2, which include the regular activities of the TPR. Secondary intended uses are described in tasks 3-6 which may occur periodically throughout the planning cycle.**

TPR designated STAC representatives and alternates are eligible for reimbursement of allowable travel expenses related to the tasks listed below. Eligible expenses may include, but are not limited to, transportation, lodging, and meals as per State Travel Policy and applicable CDOT procedural directives. CDOT will provide a travel reimbursement form to document the aforementioned expenses. In lieu of submitting a signed CDOT travel reimbursement form, TPRs may submit alternate signed travel documentation, as long as it provides the same information as required in the CDOT form.

PRIMARY TASKS

1 – Participation in the Statewide Transportation Advisory Committee (STAC)

The TPR shall have a designated representative to carry out the duties of the STAC pursuant to C.R.S. § 43-1-1104 (STAC Responsibilities) as amended, and Section V. of the Rules. The TPR shall also designate a STAC Alternate to attend regularly scheduled meetings and carry out these duties if the designated representative is unable or unavailable.

STAC representatives shall attend monthly STAC meetings, as well as other official STAC events. A STAC representative's duties include, but are not limited to:

1. Serving as the communication liaison between the Department, the STAC and the members of the TPR and constituents.
2. Providing advice to the Department on the needs of the transportation system.
3. Reviewing and commenting on updates and amendments to the Regional and Statewide Transportation Plans.
4. Providing assistance in resolving transportation related conflicts which arise between TPRs, or between the Department and a TPR.
5. Making recommendations to the Department concerning the integration and consolidation of Regional Transportation Plans (RTPs) into the Statewide Transportation Plan.
6. Furnishing regional perspectives on transportation problems requiring statewide solutions.
7. Providing advice and comment on TPR boundaries.

2 – Provide Opportunities for Public Participation in TPR Meetings

Please reference Section VI (Public Participation Rules) of 2 CCR 601-22 (The Rules), which includes specific public participation provisions required in the transportation planning process.

The TPR shall work in cooperation with CDOT in carrying out the requirements for public participation as described in The Rules and Title 23 CFR Part 450 of the federal regulations. Public participation shall include, but not be limited to:

1. Providing a proactive process that allows the public the opportunity to participate in the transportation planning process. The process shall provide a mechanism for public perspective, ideas and needs to be incorporated into the planning process, developing the public's understanding of the problems and opportunities facing the transportation system.
2. Conducting meetings, transportation forums, open houses or other means of public meetings for the purpose of providing information about transportation issues, receiving comments, consideration and response to public input and building consensus on transportation priorities. The TPR shall record the proceedings of meetings, forums and other public meetings concerning transportation in their TPR and make those notes available to the TPR constituency, especially interested parties unable to attend the meetings.
3. Providing mailings, either electronic or regular, containing information about transportation issues. The TPR shall maintain a mailing list of all known parties interested in transportation planning in the TPR including but not limited to: elected officials, municipal and county planning

staffs, affected public agencies, local state and federal agencies eligible for federal and state transportation funds, local representatives of public transportation agency employees and users, freight shippers and providers of freight transportation services, private transportation providers, representatives of alternative transportation mode users, such as pedestrian walkways and bicycle transportation facilities; representatives of the disabled, private industry, environmental and other interested groups, Indian tribal governments and the US Secretary of the Interior when tribal lands are involved, representatives of persons or groups that may be underserved by existing transportation systems such as minority, low-income and disabled populations; and members of the general public.

4. Utilizing available media opportunities to provide timely notice of planning related activities; this includes, but is not limited to, electronic mail, newspapers, social media and other means.

SECONDARY TASKS

3 – Long-Range Regional Transportation Plan (RTP)

Continue efforts to update and/or maintain the Regional Transportation Plan (RTP) and maintain up to date and relevant distribution lists, etc. The TPR shall work in conjunction with the Department and its consultants to develop new RTPs.

4 – Regional Transportation Plan Amendments

Federal and State legislation altering the transportation planning factors upon which the RTP is based may change the TPR's corridor priority recommendations to the Department and require amending the RTP. The TPR shall amend the RTP as necessary to make additions or deletions on review and analysis of the RTP to insure successful implementation throughout the Statewide Transportation Plan, pursuant to Section VIII of the Rules for the Statewide Planning Process (2 CCR 601-22).

5 – Development and Amendment of the Statewide Transportation Improvement Program (STIP)

The TPR will undertake activities and meetings necessary to participate in and provide input on the update (at least every four years) of the Statewide Transportation Improvement Program (STIP), and to review and comment on proposed policy amendments to the STIP, as needed.

To update the STIP, TPR representatives meet with their appropriate CDOT Engineering Region(s) and Transportation Commissioner(s) to cooperate in the project prioritization process within that CDOT Engineering Region. Additional information on the STIP development process is available in the *Project Priority Programming Process (4P) and STIP Development Guidelines* available at: <https://www.codot.gov/programs/planning/transportation-plans-and-studies/stip>

Whenever a policy amendment is proposed for the STIP, the TPR shall review and comment on the proposed amendment. The STIP amendment review process is as follows:

1. The CDOT Office of Financial Management and Budget (OFMB) will post notice of the proposed STIP amendment on the CDOT website for a 30 day review and comment period.

2. The TPR needs to determine if the policy amendment is of such significance as to establish a meeting within the 30 day comment period if a meeting is not already scheduled, or discuss the amendment at an already scheduled meeting within the 30 day review and comment period to provide for public input.
3. The TPR may elect to not hold a meeting or not discuss the proposed amendment if the RPC determines that the amendment is not significant enough to require such action.
4. The TPR should post the notice of proposed STIP amendment, if it has an office and a public place for posting such notices.
5. Comments on the proposed amendment need to be received within the 30 day review period via the CDOT website or by direct mail to the CDOT Chief Financial Officer.

6 – Long-Range Statewide Transportation Plan

In conjunction with its RTP, the TPR will provide input and advice on the development of the Statewide Transportation Plan. Duties include but are not limited to:

1. Providing input on the integration and consolidation of RTPs with the Statewide Transportation Plan.
2. Reviewing and providing comment, through the STAC representative, on elements of the Statewide Transportation Plan, including drafts of the Statewide Transportation Plan, and the final Statewide Transportation Plan pursuant to C.R.S. § 43-1-1101 through 1105 and U.S.C. Section 135 Title 23.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE DESIGNATING 330 SOUTH CITY PARK AVENUE, CITY PARK BATH HOUSE, AS A LOCAL HISTORIC LANDMARK

SUMMARY:

The applicant is requesting to designate 330 South City Park Avenue, the City Park Bath House, as a local landmark.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Historic Preservation Commission applied to designate 330 South City Park Avenue, City Park Bath House, as a local Historic Landmark, without the consent of the landowner, the City of Pueblo as provided in PMC 4-14-8 (C). The applicant provided documentation to demonstrate that the residence was constructed in 1938 and associated with the Works Progress Administration, whose workman constructed the building as part of a depression era initiative to provide work to unemployed people while creating lasting public amenities. The applicant is seeking a local Historic Landmark designation to protect the building from demolition and to begin a campaign to restore it. The structure qualifies under landmark Criteria 1A, significant events/people, for having direct association with the Works Progress Administration who played a significant role in Depression era US, Colorado and Pueblo. The building also qualifies for nomination under criteria 2A, architecture, as a good example of a Parkitecture Architectural Style. The Pueblo Regional Comprehensive Plan identifies the building within a , Parks and Open Space future land use designation. , The landmarking and preservation of the building is not part of the goals of the redevelopment plans for City Park. The redevelopment plan includes the replacement of the bath house with a modern building that better supports the adjacent tennis and recreational uses. A detailed review of the Comp Plan compliance is discussed in the staff report, for case number HPC-24-07.

FINANCIAL IMPLICATIONS:

The designation would halt redevelopment of the site and may cost American Recovery Act funds dedicated to this Project that need to be spent by December 31st, 2025.

BOARD/COMMISSION RECOMMENDATION:

The Historic Preservation Commission, at their August 21, 2024 Regular Meeting, voted 6-0 to recommend approval, Commissioner Perko absent.

The Planning and Zoning Commission, at their August 21, 2024, Regular Meeting, voted 3-3 to recommend denial, Commissioner Spinuzzi absent.

STAKEHOLDER PROCESS:

The application was reviewed at a public hearing held by the Pueblo Historic Preservation Commission held on August 21, 2024 and the application was also reviewed by the City of Pueblo Planning and Zoning Commission at their August 21, 2024 meeting.

ALTERNATIVES:

If City Council does not approve this Ordinance, 330 South City Park Avenue, will not be designated as a Local Historic Landmark.

Upon request of City Council, the Ordinance could be returned to the Historic Preservation Commission and the Planning and Zoning Commission for consideration of proposed modifications.

RECOMMENDATION:

See the recommendation of the Historic Preservation Commission and the Planning and Zoning Commission.

ATTACHMENTS:

1. HPC-24-07 Combined Attachments

ORDINANCE NO.

AN ORDINANCE DESIGNATING 330 SOUTH CITY PARK AVENUE, CITY PARK BATH HOUSE, AS A LOCAL HISTORIC LANDMARK

WHEREAS, , the City of Pueblo's Historic Preservation Code, Chapter 14, Title IV, states that the City shall identify, designate and preserve those buildings, objects, monuments, structures and sites which reflect outstanding elements of the community's architectural and cultural heritage; and,

WHEREAS, the present application was initiated by the Historic Preservation Commission and the City's Historic Preservation Commission has reviewed the application for designation of 330 South City Park Avenue, the City Park Bath House, as a Local Historic Landmark and has recommended to the Planning and Zoning Commission the designation of this resource; and,

WHEREAS, , the City Planning and Zoning Commission has reviewed the Historic Preservation Commission's recommendation and the designation application and submitted its recommendation against the landmark designation to Council; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Council finds and determines that 330 South City Park Avenue, Pueblo, Colorado, the City Park Bath House, is associated with history, and architecture. It qualifies under landmark Criteria 1A, significant events/people, and qualifies under landmark Criteria 2A, architecture, and complies with the criteria as defined in the Pueblo Historic Preservation Code Section 4-14-8.

SECTION 2.

The City Council hereby designates 330 South City Park Avenue, the City Park Bath House, as a local Pueblo Historic Landmark, subject to the benefits, obligations and restrictions resulting from such designation as described in Chapter 14, Title IV of the Pueblo Municipal Code.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

Planning and Zoning Referral for HPC-24-07

TO: City of Pueblo, Planning and Zoning Commission

FROM: Wade Broadhead, Sr. Planner

THROUGH: Scott Hobson, Acting Director of Planning and Community Development

DATE: August 21, 2024

SUBJECT: Review and Recommendation to City Council for an application to designate the former City Park Bathhouse/Tennis Building as a Local Pueblo Landmark

APPLICANTS: Pueblo Historic Preservation Commission/ George Koncilja

PROPERTY OWNER: City of Pueblo

LOCATION: 330 S. City Park Avenue

REQUEST: To review the Pueblo Historic Preservation Commission recommendation and the Pueblo Local Landmark designation application, and forward a recommendation on the application by the Planning & Zoning Commission to City Council.

According to the Pueblo Municipal Code 14-4-8), (g). “Within fifteen (15) days after making a recommendation to approve, HPC shall transmit its written recommendation to the Planning and Zoning Commission including the findings of fact which constitute the basis for HPC recommendation. The Planning and Zoning Commission shall without public hearing review HPC's recommendation and the designation application at its next available meeting and submit its recommendations thereon to Council. All recommendations of the Planning and Zoning Commission shall be made taking into consideration any comprehensive plan, zoning requirements, projected public improvements, and existing and proposed renewal and development plans applicable to the section of the City to be affected by the designation or amendment of a designation.”

Local landmark designations are forwarded to the Planning and Zoning Commission to provide a recommendation to City Council taking into consideration any comprehensive plan, zoning requirements, projected public improvements, and existing and proposed renewal and development plans applicable to the section of the City to be affected by the designation.

Items to consider for the recommendation to City Council for the historic landmark designation or historic districts according to 4-14-8(g):

Comprehensive Plan

The City Park Bathhouse is located in the Open Space and Parks future land use area according to the Pueblo Regional Comprehensive Plan, adopted in July of 2022. Open Space and Parks are characterized by Parks, open space, greenways, and natural areas. According to the Comprehensive Plan, Open Space and Parks encompass parks, recreation centers, open space, greenways, trails and natural areas that have been preserved for active and passive recreational purposes.” The original bath house was strongly associated with the prior wading pool which was removed after advances in recreation pool technology and practice. The building has also served other recreational activities, especially tennis, since its construction.

The Regional Goals and Policies section of the Comprehensive Plan addresses historic preservation efforts in the City. *Policy 4.1.3 Inventory of Cultural Resources* encourages the expansion of the Pueblo Inventory of Cultural Resources and the measurer of success on page 54 encourages an increasing trend in local landmarks. Landmarking the City Park Bathhouse directly addresses this policy in the Pueblo Regional Comprehensive Plan with respect to planning and historic preservation by documenting WPA contributions in Pueblo.

Zoning Requirements

The building is located within an S-1, Governmental Use Zone District established for City Park. The park includes various park and recreation facilities including the Pueblo Zoo, two golf courses, Kiddie Rides, an outdoor swimming pool, a 17-court tennis complex, three softball/baseball fields, a frisbee golf course, and other general park amenities. No city initiated, or neighborhood initiated, rezonings or large-scale use changes are under consideration for this area.

In accordance with Section 17-4-51, (a), (27) of the Pueblo Municipal Code pertaining to Governmental Use District (S-1):

When any property zoned S-1 is to be developed or redeveloped, the development plan therefore shall be first submitted for review and approval by the Planning and Zoning Commission. The decision of the Planning and Zoning Commission shall be made after notice and public hearing has been held in the manner required for a zoning map amendment. The Planning and Zoning Commission may approve, disapprove, or approve the development plan with conditions normally imposed or required for development of similarly situated private property, including but not limited to the effect of the development plan on adjacent properties, matters relating to lot area, dimensions and coverage, building heights, setbacks, landscaping, loading zones, parking and lighting.

Projected Public Improvements

The City’s Parks and Recreation Department has developed a master plan for the 17-court tennis complex that involves the demolition of the existing building and replacement with a modern tennis club facility. The City received a structural assessment from consulting architects, HGF on April 23, 2023. Architectural, engineering, and geotechnical reports in the assessment show that the existing building has suffered from significant water damage to the foundation as well as structural cracking. The report also documented that there are also issues with original concrete and load bearing timbers that will not support proposed uses. According to the consulting engineer, repairing the damage with helical piers in the basement may cause additional damage and will cost \$475,716. The structure assessment states, “the existing building structure is no longer in useable condition- The original building has many structural issues see attached structural assessment by structural engineer. The existing MEP systems are well beyond code and need full replacement.” Furthermore, the small size cannot accommodate ADA compliant bathrooms for the number

of people who attend statewide tennis tournaments, and the report finds that the facility needs 13 bathrooms, and the current facility can only accommodate six.

The City's consulting architect HGF developed three options for reuse. Option 1 is to repair the building without meeting code and that cost would be \$1,961,402. Option 2 is to keep the existing building, attempt a \$475,716 repair, and add a code compliant addition for a total of \$3,378,218. Option 3 is to remove the existing building and erect a new building the meets all the needs and codes for \$1,731, 060. According to a letter from Andrew Hayes, Public Works Director, up to \$500,000 of funding could be lost with a delay to redesign the tennis club house.

If the property were designated a local historic district and the City wanted to demolish the building, they would need to apply for a certificate of demolition from the Historic Preservation Commission. The decision of the Historic Preservation Commission is final with regards to demolitions.

Existing or proposed renewal and development plans

The site plan and elevations for the Pueblo City Park Tennis Court Restroom Facility prepared by HGF Architects, Inc., May 15, 2024 is included as an attachment to the staff report. , Described in the Projected Public Improvements Sections above.

Applicable Regulations and Prior Action

Pueblo Municipal Code Section 4-14-8(g), the City's Historic Preservation Commission "HPC" recommended approval at their August 21, 2024, meeting by a vote of - - . _____, moved to approve the application, seconded by _____ for designation for the City Park Bath House based on the findings for significance listed in PMC 4-14-8(a)(1)(a)&(1)(c) social history and (a)(2)(a), related to architecture.

Recommendation:

If the Planning & Zoning Commission finds the property located at 330 S. City Park Avenue is appropriate to be designated as a Pueblo local landmark taking into consideration criteria within Section 4-14-8 (g) of the Pueblo Municipal Code, a recommendation of approval will be submitted to City Council for final review and approval of a Local Landmark designation.

If the Planning & Zoning Commission finds the property located at 330 S. City Park Avenue is not appropriate to be designated as a Pueblo local landmark taking into consideration criteria within Section 4-14-8 (g) of the Pueblo Municipal Code, a recommendation of denial will be submitted to City Council for final review and approval of a Local Landmark designation.

Attachments:

1. Staff Report for HPC-24-07 City Park Bath House Packet
2. City Tennis Admin Building-Select Power Point Slides

Jocelyn Martinez
Chair

Guy Chabot
Vice Chair

Anthony Perko
Secretary



Laurel Campbell

George Koncilja

Jan Schraner

Sandra Morrison

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

HPC-24-07

August 21, 2024

To: Historic Preservation Commission
From: Wade Broadhead, Senior Planner
Through: Scott Hobson, Acting Director of Planning and Community Development
Location: City Park Bath House, 330 S. City Park Avenue
Applicant: George Koncilja
Owner: City of Pueblo
Year Built: 1938
Legal Description: Located in City Park adjacent to the tennis courts due east of the Pueblo Zoo
Zone District: S-1, Governmental Use Zone District

Synopsis

The applicant is requesting Local Landmark designation for the City Park Bath House located within City Park, 330 S. City Park Avenue. According to Section 4-14-8, of the Pueblo Municipal Code, a building object, monument, structure or site may individually be designated as a Landmark if it has distinctive character and meets the criteria listed in the code. PMC 4-14-8(b) "Designation of a landmark or historic district may be initiated by the application of Council, HPC or the owner..." At their July 17, 2024, meeting the Historic Preservation Commission (HPC) voted 7-0 to submit landmark application for the Bath House. An application was submitted the following day July 18, 2024, without the consent of the owner, the City of Pueblo. Staff received an email August 13, 2024, from Parks & Recreation Director, Steven Meier, objecting to the designation and urging the commission to deny. Another letter was received August 14, 2024, from Public Works Director, Andrew Hayes, objecting to the nomination.

The application cites significance under three Historic Landmark criteria: special historic or prehistoric interest or importance; special architectural, engineering or aesthetic interest or importance; special geographic interest or importance, (Section 4-14-8, (a)., (1), a.; (1), c.; (2), a.; (2), c.; (3), a.). The application states that it represents one of Pueblo's significant historical events, the Works Progress Administration activities during the Great Depression as well as showcasing the workmanship of a distinctive architectural style: Rustic. The landmark nomination covers only the bathhouse building erected in 1938 and no other park buildings or structures.

Background

The applicant nominated the subject property for landmark designation per the requirements contained in Section 4-14-8, Chapter 14 – Historic Preservation Code, Title IV – Building Regulations, of the Pueblo Municipal Code. The Historic Preservation Commission may approve this application if it serves the goals of the historic preservation code. According to the Pueblo Standards of Appropriateness, September 2005, a building, may individually be designated as a Landmark, if it has distinctive character and meets two of the following criteria:

1. Special historic or prehistoric interest or importance:

- a. Has significant character, interest or value, as part of the development, heritage, or cultural characteristics of the City, State, or Nation; or is associated with the life of a person significant in the past; or
 - b. Has the site of a historic event with a significant effect upon society; or
 - c. Exemplifies the cultural heritage of the community; or has yielded, or may be likely to yield, important prehistoric information.
2. Special architectural, engineering, or aesthetic interest or importance:
- a. Portrays the environment in an era of history characterized by a distinctive architectural style; or
 - b. Embodies those distinguishing characteristics of an architectural-type or engineering specimen; or
 - c. Is the work of a designer whose individual work has significantly influenced the development of the City; or
 - d. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation.
3. Special geographic interest or importance:
- a. by being part of or related to a square, park or other distinctive area, which should be developed or preserved according to a plan based on a historic, cultural or architectural motif, or
 - b. owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or City.

The City Park Bathhouse application was prepared by George Koncilja, HPC member, and Gary Trujillo, retired architect specializing in historic preservation and rehabilitation. on behalf of the City of Pueblo Historic Preservation Commission. Staff utilized the 2010 draft Historic Structures Assessment, Pueblo City Park Bathhouse and Grandstands, prepared by Nadine Abell, CU Denver School of Architecture, student; the Colorado Cultural Resource Survey, Architectural Inventory Form for the Bath House and City Park Tennis Score Keepers; the National Register Multiple Property Documentation Form titled New Deal Resources on Colorado's Eastern Plains, 2005; the Pueblo Lore article; and The Pueblo Experience, published in January 2007 in assessing the application for Landmark nomination.

1. a. Has significant character, interest or value, as part of the development, heritage, or cultural characteristics of the City, State or Nation; or is associated with the life of a person significant in the past.

According to the Historic Structure Assessment, City Park was the recipient of many federal relief projects between 1933 and 1940 as part of the Works Project Administration (WPA). The projects included a plan to develop land in the park, create new facilities and manage the water rights that were sold with the park. In 1935, following the construction of the zoo the surrounding community requested the City add recreation elements to the park. The recreation area was constructed as a complex and included the multi-purpose bathhouse with concession stand, wading pool, ball field with grandstands, three tennis courts, horseshoe courts and shuffleboard courts.

Erected in 1938 The City Park Bathhouse is one of two WPA era bathhouses constructed in Pueblo; a nearly identical bathhouse still retains its function at Mitchell Park within Pueblo's East Side

Neighborhood. The building was one of 113 WPA projects that was completed before the 1939 State of the City Report.

The Works Progress Administration had a significant impact on the United States, and especially Pueblo during the Depression, creating jobs and programs to fight unemployment. The WPA made significant investments in Pueblo's Park systems including Mineral Park and City Park, usually choosing construction materials that were low in cost and high on labor. The bathhouse was also part of the first municipal efforts to provide bathing pools for citizens which started in the 1920s and expanded with widespread WPA efforts nationwide.

Staff finds that the site does have direct association with significant persons and events in Pueblo and Colorado related to the Works Progress Administration and innovations in recreation amenities.

1. c. Exemplifies the cultural heritage of the community; or has yielded, or may be likely to yield, important prehistoric information.

Cultural heritage generally consists of tangible and intangible assets that are inherited from past generations. Cultural heritage may include buildings, monuments, archive materials, books, works of art and artifacts. According to the applicant, the bathhouse, "served in the same role as a 'tennis clubhouse' since it was built. While also serving other roles over its life, it has housed the tennis community for nearly a century. Many generations of Puebloans have enjoyed this building and share fond memories of its role in the area".

The 2010, Historic Structure Assessment of the City Park Bathhouse and Grandstands states that the bathhouse was constructed as a multi-purpose building that included a concession stand, restrooms, and gathering space to serve the wading pool, ball field, tennis court, horseshoe court, and shuffleboard courts. In the late 1950's the City reconfigured the recreation area because of its success and popularity. The swimming pool and ball field were moved to the southwest side of the park. In the 1970's the tennis court development expanded, and the bathhouse was renovated with the existing flat roof addition to provide additional storage to serve the tennis complex.

The cultural heritage criterion is wide reaching and there are no specific standards for "cultural character of community," which could mean a range of things and may relate more to places that represent nonmaterial aspects of local culture. To that end, the building has played a significant support role in the recreational activity of Pueblo residents and visitors for almost 90 years.

Staff finds that the site does exemplify the cultural heritage of the community for its long-term support of Pueblo recreational activities, including tennis.

2. a. Portrays the environment in an era of history characterized by a distinctive architectural style

According to the applicant, the construction style of the bathhouse and related structures are WPA Rustic. "Rustic architecture is usually associated with lodges, mountain buildings associated with the National Park Services and the U.S. Forest Service. 'Parkitecture' was another term for this style.

According to the New Deal Resources on Colorado's Eastern Plain's, Parkitecture is represented by heavy use of native stone/masonry and wood/timber, that are native to a region in order to harmonize with the local landscape. The City Park Bathhouse is clad with rough cut, non-coursing sandstone and a U-shaped cross gable with a low shed roof below the gables. The rough cut stone is a character defining feature of the building, showcasing a Pueblo variant of Rustic/Parkitecture style. The WPA utilized this style on other buildings throughout City Park and the adjacent City Park Zoo.

The Historic Structures Assessment of the bathhouse confirms the bathhouse is built in the WPA Rustic style and used local sandstone in the construction of the structure. The bathhouse is a good example of the Rustic/Parkitecture Style as it was implemented in Pueblo by the WPA.

Staff finds the site eligible under 2. a. as a good example of the Rustic/Parkitecture architectural style.

2. c. Is the work of a designer whose individual work has significantly influenced the development of the City.

Although the WPA was known for teaching masonry skills to Americans throughout the depression, this criterion refers to one designer and the City Park Bath House was designed by a team of people according to the HSA from 2010, so it is ineligible without further documentation.

Without further documentation of a specific designer or architect, Staff finds 2.c. ineligible because the site was not designed by one designer but a team of people teaching masonry skills.

3. a. By being part of or related to a square, park or other distinctive area, which should be developed or preserved according to a plan based on a historic, cultural or architectural motif

According to the application for Landmark nomination, "City Park Tennis Clubhouse (bathhouse) is within an area of concentrated WPA structures. Which gives a real sense of place to the local population familiar with the park. Stone boundary fences that border major thoroughfares are a distinct sign of the type of buildings and features that may be found within those boundaries."

City Park is a historic park, with a variety of amenities, including the zoo, golf course, retaining walls and other structures constructed by the WPA. However, a road has been erected along the west of the bath house, and the wading pool was removed as well as numerous other features altered in the vicinity. Much of the direct historic context related to the original use of the bathhouse has been heavily modified or removed so that it is no longer used as it was historically intended.

Staff finds that while the building is related to the historic City Park, largely developed by the WPA and could be preserved according to a plan based on a historic, cultural, or architectural motif.

The Pueblo City Park Bath House exhibits a moderate/medium degree of integrity. Significant modifications have been made to the structure itself including a rear stucco addition and the blocking up

of the open archways on the primary façade. Furthermore, the setting and feeling of the site have been seriously modified with the addition of 17 tennis courts, the construction of a road to the west, and removal of the wading pool. The bathhouse is located in its original position, and the overall WPA Rustic architectural design is intact.

Changes to the Building and Property

A flat roofed stucco storage room was added to the bathhouse and the entry archways were blocked in with concrete masonry units in the 1970's. Most of the other structural openings and windows have been blocked, boarded, and clad with stucco. The wading pool was removed in the early 1950's and a total of 17 tennis courts have been added over the years.

Zoning District

The site and surrounding area are zoned S-1, and the surrounding neighborhood is mostly zoned R-2 and comprised of single-family homes.

City's Comprehensive Plan Compliance

The City Park Bathhouse is located in the Open Space and Parks future land use area according to the Pueblo Regional Comprehensive Plan, adopted in July of 2022. Open Space and Parks are characterized by Parks, open space, greenways, and natural areas. According to the Comprehensive Plan, Open Space and Parks encompass parks, recreation centers, open space, greenways, trails and natural areas that have been preserved for active and passive recreational purposes.” The original bath house was strongly associated with the prior wading pool which was removed after advances in recreation pool technology and practice. The building has also served other recreational activities, especially tennis, since its construction.

The Regional Goals and Policies section of the Comprehensive Plan addresses historic preservation efforts in the City. *Policy 4.1.3 Inventory of Cultural Resources* encourages the expansion of the Pueblo Inventory of Cultural Resources and the measurer of success on page 54 encourages an increasing trend in local landmarks. Landmarking the City Park Bathhouse directly addresses this policy in the Pueblo Regional Comprehensive Plan with respect to planning and historic preservation by documenting WPA contributions in Pueblo.

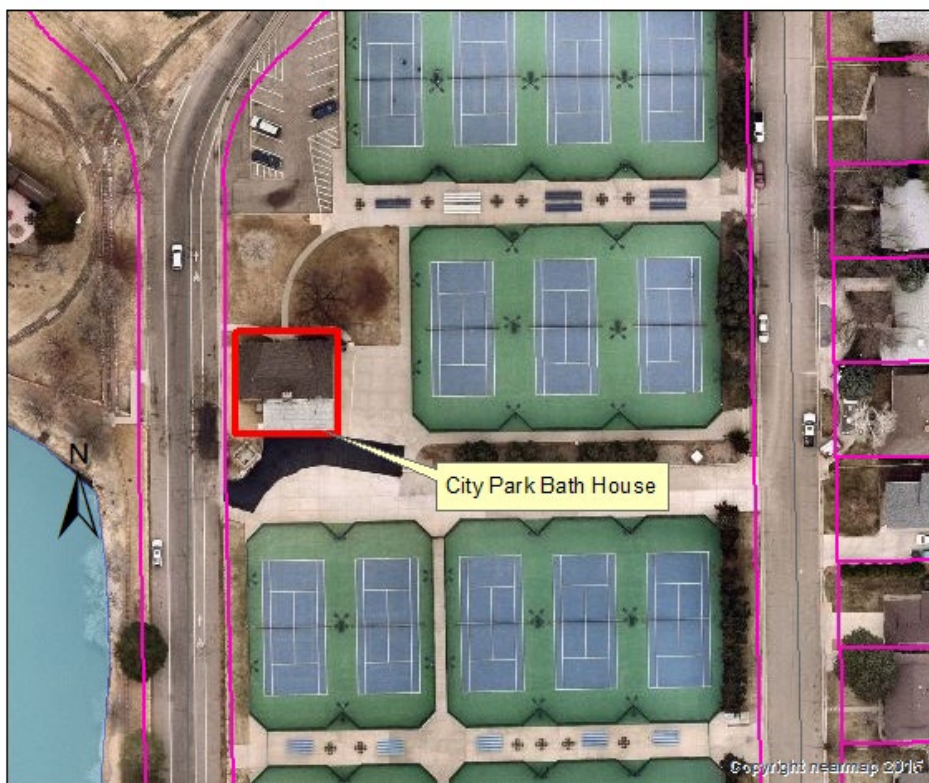
Recommended Action:

If the Historic Preservation Commission finds the property meets the eligibility criteria: Section 4-14-8, 1.a., 1.c., 2.a., and 3.a. of the Pueblo Municipal Code, a recommendation of approval will be submitted to the Planning and Zoning Commission for review and recommendation to City Council for final review and approval of a Local Landmark designation.

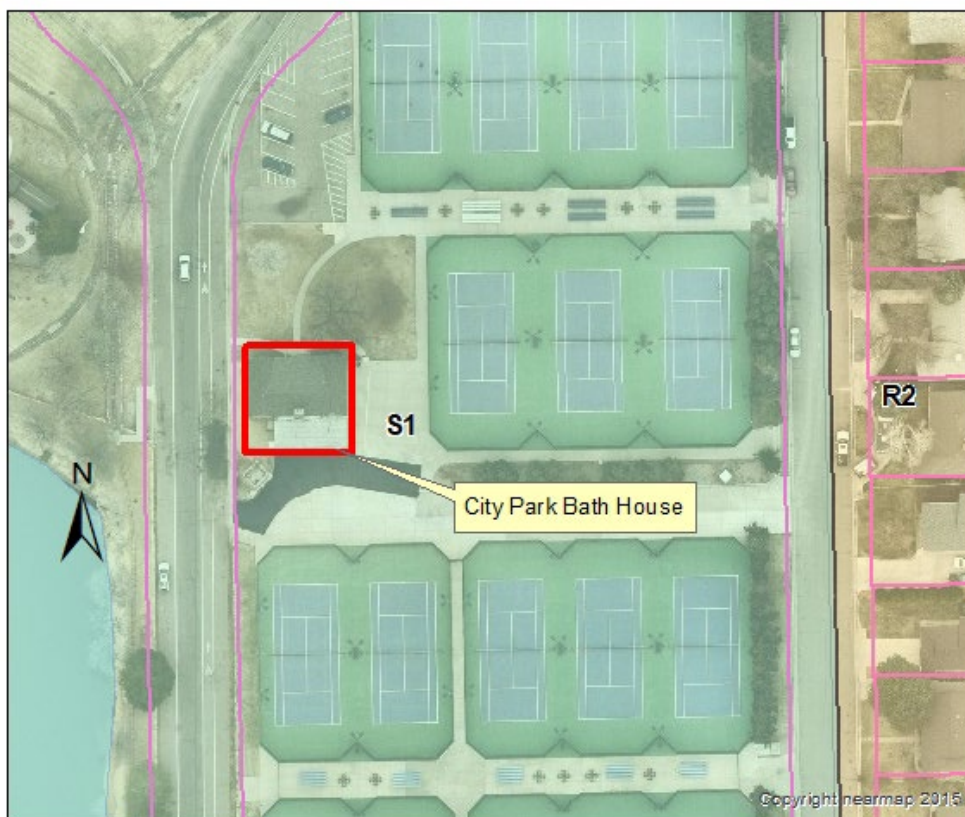
Exhibits

- A. Maps
- B. Photographs
- C. Application signature sheet and OpenGov document, full nomination is attached via PDF.

EXHIBIT A. MAPS



A1. Aerial image of the property



A2. Zoning map of the property



A3. Comprehensive Plan Map

EXHIBIT B. SITE PHOTOGRAPHS



Proof of posting



Overview from front façade looking south



Concession addition to the rear, south.



Eastern façade facing tennis courts.



View north east from South City Park Avenue

EXHIBIT C. APPLICATIONS AND ATTACHEMNTS



City of Pueblo PLACE

July 18, 2024

24-150

Historic Preservation
Commission

Status: Active

Submitted On: 7/17/2024

Primary Location

330 S CITY PARK AVE
PUEBLO, CO 81005

Owner

PUEBLO COUNTY
W 10TH ST 215 PUEBLO , CO
81003-2945

Applicant

George Koncilja
 719-406-8092
 koncilja.re@gmail.com
 1801 Court Street
Pueblo, CO 81003

Internal

Case Number

HPC-24-07

Planner Assigned

—

Continuances

—

Number of Posters

—

Number of Postcards/Mailings

—

Newspaper Notice Cost

—

Public Notice Costs must be paid by:

—

Public Notice zoning poster must be displayed by:

—

HPC Hearing Information

HPC Hearing Date

—

HPC Hearing Results

—

🔒 Check box if hearing is a Special Requested
Hearing

☐

Planning & Zoning Commission Information

🔒 P&Z Hearing Date

—

🔒 P&Z Hearing Results

—

🔒 Check box if hearing is a Special Requested
Hearing

☐

City Council Information

🔒 Council First Reading

—

🔒 Council Final Reading

—

🔒 Council Hearing Results

—

🔒 Effective Date

—

🔒 Ordinance Number

🔒 Recording Number

Application Information

Application Type*

Historic Nomination

Residential or Non-Residential?*

Non-Residential

Certificate of Compliance is for properties not located in HB zone district and are not contributing to National Historic District Register.

Nomination for Local Historic Designation

Name of Property and/or Historic Name*

City Park Tennis/Wading Facility

Present Use*

Tennis Facility

Historic Use*

Tennis/Wading clubhouse for tennis courts and pool

Site Number (issued by State of Colorado)

Are you designating a historic district?*

No

What is the Applicant's Affiliation/Interest in Property*

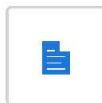
As the Historic Preservation Commission we are interested in preserving the structure due to it's historic significance

Owner Consent to Designation

Property Owner Signature*

☒ Non Consensual
Jul 17, 2024

Attachments



wpa - new deal full issue jan 2007.pdf

wpa - new deal full issue jan 2007.pdf

Uploaded by George Koncilja on Jul 17, 2024 at 11:08 PM

Eligibility Criteria: Historic City Park Tennis/Wading Facility

Narrative Detail

Statement of Significance Summary

The City Park Tennis Clubhouse (historic name Tennis/Wading Facility), heretofore referred to as the Tennis Clubhouse is historically significant for several reasons. First, as a contributing structure to the historic City Park formerly known as Park District #2. This follows **Historic Criterion 1a**, outlining an association with the historical development within the city.

Construction of the Tennis Clubhouse was added to City Park as part of the U.S. New Deal Works Project Administration. The WPA provided funding to states and local governments to create a variety of buildings, infrastructure, art and housing. This closely follows **Historic Criterion 2a**, as part of the physical development of an area of the city. Namely City Park historic WPA structures. construction style also is an important part of the significance.

Although the Tennis Clubhouse was part of the early tennis activity within Pueblo. It has not been listed as Historic Criterion 1d. This may be a subject of discussion because of the numerous tennis championships for state and local players, which were held at this site.

Statement of Significance Summary Expanded:

1. History

1a Have direct association with historical development of the city, state or nation.

Charles L. Dittmer first acquired the 150-acre parcel known as the "Park"; early records refer to it as Carlile's Park. Which was to be part of a grandiose plan of extensive landscaping, lakes, fountains and statuary with amenities meant to enhance an adjoining Carlile Park Subdivision. In the fall of 1899, a group of investors organized as the C.L.W. Dittmer Land and Building Company with Charles Dittmer as general Manager. In December of that year the parcel. was acquired from the Colorado Coal and iron company.

Financial Difficulties mostly caused by the silver crash of 1893 coupled with the Panic of 1903 forced the partnership to refocus their plans for the Park. The partners to sell the 150-acre parcel. The City of Pueblo started to develop a park on the northside of Pueblo, in 1898, known as the Mineral Palace. Similarly, to what happened to Dittmer, a failed development, on the northside, made the Mineral Palace land available, this became Park District #1.

Southside residents also wanted a park on their side of town. The citizens approved a bond issue of \$150,000 to purchase the acreage from Dittmer and his associates. Park District #2 was formed to develop and maintain parks on the southside of Pueblo.

Charles Dittmer was appointed as special agent for the park commissioners since he had invested 15 years of work and planning. He provided some infrastructure. He assisted with further planning for embellishments such as gates and statuary. The Park evolved into a sanctuary in the city for the citizens to enjoy picnics, leisure activities, and socializing.

However, it wasn't until the WPA funding were significant structures built within the Park. A Zoo, Aviary, animal habitats, canals, and Tennis Clubhouse were constructed between 1933-1940. Boundary walls and bridges were also constructed as part of this 'New Deal' program with local labor provided from the WPA. These programs helped lift the country out of the Great Depression and particularly assisted Pueblo which had been especially devastated first by the 'Great Flood' of 1921 and then the stock market collapse of 1929.

The Pueblo Zoo became its own National Register District in 1995 which highlights the quality of the planning and development of a zoo. Within the 3-acre district are two buildings, six structures, moats, canals, artificial mountains, bear pits and water features. The use of natural materials and settings were part of a movement to provide a naturalistic approach to zoo habitats.

The eastern edge of the Park is occupied by the tennis complex with the seventeen courts, and Tennis Clubhouse. There were originally viewing stands on the south elevation, which were demolished. The tower that held the announcer booth remains.

The right side of the front door there is an inserted plaque that commemorates the building and the significance of it; it reads "ERECTED THROUGH THE COOPERATION OF FEDERAL, STATE AND LOCAL GOVERNMENTS BY WORKS PROGRESS ADMINISTRATION DEDICATED TO THE ENRICHMENT OF HUMAN LIVES *A RECORD OF PERMANENT ACHIEVEMENT*".

Statement of Significance Summary Expanded:

2. Architecture

2a Portrays the environment in an era of history characterized by a distinctive architectural style.

The construction style of the Tennis Clubhouse and related structures are WPA Rustic. Rustic architecture is usually associated with lodges, mountain buildings associated with the National Park Services and the U.S. Forest Service. "Parkitecture" was another term for this style. Publications authored in the 1930's espoused this style. Rationale for use in the mountains was the availability of natural materials, stone and timber. Mainly was to create a structure that was reflected of nature.

Many of the publications were authored by Herbert Maier. He was the architect/landscape architect who headed the NPS district that included the Rocky Mountain Region. Although publications contained designs and plans it was noted not to copy the designs but rather adapt to local topography, cultural influences and conditions.

Maier believed that using indigenous or natural materials was the best way to integrate the structure with its surroundings. Rustic architecture was a simple method to provide the best solution, following function and nature. WPA sought to put as many people as possible. This meant using hand tools and hand labor as opposed to power tools.

WPA Rustic architecture is an architectural style from the era of the U.S. New Deal Works Project Administration. The WPA provided funding for architects to create a variety of buildings, including amphitheaters and lodges. WPA architecture is akin to National Park Service rustic architecture. WPA Rustic, as opposed to National Park Service Rustic as utilized in most national parks, involves more demarcation between the building and the landscape. The term has been used by the National Park Service's National Register of Historic Places program to describe many buildings and structures, including American Legion meeting halls and other buildings built by the WPA in the 1930s

2c. The architects who designed this structure and others (see 2a above) were also employed through the WPA and it's been shown that they reused design plans there similarities with the pool building in Mitchell Park.

Geography

3a Have a prominent location or be established, familiar and orienting visual feature of the contemporary city.

City Park Tennis Clubhouse is within an area of concentrated WPA structures. Which gives a real sense of place to the local population familiar with the Park. Stone boundary fences that border major thoroughfares are a distinct sign of the type of buildings and features that may be found within those boundaries.

Architectural Description

Closely describe the structure and its surrounds.

The main elevation is north facing, it has a main gable with an intersecting gable at each end, one on the east and one on the west. The main gable ridge runs east/west and has an unequal slope on the north, with an equal slope on the south. The unequal slope has the break over the porch. The two intersecting gable ridges both run north/south. All original building roofs are covered with asphalt shingles.

The entire structure is constructed of red cilium sandstone. The stones were harvested in the foothills west of Pueblo. Stones were left mostly uncut, natural in appearance, with a raked mortar joint, which highlights each individual stone because of the recessed mortar joint.

Four circular arched openings define the main elevation, each rise to doorway height. The arches are coupled and form an arcade, which opens onto a porch. The outer two arched openings are infilled with stone at the bottom three feet. Originally those two openings had segmented arches at the very bottom of the infill. Those arches have been infilled with stone matching the original. A center concrete stair provides access to the inner two arched openings. The stairs are flanked on each side with stone walls staggered to match the treads. The four circular arches have been infilled with concrete masonry units (CMU). The eastern and western openings have been infilled, the western arch the opens onto the stair have also been infilled. The eastern arch opening onto the stairs is partially infilled, to accommodate a 3 x 7 door.

The two-intersecting gables on the east and west are symmetrical to the centerline of the north elevation. Each have full height stone gable ends. The stone terminates at the peak and the roof is a 6-12 pitch. At the top of each peak are three 4-inch round, clay pipes, which protrude and act as attic venting. Wood cornice boards follow the roof rake.to the

Two coupled casement windows are centered on the east and west gables, separated by an eighteen-inch-wide column. The windows are six true divided lites, approximately 52 inches above finished floor (AFF). The original windows are behind CMU that have been infilled into the front of the opening.

The west elevation has full height stone to the bottom of the roof. There are four window openings. The northern most window opening has two coupled casement windows, that are six true divided lites. The two middle openings each have two coupled casement windows that are four divided lites.

The southern most opening has casement windows two coupled over two coupled casement windows separated by a horizontal mullion. Each of the casement windows are six divided lites. Those windows originally serviced the building kitchen. All openings on the west elevation have CMU infilling the original window opening.

The south elevation has been altered by a non-conforming addition, which runs over three quarters of the south elevation. The portion of the building not covered by the addition is the south gable end of the western intersecting gable. The stone runs full height of the gable end. One large window, oft centered to the west, is coupled over two coupled casements with six divided lites, also infilled with CMU.

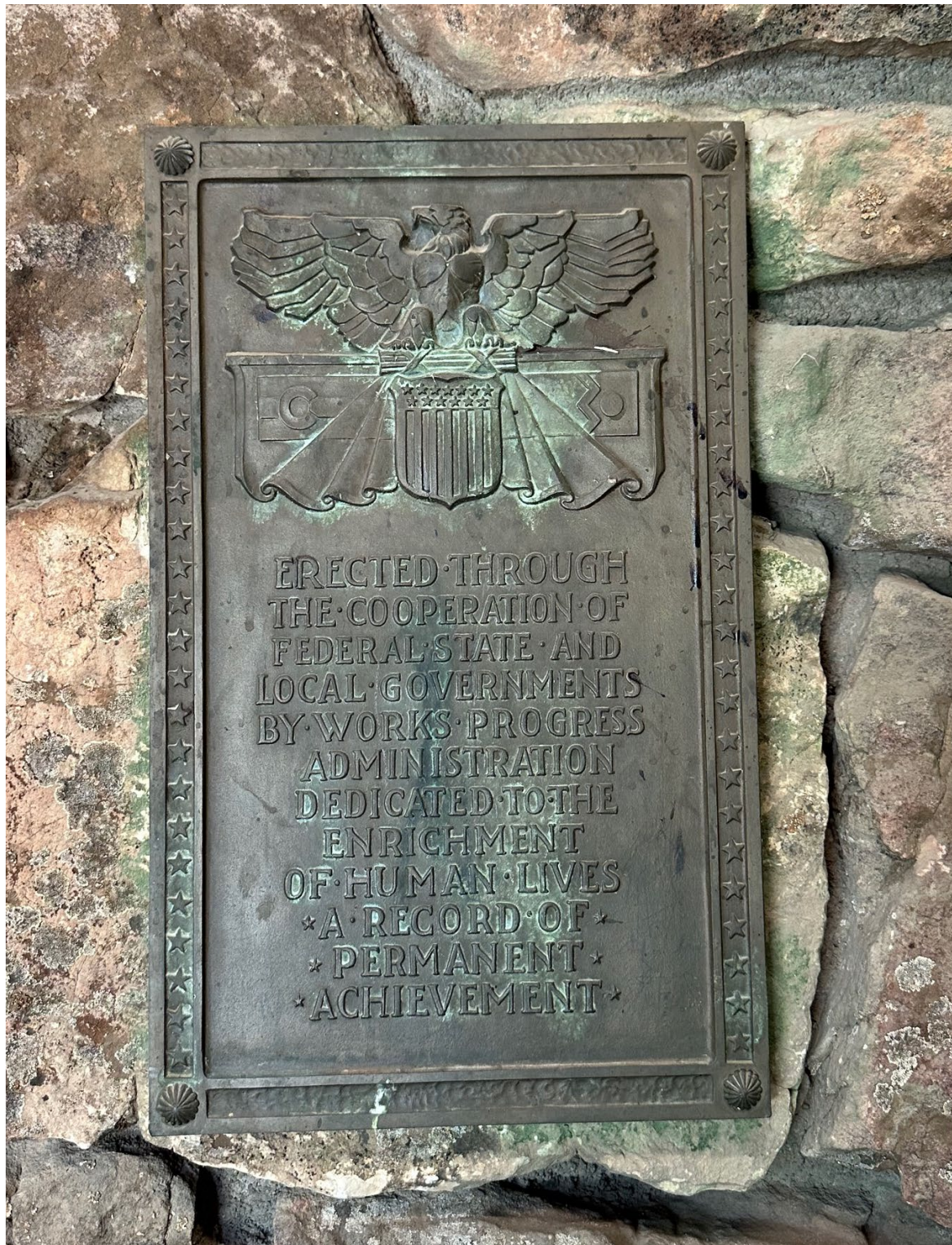
The east elevation has full height stone to the bottom of the roof. Four window openings oft centered in the elevation are two coupled casements with four divided lites each. All openings are infilled with CMU masonry. It should be noted that the historic photograph shows a different window configuration. There is no noticeable alteration of the openings that exist now. Which may have been a very early alteration using original material.

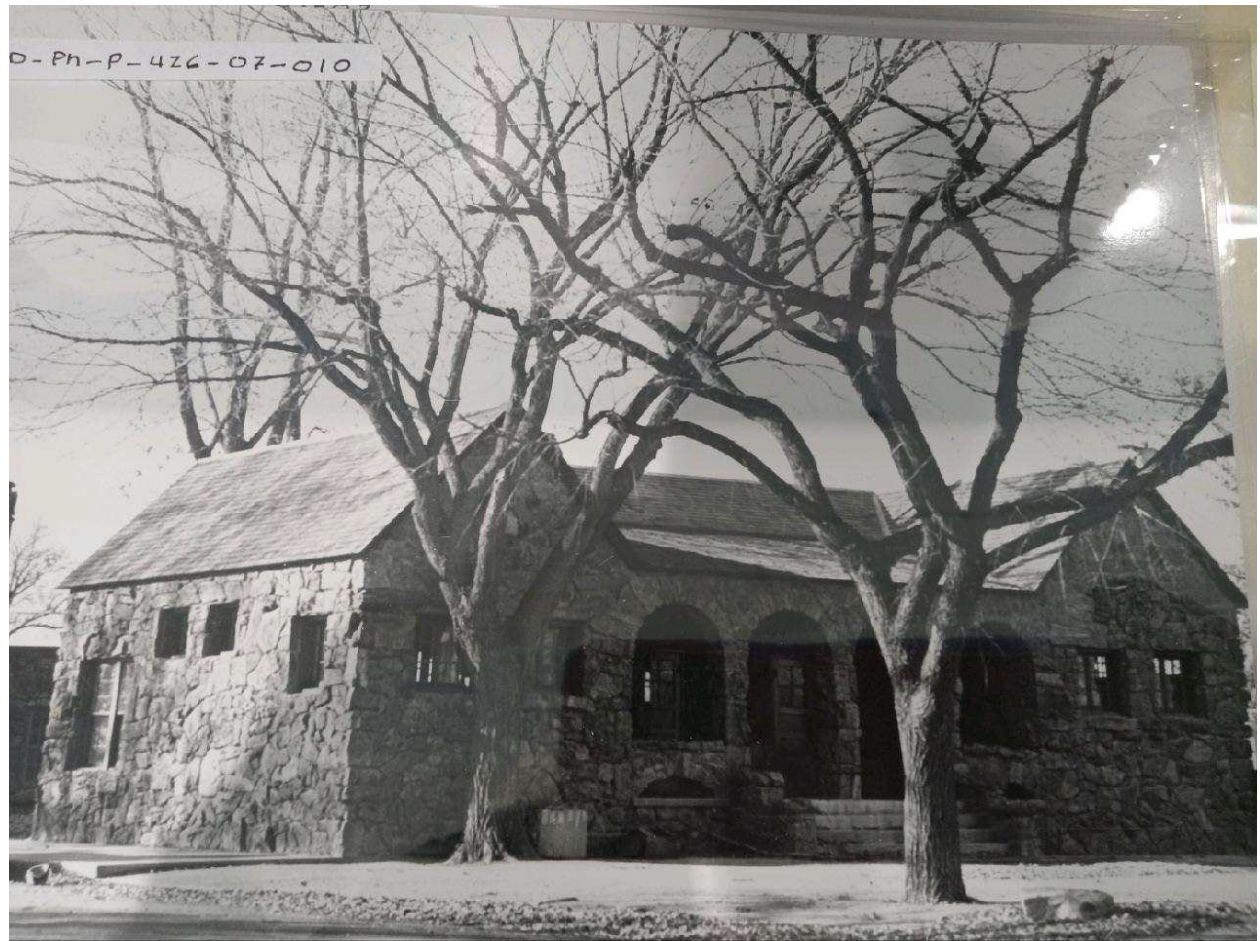
Research Sources:

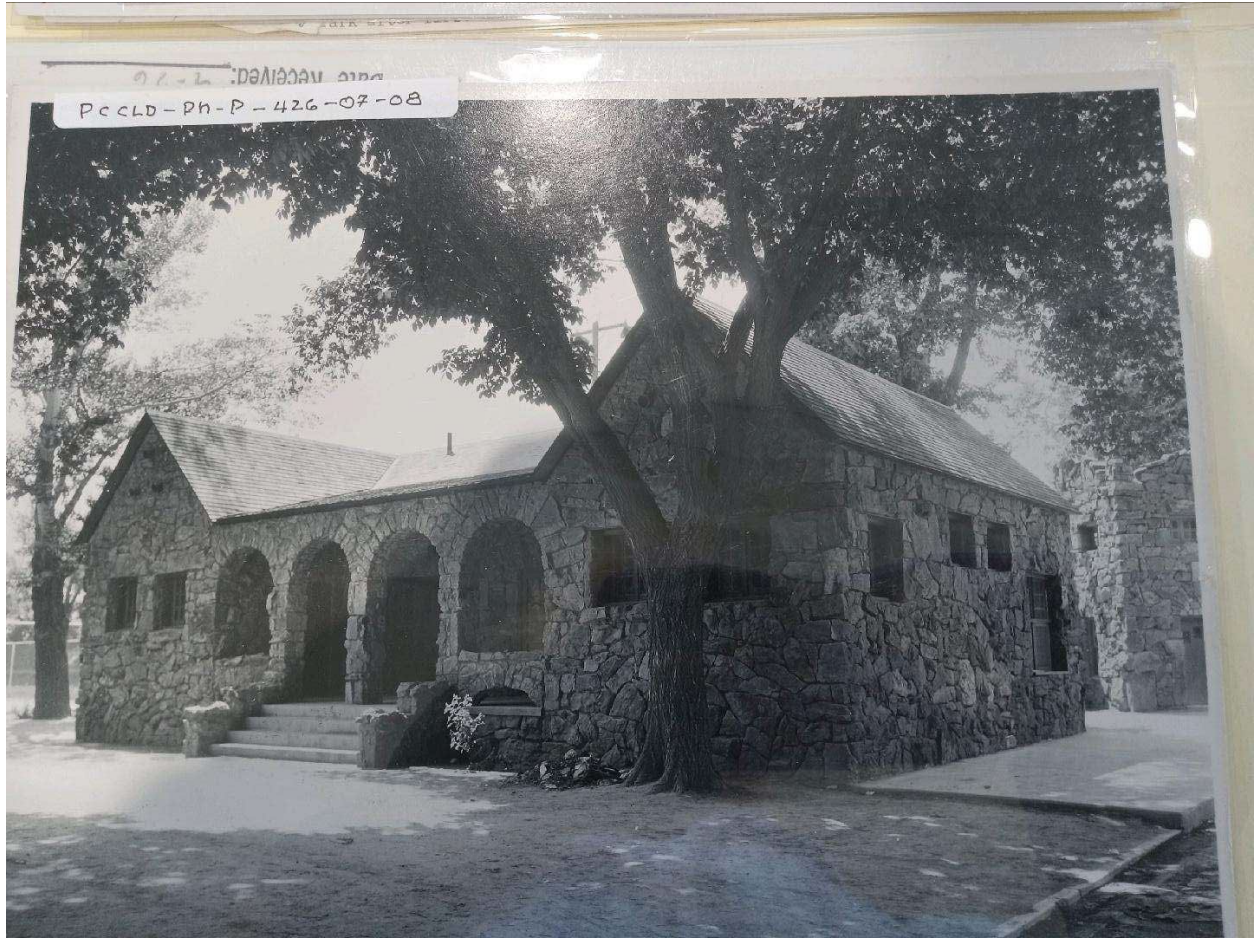
- Pueblo County Historical Society
- The Pueblo Lore: January 2007 Issue by George Williams
 - See attached document; pages 41/42 discuss the Tennis facility while the entirety of the issue is dedicated to WPA projects in Pueblo
- Site Visits to City Park, Mineral Palace Park, Pueblo Mountain Park and Mitchell Park
- History Colorado WPA Rustic – Colorado Historic Architecture and Engineering Guide
- Historic Plans, Details and Elements by John Theodore Haneman
- Dictionary of Building Preservation by Ward Butcher.
- Valentine Engineering Field Observation Report – James Valentine

Photographs:











Eligibility Criteria: Historic City Park Tennis/Wading Facility

Narrative Details:

1a. The New Deal Program had a profound impact on the country and particularly here in Pueblo. The fact that this building, as well as much of City Park, was developed because of this program holds historic significance and we should do everything possible to preserve that. These buildings and structures collectively represent a time when individuals who shared in a bleak future banded together to build a better future; a notion that should not be forgotten about or destroyed.

1c. This building has served in the same role as a 'tennis clubhouse' since it was built. While also serving other roles over its life, it has housed the tennis community for nearly a century. Many generations of Puebloans have enjoyed this building and share fond memories of its role in the area.

2a. The building was built with the same materials and in the same style as the surrounding structures (stone walls through the park, former golf clubhouse building, buildings throughout the zoo, pavilions, etc.) which helps to unify and define this area. The building materials that were used to construct it were sourced from local areas, primarily near Beulah. This aesthetic look is what defines the City Park area and creates a cohesive look throughout the entire district.

2c. The architects who designed this structure and others were also employed through the WPA program and it's been shown that they reused design plans (note the similarities with the pool building in Mitchell Park).

3a. This building lies within the City Park district, which on a broad scale is a historic site. The WPAs involvement in the development of City Park into the recreation hub that it is today should be celebrated and preserved and not forgotten about.

Statement of Significance:

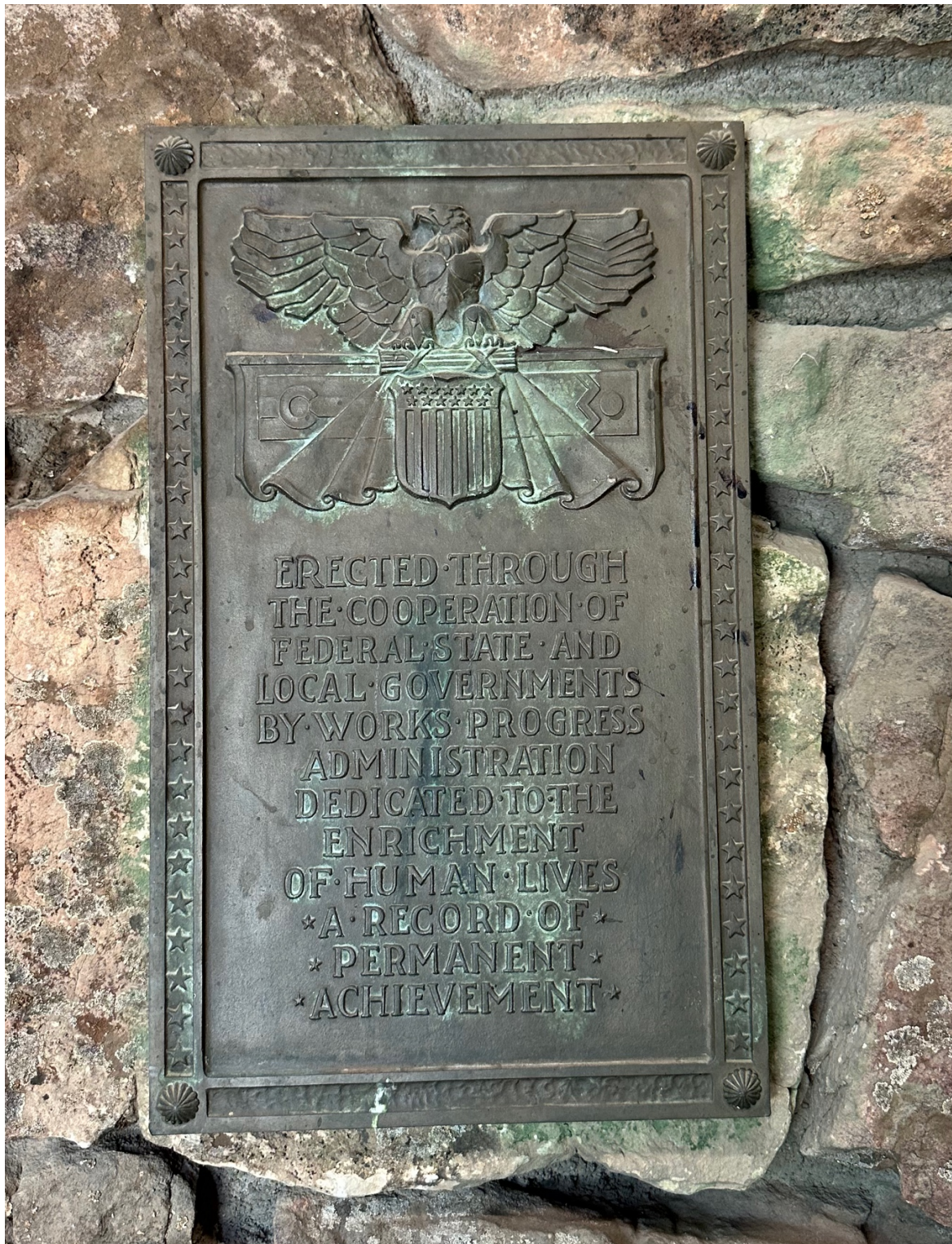
The City Park Tennis/Wading Facility is historically significant for several reasons. It was built in the 1930s as part of the 'New Deal' program with local labor provided from the WPA. These programs helped lift the country out of the Great Depression and particularly assisted Pueblo which had been especially devastated first by the 'Great Flood' of 1921 and then the stock market collapse of 1929. Historically this building served as the shower room for the wading pool, the clubhouse for the original 4 tennis courts and concession stands for the entire area. Although the pool was eventually moved and concessions no longer served from the building, it has serviced the tennis courts for over 90 years. Multiple generations of Puebloans have fond memories of this building and many have grandparents and other relatives that helped to construct it, along with other WPA era structures. The structure is built out of the same materials as other buildings, walls, pavilions, etc. throughout the surrounding area helping to create a cohesive look throughout City Park. On the interior of this building, along with a number of other WPA era buildings, is an inserted plaque that commemorates the building and the significance of it; it reads "ERECTED THROUGH THE COOPERATION OF FEDERAL, STATE AND LOCAL GOVERNMENTS BY WORKS PROGRESS ADMINISTRATION DEDICATED TO THE ENRICHMENT OF HUMAN LIVES *A RECORD OF PERMANENT ACHIEVEMENT*". This type of history should be preserved at all costs.

Research Sources:

- Pueblo County Historical Society
- The Pueblo Lore: January 2007 Issue by George Williams
 - See attached document; pages 41/42 discuss the Tennis facility while the entirety of the issue is dedicated to WPA projects in Pueblo
- Site Visits to City Park, Mineral Palace Park, Pueblo Mountain Park and Mitchell Park

Photographs:





Department of Public Works

August 14, 2024

TO: City of Pueblo Historic Preservation Commission
1 City Hall Pl.
Pueblo, CO 81003

RE: Historic Designation of Tennis Court Bathhouse Facility

Dear Members of the Historic Preservation Commission,

I am writing to express my concerns regarding the recent nomination of the City Park Tennis Court Bathhouse for designation on the City's registry of historic buildings. While I understand and appreciate the importance of preserving our community's historical assets, I believe that the designation of this particular structure may not be appropriate given the circumstances and could have unintended consequences for the City of Pueblo.

The Tennis Court Bathhouse, constructed during the WPA era, has undoubtedly served our community well over the decades. However, it is important to recognize that the building has undergone significant modifications since its original construction in the 1930s. These alterations, while necessary for the building's continued use, have unfortunately diminished its historic integrity. As a result, the structure no longer represents the unique architectural elements that once made it a candidate for historic preservation.

Furthermore, the building requires substantial structural repairs to ensure it is safe for occupancy and compliant with current building codes and ADA standards. Groundwater and soil issues present particularly challenging engineering problems that must be addressed. Given the scope and cost of these repairs, the City has determined that it would be more prudent to replace the existing building with a new, modern facility that can better serve the needs of our community while still honoring the legacy of the original structure. This plan includes reutilizing stone elements from the existing structure for the facade of the new building and constructing an interpretive wall inside the new facility.

It is also important to note that the current facility plays a critical role in hosting numerous tennis events, including the high school state tennis tournament, and is open to the public for daily use. Delaying the project to accommodate a historic designation could jeopardize these activities and result in the loss of approximately \$500,000 in project funds if a construction contract is not awarded by the end of the year.

I respectfully request that the Commission carefully consider these factors and the broader impact on our community before moving forward with the designation process. The City is committed to honoring the history of the Bathhouse while also ensuring that the needs of our community are met in a timely and responsible manner.

Thank you for your consideration. Please feel free to contact me with any questions. I can be reached by phone at 719-553-2295 or by e-mail at ahayes@pueblo.us.

Respectfully,

A handwritten signature in black ink, appearing to read "A. Hayes", with a stylized flourish at the end.

Andrew E. Hayes, P.E.

Steve Henson

32 Sovereign Circle

Pueblo, Colo., 81005

(719) 733-7606

henson.slpueblo@gmail.com

Aug. 12, 2024

To whom it may concern:

Re: Concerns about demolishing current clubhouse building at the Pueblo City Park tennis courts.

Hello!

I would like to address this issue by first praising the Koncilja family for its tireless efforts to preserve, protect and utilize Pueblo's historic buildings. I do not believe anyone has had more of an impact in this endeavor than the Konciljas.

Further, the Koncilja and Henson families have been friends and professional acquaintances for decades, and I greatly admire the Konciljas for their community efforts.

So it is with reluctance that I must disagree with efforts to preserve the old clubhouse at the City Park tennis courts. And I believe I am in a unique position to discuss this topic.

In the 1960s and 1970s, the clubhouse -- constructed during the New Deal initiatives during the Great Depression -- was operated by the Pueblo Tennis Club. The PTC was a member organization (\$25 annual fee, which got you a key to the clubhouse) that ran tournaments and some instructional programs at the park courts. The facility was not open to the public.

During the 1970s, I served three terms as president of the organization, which at one time had nearly 200 members.

At one point, the PTC spent more than \$10,000 to renovate the clubhouse. It was very nice, with clean restrooms, showers, lockers and a lounge area with nice furniture, a TV, etc.

But there always were significant infrastructure issues, such as water seepage in the basement from the lake across the street. The PTC did not have the resources to address those issues, and the city wasn't interested in pumping money into the old structure.

Eventually, the city took over control of the courts and the clubhouse, and the PTC disbanded.

In my opinion, the city's decision to open the restrooms and the facility to the general public led to the decline of the building and the current sad state of affairs that we see today.

Frankly, it's an old building that is filthy from top to bottom, and way past the point where some paint and new flooring will transform it into a nice facility. It is not functional, with no secure areas for vending machines or a pro shop, and a tiny tournament director's area that has outgrown its usefulness.

It also is an embarrassment to the community of Pueblo. Among the many tournaments hosted at the facility are the boys and girls high school district and state tournaments. It is humiliating to hear people talk about the filthy facilities, the mosquitoes that inhabit the drafty building, the worn and stained carpeting, and the inability of players to shower between matches and change into fresh clothing. If we are not careful, we will lose those tournaments because of the terrible condition of the clubhouse.

I believe that pumping taxpayer money into the building would be akin to putting lipstick on a pig. Further, given the significant plumbing and electrical issues, not to mention the foundation issues, this project would be a money pit.

The proposal to build a new building used recycled rock from the existing structure is an exciting proposal and one that, I believe, honors the past by using those materials from the existing building. Such a new building would make the City Park tennis facility among the finest in the nation.

Other than being old, there is nothing important about the existing clubhouse. It is not architecturally significant, and its usefulness is long gone.

Pueblo deserves a nice, new clubhouse at the tennis courts, one with a significant nod to the work of the past. I urge the city to proceed with that project.

P.S. A word to the wise. Once constructed, do NOT open the facility to the public when staff is not present. If the new facility is open without supervision, it, too, shall become a filthy facility and a waste of taxpayers' money.

Sincerely,

Steve Henson

Steve Henson

Past president of the Pueblo Tennis Club and the Colorado Tennis Association; winner of more than 150 USTA-sanctioned tournaments with rankings as high as No. 1 in Colorado in singles and doubles (5.0 category), along with numerous other rankings in Colorado and the Intermountain district (Colorado, Utah, Nevada, Wyoming and Montana); and an inductee into the Pueblo Sports Association Hall of Fame. I currently am the assistant girls tennis coach at Pueblo County High School. This past season, the entire team qualified for the state tournament.

I also was the longtime managing editor of The Pueblo Chieftain newspaper; have long been active in the Pueblo community, and am an adjunct professor at Colorado State University Pueblo.

From: [Steven Meier](#)
To: [Wade Broadhead](#)
Cc: [Scott Hobson](#); [Beritt Odom](#); [Andrew Hayes](#)
Subject: Bathhouse at City Park Tennis Complex
Date: Tuesday, August 13, 2024 2:43:06 PM

Wade and the Historic Preservation Committee,

The Parks and Recreation Department recommends that the Historic Preservation Committee **do not** move forward with recommending the non-consensual historic designation of the City Park Bathhouse. The City's initial goal for the existing stone facility was to fully renovate and save the old stone building, but as the engineers and architects began investigating the structure it became apparent that the building had extensive structural and code issues that present numerous safety concerns for staff and visiting patrons. The building does not meet ADA accessibility requirements as well as the building code as it relates to number of fixtures per occupancy. The stone foundation has been deteriorating significantly and with the constant presence of groundwater the renovation and / or replacement of the existing foundation would prove to be more expensive than it would be to demolish and build a new facility.

The Parks and Recreation Department urges you to deny this application.

Steven Meier, Director

Parks and Recreation

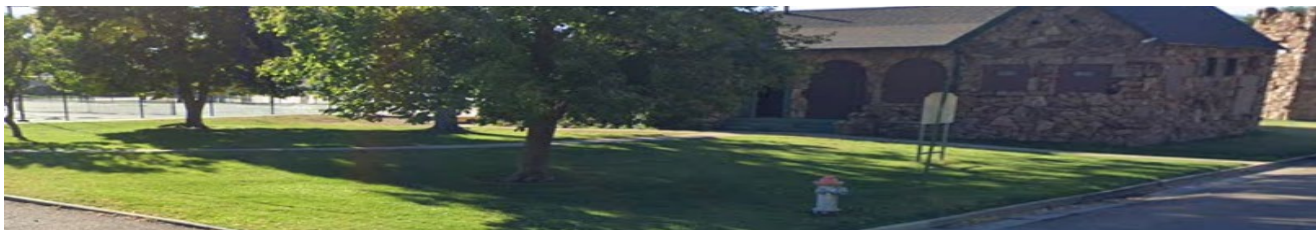
800 Goodnight Ave

Pueblo, CO 81005

719-553-2790

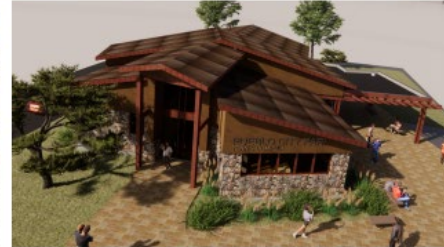


Pueblo City Park Tennis Court Restroom Facility



Presented by: HGF Architects, Inc. May 15 HPC, 2024

Design and Review of Option 3



3 Design Options - Option 3 (cont.)



① SITE PLAN
1" = 30'-0"



**HISTORIC PRESERVATION COMMISSION
CITY OF PUEBLO**

NOTICE OF PUBLIC HEARING

Take notice that at a regular meeting to be held at 1:30 P.M., on the 21st day of August 2024, at 1 City Hall Place, Pueblo, Colorado, the Historic Preservation Commission will hear the following application(s):

HPC 24-07

330 S. City Park Ave / City Park Bath House

For Designation of a Landmark as provided in the Historic Preservation Ordinance (Title IV, Chapter 14, of the Code of Ordinances, City of Pueblo) as the same affects the property situated in the City of Pueblo, County of Pueblo and State of Colorado, on file and known as **330 S. City Park Ave.**

A **Nomination for Designation of a Landmark** if it qualifies for significance in criteria of history (criterion 1A&C), architecture (criterion 2A&C)

A draft of the nomination will be on file in the Department of Planning and Community Development and will be available for viewing and printing, typically the Friday prior to the meeting.

Any person may appear before the Historic Preservation Commission at the time and place stated above to be heard on the proposed nomination for designation of a landmark. Individuals who require special arrangements to participate are encouraged to contact the Department of Planning & Community Development at least 72 hours in advance.

Questions may be directed to the attention of Wade Broadhead, Senior Planner, 719-553-2280.



Scott Hobson
Land Use Administrative Official
719-553-2259



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Heather Graham, Mayor
Robert Jagger, Deputy City Attorney
Marisa Pacheco, Director of Human Resources

SUBJECT: AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 COMMENCING JANUARY 1, 2025, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is a proposed Ordinance which would approve and enact the collective bargaining agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537 ("Union") commencing January 1, 2025. Pursuant to §8-14(I) of the City Charter, any collective bargaining agreement negotiated between the Union and the City shall be reduced to writing, signed by the parties, and enacted by Ordinance.

PREVIOUS COUNCIL ACTION:

Not Applicable.

BACKGROUND:

The current collective bargaining agreement between the City and Union expires on December 31, 2024. Pursuant to the requirements of the City Charter, the City and Union commenced negotiations with respect to a successor contract in July of this year. Through the negotiation process, the parties have successfully reached a tentative agreement with respect to a successor contract. Pursuant to §8-14(I) of the Charter, such an agreement is required to be enacted as an Ordinance.

The successor contract contains the following specific changes with respect to the prior contract:

Article 2-Term. The term of the agreement is for three (3) years subject to City Council approving any subsequent year's contract extension on or before June first of the then current year. If not extended by City, the complete contract shall be opened and the parties will commence the negotiation process for a successor contract in compliance with the requirement of Section 8-14, City Charter.

Article 4.4. – Management Rights – A new section will be added to this article which will allow the Mayor to declare an emergency based on sworn staffing levels falling below 30% of authorized staffing. The emergency declaration would permit the Mayor to suspend any provision of the agreement as may be reasonably appropriate to timely and effectively fulfill the function of the Department of Police, including without limitation provisions regarding: City's ability to determine employee work schedules and hours of work; notice periods for changes in work schedules and work hours; seniority requirements for distribution of overtime or on-duty work; and restrictions on assignment or reassignment.

The Mayor's decision to exercise such authority is subject to and conditioned upon: (1) City Council approval by passage of an emergency ordinance; and (2) The Department's obligation to meet and confer with the Union prior to presentation of such ordinance to the Mayor and passage of such ordinance by City Council.

Article 16-Salary.

2025 - For 2025, the monthly pay rate for Police Patrol Officer/ Police Corporal at all steps will be increased by 7% over the amount set by Ordinance establishing 2024 pay levels. The monthly pay rate for Police Sergeant at all steps will be increased by 10% over the amount set by Ordinance establishing 2024 pay levels.

2026 - For 2026, the monthly pay rate for Police Patrol Officer/Police Corporal and Police Sergeant at all steps will be increased by the average annual base pay percentage increase in the rate of top steps for like positions in the following cities:

Arvada, Aurora, Colorado Springs, Denver, Fort Collins, Lakewood, Thornton and Westminster.

Average annual base pay percentage increase shall be based upon the annual increase in the rate of pay for year 2026, if known, or year 2025 otherwise. This accounts for any agencies who are still determining their increases through collective bargaining or otherwise at the time the contract extension must be presented to City Council in accordance with City Charter.

2027 – For 2027, the same methodology shall apply as outlined above however, such increase will be based on average annual base pay percentage increase for year 2027, if known, or year 2026 otherwise. In addition, and to the extent such an increase is not deemed acceptable by either party, a limited wage reopener clause is provided that will allow either

the Union or the City to reopen the contract to negotiate only on salary under Article 16. Such limited reopening, if requested, shall be subject to the timelines and procedures under Section 8-14(r) through 8-14(v) City Charter.

Article 23.1.1. Insurance. For 2025, 2026 and 2027, the City will increase contributions levels to each plan and coverage level to match contributions levels of other groups in the City (Pueblo Association of Government Employees and non-bargaining positions). All other provisions currently in place with respect to premium increase sharing and self-funding remain unchanged as previously negotiated.

Article 27 – Sick Leave This article will be amended to reflect changes in Colorado state law under the Healthy Families and Workplaces Act which was implemented after the previous contract was negotiated.

Article 34.3 Reporting – Current language will be changed to reflect unauthorized absences of more than 40 consecutively scheduled work hours (vs. the current language of more than five working days) shall constitute a resignation from employment by the employee.

Article 45 – Shift Differential. This article will be amended to provide a higher, more competitive shift differential amount to those union members working either afternoon shift or graveyard shift as defined in the agreement. Afternoon shift differential will increase from \$0.40 cents per hour to \$0.80 cents per hour and graveyard shift will increase from \$0.80 cents per hour to \$1.60 per hour.

FINANCIAL IMPLICATIONS:

Following are the approximate cost increases for 2025, if the ordinance is approved:

- 2025 Wage Increase	\$359,010 for Police Sergeants \$1,280,972 for Police Patrol Officers/Police Corporals
- Health Insurance	\$27,513 contribution increase
- Shift Differential Increase	\$24,485

\$1,691,980

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

The International Brotherhood of Police Officers #537 held a membership vote on August 1, 2024, and ratified the negotiated changes to the contract, subject to City Council approval as accomplished by this ordinance.

ALTERNATIVES:

If approved, the requirements of §8-14(l) of Charter require the agreement be enacted as an Ordinance.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

ATTACHMENTS:

1. IBPO CBA 2025
2. Exhibit A

ORDINANCE NO.

AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 COMMENCING JANUARY 1, 2025, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, pursuant to the requirement of Section 8-14, City Charter, the corporate authorities of the City of Pueblo and the sole and exclusive bargaining agent of the police officers, i.e. the International Brotherhood of Police Officers Local 537, have negotiated a collective bargaining agreement commencing January 1, 2025 (the "Labor Agreement"); and

WHEREAS, the Labor Agreement has been reduced to writing and signed by said parties pursuant to the requirements of Section 8-14(l) of the Charter, City of Pueblo, Colorado; and

WHEREAS, Section 8-14(l) of the Charter of the City of Pueblo, Colorado, further requires that the Labor Agreement be enacted as an Ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Collective Bargaining Agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537 commencing January 1, 2025, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and enacted as an Ordinance.

SECTION 2.

The Mayor is authorized to execute the Collective Bargaining Agreement in the name of the City.

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF PUEBLO

AND

INTERNATIONAL BROTHERHOOD

OF POLICE OFFICERS

LOCAL 537

COMMENCING JANUARY 1, 2025

Table of Contents

ARTICLE 1.	PREAMBLE	1
ARTICLE 2.	TERM OF AGREEMENT	1
ARTICLE 3.	RECOGNITION.....	1
ARTICLE 4.	MANAGEMENT RIGHTS	2
ARTICLE 5.	DISCRIMINATION	4
ARTICLE 6.	UNION BUSINESS LEAVE	4
ARTICLE 7.	RULES AND REGULATIONS	6
ARTICLE 8.	STRIKES	6
ARTICLE 9.	SAFETY.....	6
ARTICLE 10.	TRAINING.....	7
ARTICLE 11.	TRAINING OFFICER	8
ARTICLE 12.	EDUCATIONAL INCENTIVE.....	9
ARTICLE 13.	UTILIZATION OF SPECIAL SKILLS	10
ARTICLE 14.	APPOINTMENTS.....	10
ARTICLE 15.	REDUCTION IN FORCE.....	14
ARTICLE 16.	SALARY.....	16
ARTICLE 17.	OVERTIME COMPENSATION	19
ARTICLE 18.	RATE OF PAY AND APPOINTMENT TO TEMPORARY DUTY IN A HIGHER CLASS	25
ARTICLE 19.	COURT TIME.....	27

ARTICLE 20.	RESERVED	28
ARTICLE 21.	UNIFORM ALLOWANCE	28
ARTICLE 22.	AUTOMOBILE ALLOWANCE	30
ARTICLE 23.	INSURANCE.....	30
ARTICLE 24.	MILITARY LEAVE	32
ARTICLE 25.	VACATION LEAVE	33
ARTICLE 26.	HOLIDAYS.....	36
ARTICLE 27.	SICK LEAVE	37
ARTICLE 28.	FUNERAL LEAVE.....	41
ARTICLE 29.	DUTY DISABILITY - INJURY LEAVE	41
ARTICLE 30.	PARTIALLY DISABLED EMPLOYEES - LIGHT DUTY	44
ARTICLE 31.	COMPENSATION DURING PAID LEAVE	45
ARTICLE 32.	LEAVES OF ABSENCE	46
ARTICLE 33.	WORK SCHEDULE	48
ARTICLE 34.	REPORTING	50
ARTICLE 35.	MISCELLANEOUS PROVISIONS.....	50
ARTICLE 36.	DISCIPLINE AND DISCHARGE.....	52
ARTICLE 37.	GRIEVANCE PROCEDURE	54
ARTICLE 38.	PAYROLL DEDUCTION OF DUES AND FEES.....	59
ARTICLE 39.	SEVERABILITY, SAVINGS, AND AMENDMENTS.	61
ARTICLE 40.	WAIVER AND NOTICE.....	62
ARTICLE 41.	OTHER CONDITIONS	63

ARTICLE 42.	ENTIRE AGREEMENT	63
ARTICLE 43.	PENSION CONTRIBUTION.....	63
ARTICLE 44.	SHIFT ASSIGNMENT	64
ARTICLE 45.	SHIFT DIFFERENTIAL	66

ARTICLE 1. PREAMBLE

This Agreement is entered into by and between the City of Pueblo, hereinafter referred to as the "Employer" or the "City," and Local 537 of the International Brotherhood of Police Officers, hereinafter referred to as the "Union."

It is the purpose of this Agreement to maintain harmonious relations between the Employer and the Union; and to provide for equitable and peaceful adjustment of differences which may arise and to establish proper standards of wages, hours, and other conditions of employment.

ARTICLE 2. TERM OF AGREEMENT

This Agreement shall be effective January 1, 2025, and all of its provisions shall remain fully effective through December 31, 2025, and may be extended by the City for two (2) successive one (1) year terms.

The decision to extend the term of this Agreement shall be made by the City Council on or before the 1st day of June 2025, or 2026, whichever the case may be. The extended term shall be upon the same terms and conditions, except that wages during each extended term shall be as provided or otherwise determined pursuant to Article 16 of the Agreement. If the City Council shall fail to extend the term of the Agreement as stated above, then either party may commence negotiations for a successor agreement by serving notice pursuant to the City Charter on or before June 21, 2025, or June 21, 2026, as the case may be.

ARTICLE 3. RECOGNITION

The City recognizes the Union as the sole and exclusive bargaining agent of all certified peace officers in the classified service of the Police Department employed by the

City of Pueblo, with the exception of Captains, Majors and any other equivalent or higher class for the purpose of negotiating with the City with respect to wages, rates of pay, hours, grievance and disciplinary procedures which may result in arbitration, working conditions, and all other terms and conditions of employment of the Police Officers included in the bargaining unit as provided by Charter.

ARTICLE 4. MANAGEMENT RIGHTS

4.1 The Union recognizes the prerogatives of the City to operate and manage its affairs in all respects in accordance with its authority, discretions, responsibilities, and powers of authority as set forth under the Constitution and laws of the State of Colorado and the Charter of the City of Pueblo.

4.2 Except as otherwise specifically provided herein, the management of the City, the direction of the work force, including, but not limited to, the right to hire, to discipline or discharge for just cause, to decide job qualifications for hiring and promotion, to evaluate job performance for any employment-related purpose, to lay-off, to establish or abolish positions, to make rules and regulations governing conduct and safety, to determine the mission of the City and the means and methods by which it is to be achieved, to determine schedules of work, to subcontract work, together with the right to determine the methods, processes and manners of performing work, are vested exclusively in the City.

4.3 This Agreement, shall, in all respects, wherever the same may be applicable herein, be subject and subordinate to the provisions of the Charter of the City of Pueblo. This Agreement is further subject and subordinate to all applicable statutes, constitutional provisions, and any revisions, amendments or newly adopted provisions of

said statutes, Charter or constitutional provisions, as may hereafter be enacted.

4.4 During any period of an Emergency as defined by this Section, the Mayor may suspend any provision of this Agreement as may be reasonably appropriate to timely and effectively fulfill the function of the Department of Police under Section 10.2, City Charter, including without limitation those provisions regarding: City's ability to determine employee work schedules and hours of work; notice periods for changes in work schedules and work hours; seniority requirements for distribution of overtime or on-duty work; and restrictions on assignment or reassignment. For the purposes of this Section, an "Emergency" shall mean the time period covered by a declared state of civil emergency under §11-5-3, P.M.C., or whenever thirty percent (30%) of the Authorized Staffing is unfilled or unavailable for work other than by reason of being absent from duty due to an authorized vacation. For the purposes of this section, Authorized Staffing means the number of certified peace officer positions, including entry level peace officers, established by the annual staffing ordinance, as amended, less any vacancies held open under § 6-8-5, P.M.C. The following condition precedents shall occur before the Mayor exercises the authority under this section:

- (a) The City Council shall approve the Mayor's decision to exercise the authority under this section by passage of an emergency ordinance pursuant to Section 3.20, City Charter. Notwithstanding any provision of this Agreement to the contrary, the duration of such authority shall be set forth by said ordinance for a period not to exceed sixty (60)

days and may not be extended except by passage of a subsequent emergency ordinance pursuant to Section 3.20, City Charter; and

- (b) The Chief of Police or designee shall meet and confer with the Union President or designee prior to presentation to the Mayor and passage of such ordinance by City Council.

The Chief of Police or designee shall meet and confer with the Union President or designee at least once every thirty days after passage of such ordinance.

ARTICLE 5. DISCRIMINATION

The Employer and the Union recognize that they are bound by State and Federal law prohibiting discrimination against any Employee because of the Employee's race, color, religion, sex, sexual orientation, ancestry, national origin, disability, engagement in lawful activities pursuant to C. R. S. § 24-34-402.5, age (as variously defined) or handicap. Additionally, the parties recognize the Charter provisions prohibit certain discrimination on the basis of politics and political affiliation.

ARTICLE 6. UNION BUSINESS LEAVE

Members of the Union as may be elected or designated as officers, stewards or members of the negotiating committee, to represent the Union shall be granted leave from duty, with no loss of pay, under the following terms and conditions during the term of this Agreement:

6.1 It is understood and agreed that although police officers may be paid while on Union business leave, they are not to be considered as being within the scope of their employment while travelling to, attending, or returning from, any meeting or convention.

6.2 The Union shall select not more than ten (10) Union Stewards whose names shall be furnished to the City and the Chief. Stewards shall, to a reasonable extent, be allowed duty time for the purpose of processing and discussing grievances. For each grievance, only one (1) Steward at any given time shall be allowed duty time in accordance with this Section.

6.3 Members of the Union's negotiations committee, not to exceed three (3), shall be granted leave from duty with no loss of pay or benefits for all meetings between the City and the Union for the purpose of negotiating directly or indirectly the terms of a successor Agreement.

6.4 EXECUTIVE BOARD. Elected officers of the Local to-wit: President, Vice-President, Secretary and Treasurer or members of the Executive Board, shall be granted Union Business Leave to attend meetings of the Union, within the City of Pueblo, if said meetings occur during a regular shift of those attending. The aggregate maximum of off duty shifts for all Officers and Executive Board members allowed under this Agreement shall not exceed thirty (30) per calendar year. It is understood that those officers granted Union Business Leave under this Section shall be on call during attendance at such Union meetings. An elected officer of the Union shall be granted Union Business Leave from duty, upon his request, when his performance of duties for the Union by attendance at arbitration or participation in collective bargaining have significantly reduced his ability to perform his regular duties.

6.5 The privileges granted herein shall not be abused, or unreasonably exercised.

6.6 Union officers and stewards using paid Union Business Leave shall notify their supervisor when leaving duty and when reporting back to duty.

ARTICLE 7. RULES AND REGULATIONS

The Union agrees that its members shall at all times be bound by and comply with all Police Department rules and regulations, as same may be amended from time to time, including those relating to conduct and work performance. Such rules and regulations shall not be in conflict with applicable Colorado or federal law or the express terms of this Agreement.

ARTICLE 8. STRIKES

8.1 Employees in the bargaining unit are prohibited from engaging or participating in any strike, work stoppage, work slowdown, or mass absenteeism involving employees of the City of Pueblo or the City of Pueblo.

8.2 The Union agrees not to engage in such action nor to encourage or condone or participate in any such activity by employees in the bargaining unit.

8.3 Nothing contained herein shall be construed to affect the right of the City to enforce this Article through judicial process.

ARTICLE 9. SAFETY

9.1 The City agrees to establish a safety committee consisting of at least two (2) representatives of the Union and two (2) representatives of the Command Staff of the Police Department.

9.2 The safety committee will consider and make recommendations to the Police Department concerning matters affecting the safety of police officers, including, but

not limited to: the design and equipment of police vehicles, safety improvements to vehicles, chase procedures and design and utilization of police equipment.

9.3 The safety committee shall convene within a reasonable time after a request for a meeting by a member of the committee. Any request must indicate in writing the subject to be taken up at the meeting. The City or the Union will submit a written response on matters raised by the other party within ten (10) days after the meeting.

9.4 If feasible, within the budget and administrative control of the Police Department, department personnel will implement recommendations of the safety committee. If within control of the Union, the Union will cause to be implemented the recommendation of said committee.

9.5 When a police officer has reasonable grounds to believe that his assigned vehicle is unsafe, he may request an immediate inspection by his supervisor, and submit a written complaint, if desired.

ARTICLE 10. TRAINING

10.1 The City shall provide such in-service training in matters relating to police duties and obligations as the City, in its sole discretion, deems necessary and desirable. A minimum level of 40 hours training per year is deemed desirable, but not mandatory, by the parties. Training may include activities other than classroom training related to an officer's duty assignment.

10.2 Whenever the Chief receives notice of any special training school in the law enforcement field, he shall place a copy of it in the Police Union Box or some similar designated place at the Pueblo Police Department Building, 200 South Main Street, Pueblo,

Colorado, utilized in transmitting written communications from the Police Department to the Union. Any police officer desiring to attend such school may apply to the Chief in writing for permission to do so. The Chief has the right to send or not to send any officer to such school and to select which officer (if any) will attend the school.

10.3 The City recognizes its responsibility to maintain requirements for firearms training and practice.

10.4 The City shall make available ammunition at its expense for any City mandated firearm training and practice. Additionally, for the purpose of practice, the City shall provide to each sworn officer fifty (50) rounds of handgun ammunition (of the appropriate caliber each officer carries in his or her duty weapon) quarterly and twenty (20) rounds of rifle or carbine ammunition of the appropriate caliber, quarterly, for each officer who qualifies to use a long gun on duty.

10.5 The Union may make recommendations to the Chief of Police concerning in-service training matters. The failure of the Chief of Police to implement such recommendations shall not initiate grievance or arbitration procedures under this Agreement.

ARTICLE 11. TRAINING OFFICER

Police Training Officers in the Operations Bureau working a 4 by 10 work schedule shall be selected by the City based upon the City's judgment relative to experience, knowledge and ability to effectively supervise and train. Such officers shall receive the sum of twenty-five dollars (\$25.00) for each work shift during which they perform duties as a Police Training Officer.

ARTICLE 12. EDUCATIONAL INCENTIVE

12.1 Upon recommendation of the Chief and after prior written approval of the Mayor, the City of Pueblo shall reimburse a permanent, full-time employee upon successful completion of an approved course or courses in educational or vocational training. The course for training must be related to the work, be designed to improve competence in the job, and be of value to the employee's services to the City. The amount to be reimbursed shall be seventy-five percent (75%) of the actual cost of tuition, fees and books actually paid for by the employee. If an employee is laid off during a period of time he is attending school, such employee shall receive the reimbursement on a pro-rata basis to the date of such lay-off.

12.2 In addition to any other compensation to which a police officer may be entitled, each officer shall receive an annual education incentive in accordance with the table set forth below, provided that the officer has at least one year of service with the City of Pueblo, that officers initially hired on or after January 1, 1996, are not eligible to receive any education incentive at the thirty semester hours level and that the other conditions of this Article are met:

- 30 semester Hours - \$200.00;
- Associate Degree - \$400.00;
- Bachelors Degree - \$600.00;
- Masters Degree - \$800.00.

Laid off employees eligible for the above compensation shall receive a pro-rata payment for that portion of the year in which they are laid off.

12.3 Educational incentive will only be paid to officers whose education is related to law enforcement work. Additionally, it is the responsibility of the officer to advise the City of the level of payment to which he is entitled and to present substantiation of the completed course work for which he claims credit. An employee shall be paid only the amount of money listed for the highest of the levels he attains listed in Section 12.2.

ARTICLE 13. UTILIZATION OF SPECIAL SKILLS

The City recognizes that certain police officers, by their own initiative, may have obtained special skills and knowledge applicable to law enforcement work. Police officers possessing such special skills and knowledge must advise the Chief in writing of their possession of such special skills and knowledge and the manner in which they were obtained. The City reserves the right, if it is in the City's best interest, to utilize such special skills and knowledge. Officers assigned as SWAT Officers shall be paid one hundred dollars (\$100.00) for each month in which such officers respond as SWAT Officers to a SWAT call-out. Officers assigned as Ordnance Technicians shall be paid one hundred dollars (\$100.00) for each month in which they are required to respond as Ordnance Technicians to remove or dispose of a suspected explosive or incendiary device. Officers who are designated as "bilingual officers" by the Chief of Police will be paid an additional fifty dollars (\$50.00) per month. In order to be designated as a "bilingual officer," an officer must meet the competency level required by the City in the language designated by the City. In order for an officer to be called upon to act as a translator, the officer must be a designated "bilingual officer."

ARTICLE 14. APPOINTMENTS

14.1 All entrance appointments shall be probationary from the date of hire until one year following the date of graduation from the Police Academy. Appointees who are probationary employees for greater than one year shall be eligible for annual advancement in pay grade provided such employee's service has been determined by the Chief of Police to be satisfactory. All promotional appointments shall be probationary for a period of six (6) months.

14.2 The following minimum service requirements with the City of Pueblo shall be prerequisite to Civil Service Commission Police Department Promotional Examinations.

14.2.1 RESERVED

14.2.2 For sergeant, four (4) years total service since the last date of hire as a police patrol officer or corporal;

14.2.3 For captain, two (2) years service as a sergeant since the last date of promotion.

14.2.4 For the purpose of this Article, periods of time during which an employee is off work or reduced in class due to a reduction in force, shall not constitute service. However, reinstatement subsequent to such a reduction in force shall not constitute a new date of hire or promotion hereunder.

14.3 If a position is not filled through reinstatement, demotion or re-employment the City shall fill the position from a civil service eligible list in the following manner:

(a) The Director shall forward a copy of the appropriate class

specification to the Civil Service Commission, with a request for certification of the names of the five (5) highest ranking persons on the appropriate eligible list.

(b) The Director may also request from the Commission further information relating to the persons certified and to their application, examination or certification process.

(c) If any person so certified fails to accept appointment to the position, that person shall be removed from the list and the name of the person next highest on the appropriate eligible list shall be certified. The Civil Service Commission may retain on the eligible list the name of a person who refuses an appointment only upon that person's request and for just cause. The Director may request removal from the list of the name of a person who does not qualify for or meet a requirement of the position. The Civil Service Commission shall grant such request and certify the name of the next highest ranking eligible on the list, if the person so removed does not actually qualify or meet requirements.

(d) If more than one vacancy is to be filled from an eligible list, the Director may request certification of an additional name for the second and each subsequent vacancy.

(e) If less than five names appear or remain on an eligible list, the Mayor may either request that the Commission establish a new eligible list, or may accept a certification of less than five names.

(f) If a person certified for appointment from an eligible list is rejected or passed over twice, the Mayor may request removal of the person from that eligible list. The Civil Service Commission may deny such request upon the basis of

the person's qualifications.

(g) After a certification, the Director shall select a committee of at least three persons to evaluate the persons certified.

(h) After consultation with the involved department or bureau head and the committee, the Director shall forward the names of all persons certified and recommendations to the Mayor, who shall make the final appointment.

(i) The City shall notify each eligible certified for a vacancy of the appointment and the appeal rights available hereunder. If not appointed, the highest ranking eligible for each vacancy may appeal his rejection to the Civil Service Commission by filing a written notice of appeal within five (5) days after receipt of the notice of appointment. The Commission shall hear the appeal within five (5) days of the filing of the notice of appeal. The City and the individual appointed shall also be notified of the hearing and be given an opportunity to be heard. The person filing the appeal shall have the burden of proving that the Mayor's appointment was arbitrary, capricious or a clearly unwarranted abuse of discretion. If the Commission sustains the appeal, the appointment shall be vacated and the appellant shall be appointed to the position by the Mayor pursuant to the decision of the Commission retroactive to the date of the original appointment.

(j) The Commission shall render its decision within five (5) days after the hearing which shall be final and binding subject only to judicial review pursuant to Rule 106, C.R.C.P.

14.4 Corporals shall be appointed pursuant to this section without examination or selection pursuant to the other provisions of this article. When a vacancy in

such a position occurs, and the City decides to fill such vacancy, the person with the greatest continuous length of service as a patrol officer shall be appointed to such position. For the purpose of this Article, it will be understood that Corporal is a pay grade and not a rank.

14.5 All promotional appointments shall be probationary for a period of six (6) months. If the Chief of Police determines that an employee during such period has not fulfilled the requirements of the position, he may demote such employee to his former position. Such demotion shall be subject to appeal to the Civil Service Commission pursuant to the ordinances and Charter of the City and shall be sustained unless the Commission, after hearing, determines the action of the Chief constituted an abuse of discretion. Such a demotion shall not be subject to grievance and arbitration under this agreement.

14.6 Initial compensation of a Police Patrol Officer who is currently certified as a peace officer and has prior service as a peace officer in another jurisdiction may be approved by the Mayor at a rate higher than the minimum rate in the salary schedule and equivalent to the years of such service; provided, however, such rate shall not exceed the pay level in step 5 of the salary schedule for Police Patrol Officer. Any such approval shall be at the sole and absolute discretion of the Mayor and not otherwise subject to the grievance and arbitration procedures of the Agreement. Notwithstanding any provisions of the ordinances of City to the contrary, including Section 6-5-5(a), P.M.C., no other employee's rate of pay shall be adjusted because of any such approved rate of higher initial compensation. In addition, any such approved rate of higher initial compensation shall not in any manner change or be construed to increase such employee's seniority.

ARTICLE 15. REDUCTION IN FORCE

15.1 A reduction in the number of police officer positions in any class shall be made in the following order:

Part-time

Probationary

Permanent

15.2 Probationary and permanent police officers shall be laid off in reverse order of their seniority in the class being reduced.

15.3 A laid off employee shall have the right to displace an employee in a lower class with less seniority based on the total length of continuous service with the Police Department. Displacements shall be made and determined simultaneously as of the effective date of any reduction in force, but after all reductions in force are made under Section 15.2 hereof.

15.4 Prior to the effective date of any reduction in force under this Article, the City will meet with a representative of the Union to discuss and consider possible alternatives to, and the impact of, the reduction in force, but the parties recognize that any proposals offered by the Union within this context shall relate only to mandatory subjects of bargaining. The failure of any party to reach agreement on any matter raised at a meeting held pursuant to this section shall not be indicative of bad faith, nor shall such failure initiate the grievance or arbitration procedures under this Agreement.

15.5 A laid off employee or an employee who has been displaced by a more senior employee pursuant to Section 3 of this Article, shall have available to him reinstatement rights to any interim class, whether previously held or not, based on total

department seniority, until he returns to the class he held immediately prior to the reduction in force, before any other method is used to fill any vacancies in such interim classes.

ARTICLE 16. SALARY

Effective January 1, 2025, the monthly pay rate for each pay grade in the Police Patrol Officer classification shall be increased by 7.0 % over the amount set by Ordinance establishing the 2024 pay levels.

Effective January 1, 2025, the monthly pay rate for each pay grade in the Sergeant classification shall be increased by 10.0 % over the amount set by Ordinance establishing the 2024 pay levels.

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2026 through December 31, 2026, wages for the extended term shall be adjusted as follows:

(a) The monthly pay rate for each pay grade in the Police Patrol Officer classification shall be increased by the average of the annual percentage increase in the rate of pay of the top pay grade of the Police Patrol Officer classification in the Comparison Cities over the amount set by Ordinance establishing the 2025 pay levels.

(b) The monthly pay rate for each pay grade in the Sergeant classification shall be increased by the average of the annual percentage increase in the rate of pay of the top pay grade of the Sergeant classification in the Comparison Cities over the amount set by Ordinance establishing the 2025 pay levels.

(c) For the purposes of the foregoing calculation, “annual percentage increase” shall be based upon the annual increase in the rate of pay for year 2026, if known and established on or before April 15, 2025, or year 2025 otherwise.

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2027 through December 31, 2027, wages for the extended term shall be adjusted as follows:

(a) The monthly pay rate for each pay grade in the Police Patrol Officer classification shall be increased by the average of the annual percentage increase in the rate of pay of the top pay grade of the Police Patrol Officer classification in the Comparison Cities over the amount set by Ordinance establishing the 2026 pay levels; provided, however, that either party may exercise the right to reopen this Article 16 on or before June 21, 2016 for purposes of discussing such increase and any potential adjustment to such increase.

(b) The monthly pay rate for each pay grade in the Sergeant classification shall be increased by the average of the annual percentage increase in the rate of pay of the top pay grade of the Sergeant classification in the Comparison Cities over the amount set by Ordinance establishing the 2026 pay levels; provided, however, that either party may exercise the right to reopen this Article 16 on or before June 21, 2026 for purposes of discussing such increase and any potential adjustment to such increase.

(c) For the purposes of the foregoing calculation, “annual percentage increase” shall be based upon the annual increase in the rate of pay for year 2027, if known and established on or before April 15, 2026, or year 2026 otherwise.

For purposes of this Section, “Comparison Cities” shall mean the following cities in the State of Colorado determined in accordance with §8-14(i)(b) of City Charter: Arvada, Aurora, Colorado Springs, Denver, Fort Collins, Lakewood, Thornton and Westminster.

ARTICLE 17. OVERTIME COMPENSATION

17.1 Police officers shall be compensated for authorized overtime work at the rate of time and one-half. Such overtime shall be paid for all hours worked in excess of forty (40) hours in a workweek. With the exception of compensatory time off, vacation and paid personal leave actually taken, paid hours not actually worked shall not be counted as hours worked for purposes of calculating and paying overtime compensation. There shall be no duplication or pyramiding of overtime pay and employees shall not be paid more than once, for more than one reason or under more than one provision of this Agreement for the same hours worked.

17.2 Upon his request, a police officer may be granted by the Chief, compensatory time off with no loss of pay or benefits in lieu of cash compensation for overtime. Whether or not compensatory time off is allowed to accrue, in lieu of overtime pay, shall be at the sole and absolute discretion of the City.

17.3 A police officer who is called back to work after the completion of his regularly scheduled shift, and before the start of his next regularly scheduled shift, shall be paid at the appropriate overtime rate for a minimum of two (2) hours for such call back, unless such call back is to complete evidence records that should have been completed during his regularly scheduled shift or to correct errors in reports filed by him during his regularly scheduled shift. An officer who receives such a call one and one half hours, or more, before the start of his next regularly scheduled shift shall be entitled to the minimum payment or his overtime compensation for the actual hours so worked, from the time of the call, whichever is greater. If the officer is called less than one and one half hours

before the start of his next regularly scheduled shift, he shall be entitled to compensation, at his overtime rate, only for the actual time worked, commencing at the time of the call. Officers called back for such purpose (correct records or errors) shall be paid overtime only for those hours actually worked during such call back. However, no officer shall be called back to complete or correct evidence records or reports unless such call back is reasonably necessary to the processing of an on-going investigation. A police officer who is requested to report early or to remain after a regularly scheduled shift, and such time is contiguous with the regularly scheduled shift, shall not be considered to be on call back.

17.4 Except upon twenty-four (24) hours notice, and when required by unusual manpower needs, no police officer's regular work schedule shall be changed for the purpose of avoiding the payment of overtime.

17.5 The City has the right to require overtime to be worked as necessary; provided, however, the City shall solicit volunteers for any of the following assignments outside of the prescribed work schedule of a police officer, which assignments shall, for purposes of reference herein, be identified as "voluntary overtime assignments" even though same may not result in overtime pay under the above Section 17.1:

A. *Extra Duty* is voluntary overtime assignment for the benefit of a third party which requires the services of police officers and pays fees to the City for such services.

B. *Special Assignment* is voluntary overtime assignment for other than regular patrol duty, for such assignments as providing security for special events or persons, providing traffic safety for road construction projects, underage drinking and grant duties that exceed the capabilities of the specialized unit administering the grant.

C. *Regular Patrol* is voluntary overtime assignment for a full shift, filling in for a Patrol Officer, Corporal or Sergeant position on one of the patrol watches.

D. *Major Parade* duty is voluntary overtime assignment for parades such as the Fiesta Parade, State Fair Parade or the Festival of Lights.

17.6 Lists shall be created for those officers who desire to be eligible for voluntary overtime assignments. With respect to each list, officers shall provide one telephone contact number capable of receiving text messages by which they shall be contacted for voluntary overtime assignments. When the overtime list is used, the City will text all the numbers on the appropriate overtime list with information regarding when the overtime is to occur. Officers on the list will have one hour in which to contact the originating Sergeant or Captain to indicate they are willing to accept the overtime. The officer who responds to the request and is highest on the list will be granted the overtime. Once an officer is selected, the officer shall be rotated to the bottom of the applicable list. Officers must respond within one hour of the text to be considered.

Subject to the requirements of this Section, lists required by this Agreement and in existence at the beginning of the term of this Agreement shall continue in effect. Any officer who subsequently provides a qualifying telephone number in the manner above noted shall be placed at the bottom of the applicable list as it exists on the date of receipt of the e-mail. A copy of each list shall be served upon the Union President by electronic mail on an annual basis.

17.7 For extra duty overtime assignments, there shall be a single list upon which Patrol Officers, Corporals and Sergeants may place their names.

17.8 For special assignment voluntary overtime duties there shall be one list upon which Patrol Officers and Corporals may place their names, with the exception of DUI enforcement assignments, for which a separate list shall be created and will be administered in accordance with the rules outlined in Section 17.6 regarding selection for assignments.

17.9 For regular patrol voluntary overtime assignments there shall be six (6) lists. There shall be a Sergeant list for each start time and a Patrol Officer/Corporal list for each start time with the officer signing up for the watch(es) he or she is willing to work if called for overtime.

17.10 For major parade voluntary overtime assignments sign-up lists shall be circulated through the Police Department's email system and the assignment shall be assigned on a first come, first serve basis. If insufficient Patrol Officers and Corporals sign up, then the sign up list may be circulated a second time for Sergeants.

17.11 When the need for overtime in patrol is determined during the shift prior to the vacancy, the City shall ask for volunteers for such assignment from among those officers then working patrol. If there are more such volunteers than positions available, the positions shall be allocated upon the basis of departmental seniority. If there are an insufficient number of volunteers, the City shall utilize the appropriate voluntary overtime list. With respect to overtime assignments which cannot be filled voluntarily after utilizing the appropriate voluntary overtime list, the City shall maintain and utilize a separate list of officers ranked in order of seniority for each shift ("Forced Overtime List"). Selection shall be made as equally as practical among officers on the shift prior to the shift in which

the vacancy shall occur according to least seniority; provided, however, any officer on said shift may volunteer to accept the overtime assignment although the City shall have no obligation to solicit such a volunteer. Once an officer is selected, such officer shall be rotated to the bottom of the list. An officer who volunteers for selection shall be rotated to the bottom of the list just as any other selection. To the extent reasonably practical, the City shall provide one hour advance notice to an officer selected for the assignment on a non-voluntary basis. The failure to provide such notice, however, shall not be subject to the grievance and arbitration procedure of the Labor Agreement. The City may bypass an officer when the City reasonably believes, based upon the total hours previously worked by the officer, that such selection would not be in the best interest of the City. On January 1, April 1, July 1, and October 1 of each calendar year of this Agreement, the Forced Overtime List shall be reset and adjusted in order of seniority for each shift so that the least senior officers are at the top of the list and the most senior officers are at the bottom of the list.

17.12 The parties recognize that an employee's performance of duty during a voluntary overtime assignment is subject to all the requirements normally applicable to officers in such positions and that he/she may be subject to discipline for just cause.

17.13 Reserved.

17.14 Requests for the use of accrued comp time shall be granted if they are filed with the designated representative of the City at least seven (7) days prior to the start of such leave; provided, however and notwithstanding any provision of this Agreement to the contrary, requests for use of accrued comp time for any holiday or the day of the NFL

Super Bowl and the day preceding and following such dates must be filed at least 30 days but not more than 45 days in advance and must not create an undue disruption. In the event there are multiple competing request for one or more slots for which comp time may be granted, such competing requests shall be approved on a first in time basis, i.e. first come first served. It is understood and acknowledged that use of accrued comp time for any holiday or the day of the NFL Super Bowl and the day preceding and following such dates has historically created an undue disruption for the Department, and as such, any denial of the request to use comp time on such dates whether based upon its untimeliness or because it creates an undue disruption shall not be subject to the grievance and arbitration procedure of this Agreement.

17.15 Requests for the use of comp time filed less than seven (7) days prior to the proposed leave shall be reviewed by the officer's Captain and shall be granted if said Captain finds that circumstances reasonably allow for such leave.

17.16 The granting of comp time leave for an officer shall not cause the cancellation of previously approved personal day or vacation leave for any other officer.

17.17 A request for personal day leave or vacation leave (other than that which is predetermined through the annual sign-up process) shall be granted or denied within seven (7) days of the filing of such a request.

17.18 Except for requests with respect to use of accrued comp time for any holiday or the day of the NFL Super Bowl and the day preceding and following such dates, no request for any type of leave will be accepted if submitted more than thirty (30) days in advance. Provided, however, requests for leave may be submitted more than thirty (30)

days in advance for the purpose of scheduling events or travel that reasonably require more substantial advance planning. Such early leave requests shall be submitted with a memorandum of explanation and shall not be unreasonably denied.

ARTICLE 18. RATE OF PAY AND APPOINTMENT TO TEMPORARY DUTY IN A HIGHER CLASS

18.1 General Requirements. When an employee is assigned to work in a higher classification for a period of one hour or more, the employee shall be paid one hundred percent (100%) of the difference in pay between his normal class and the class in which he is acting for the actual period of such service. The methodology for appointment to temporary duty in a higher class shall be that found at Section 6-5-7(d) of the City Ordinances in effect on August 1, 1981, provided the Chief may first make such assignment from reinstatement lists, and provided further that employees serving a promotional probationary period shall not be eligible for work in a higher classification and provided finally that the names of officers so appointed are from a list in the appropriate working unit of employees who have indicated their willingness to accept such appointments without restriction regarding the duty assignment of the higher position; and for temporary appointment to acting Captain duties, Sergeants shall have their seniority calculated from their last appointments as Sergeants. An officer assigned to such a higher class shall remain in such temporary assignment until the end of the work shift or until he or she is relieved of such step-up duty by an officer holding the higher rank, whichever comes first. Officers who are willing to accept and work a position, temporarily, in a higher classification shall submit their names to the appropriate Watch Commander at the beginning of the year. Officers who have been disciplined within the last year, defined as a Letter of Reprimand or

greater, are not eligible for step-up to a higher classification for a period of one year after imposition of the discipline.

Watch commanders are cognizant of the span of control, and will use reasonable efforts to fill vacant Sergeant positions.

18.2 Captains. The methodology for appointment to temporary duty in the classification of Captain shall, in addition to the general requirements in Section 18.1, be subject to the following specific requirements:

(a) The most senior Sergeant on duty by regular assignment shall be selected for appointment to temporary duty in the classification of Captain. If no such Sergeant is on duty, the most senior Sergeant on duty by voluntary or forced overtime assignment shall be selected for appointment to temporary duty in the classification of Captain. Any such appointment shall be herein referred to as the "Initial Step Up Captain"; and

(b) Such temporary assignment as acting Captain shall continue until the earliest of the following events:

(i) A Captain relieves the Initial Step Up Captain;

or

(ii) The duty assignment of the Initial Step Up Captain ends.

(c) In no event will a corporal or patrol officer ever be assigned as acting Captain without the authorization of the Chief of Police.

(d) In no event will the City assign an employee to work in the higher classification of captain when there is at least one captain on duty in the Operations Bureau without the authorization of the Chief of Police.

18.3 Sergeants. The methodology for appointment to temporary duty in the classification of Sergeant shall, in addition to the general requirements in Section 18.1, be subject to the following specific requirements and clarification:

(a) The most senior corporal or patrol officer on duty by regular assignment only and not by voluntary or forced overtime assignment, shall be selected for appointment to temporary duty in the classification of Sergeant (the “Acting Sergeant”); and

(b) Such temporary assignment as Acting Sergeant shall continue until the earliest of the following events:

(i) An actual Sergeant relieves the Acting Sergeant; or

(ii) The regular duty assignment (watch/shift) of the Acting Sergeant ends.

(c) For purposes of clarification for this Section 18.3, a “watch” shall be considered equivalent to a “shift” as that term is used in Section 6-5-7(d) of the City Ordinances and as referred to in Article 18 of the CBA between the parties.

(d) In the event that a Sergeant position starts at a different time from the start time of the rest of that Sergeant’s watch, the vacancy shall be deemed to have occurred on that Sergeant’s watch – not a different watch. Example: Patrol Watch 3 Sergeant normally begins one-half (1/2) hour prior to the beginning of the rest of Watch 3. If that Watch 3 Sergeant is absent and a Corporal or Patrol Officer is Stepped Up, then the Stepped Up Corporal or Patrol Officer shall be made on Watch 3 and not from Watch 2 – even though the vacancy occurs during Watch 2’s normal watch or shift time.

ARTICLE 19. COURT TIME

All required time spent by a police officer in judicial proceedings arising out of his

employment shall be considered authorized overtime work if it occurs at any time other than during such officer's scheduled duty hours. Such court time shall be compensated at the rate of time and one-half in cash for a minimum of two hours. If a police officer is required to participate in such judicial proceeding or hold himself available for such participation during the period of time commencing with the next calendar day following the officer's last work day, prior to a period of vacation and ending with the day before the officer's first work day after a period of vacation, such officer shall have the option of receiving cash payment at the rate of time and one-half or receiving cash payment at the rate of one-half time and one vacation day added to his accrued vacation credit for each day participating in such judicial proceedings or waiting for such proceedings. Officers who receive a subpoena for appearance at a judicial or administrative proceeding and later request or schedule a personal holiday or vacation day on the date for which they have been subpoenaed shall not be entitled to restoration of a vacation day or holiday. Provided, however, court appearances on regularly scheduled days off, immediately adjacent to a period of vacation of one shift or less, shall entitle the employee only to a cash payment at the rate of time and one-half. The option hereinabove set forth shall be applicable to even one vacation day. When a police officer on injury leave or sick leave is required to participate in a court related proceedings as outlined herein, such participation shall be construed to have occurred during a period of time that would fall within the officer's regular work schedule. In no event shall an officer be paid more than time and one-half for Court time under this Article.

ARTICLE 20. RESERVED

ARTICLE 21. UNIFORM ALLOWANCE

21.1 On and after January 1, 2024, each Police Officer covered by this Agreement shall be credited with Eight Hundred Dollars (\$800.00) annually ("Annual Credit") which will be placed into an account with the Police Department approved vendor for the purchase of uniforms and equipment as may be prescribed by the regulations of the Police Department ("Required Uniforms"). The Annual Credit shall not be provided to any entry level Police Officer who has not successfully completed the Police Training Office Program prior to the first of January of the year of the Annual Credit. The Annual Credit shall not be available until February 1 of the year of the Annual Credit. The Department reserves the right to require officers to purchase a quantity of specific uniform items not to exceed Eight Hundred Dollars (\$800.00), depending on assignment, each year with this money. Repair and replacement of Required Uniforms shall be subject to regulations of the Police Department. Any unused portion of the annual credit shall expire at the end of the year of the Annual Credit.

21.2 On or after July 2, 2023 and as soon as a vendor is selected by City based on current Request for Proposal, each Police Officer covered by this Agreement shall be credited with Four Hundred Dollars (\$400.00) ("2023 Credit ") which will be placed into an account with the Police Department approved vendor for the purchase of uniforms and equipment as may be prescribed by the Required Uniforms. Use of funds shall be subject to the same limitation set forth in above Section 21.1. Any unused portion of the 2023 Credit shall expire December 31, 2023.

21.3 Police Officers hired after July 1, 2023, will have their initial Pueblo Police Academy required uniform items purchased by the City, and prior to graduation, such

Officer's duty equipment will be issued at no cost to the employee.

21.4 On and after January 1, 2024, each Police Officer covered by this Agreement shall receive an annual allowance of Four Hundred Fifty Dollars (\$450.00) for drycleaning, minor maintenance, and non-uniform clothing items based on the Police Officer's assignment. In the event such employee leaves the service of the City during the ensuing year, the sum of Thirty Seven Dollars and Fifty Cents (\$37.50) shall be deducted from such employee's final salary payment for each month remaining in that calendar year.

ARTICLE 22. AUTOMOBILE ALLOWANCE

A police officer who is required and specifically authorized by the Chief to operate his personally owned automobile in conduct of City business shall be paid mileage at the allowed, standard mileage rate, deductible as a business expense under the Internal Revenue Code for such travel. No Police Officer shall be required to use his personally owned automobile on stakeout detail or for any similar purpose.

ARTICLE 23. INSURANCE

23.1. Health insurance shall be as provided or otherwise determined pursuant to the August 26, 2019 Self-Funded Health Benefit Plan Amendment to the Labor Agreement, a copy of which is attached hereto, labelled Exhibit A and incorporated herein: provided, however, subsection 1.b. shall be amended to read as follows:

Premiums and Contributions. Premiums shall be determined by City based upon the recommendation of City's insurance broker consultant, the plan design chosen pursuant to above Subsection 1.a., and the funding level acceptable to City. Employees who are eligible and select an offered plan shall pay the cost of any

applicable premium by payroll deduction subject to the contributions herein provided. The City shall pay 95% of the actual premium for an individual policy per month but not to exceed \$933.49. The City shall pay 78% of the actual cost of a premium toward the cost of a single plus spouse, single plus child or children or family policy per month for employees but not to exceed \$1,647.57 with respect to a single plus spouse plan or \$1,498.92 with respect to a single plus child or children plan or \$1,929.23 with respect to a single plus family plan ("Contribution Cap"). The Contribution Cap applicable to each coverage tier, i.e. individual, single plus spouse, single plus child or children or family coverage tier, shall be increased by fifty percent (50%) of any increase between the HMO Tier 1 premium for such coverage tier in the current year and the recommended HMO Tier 1 premium for such coverage tier in the subsequent year. If the employee elects coverage under a PPO option, if offered, the City's contribution to payment for such PPO shall be in the same dollar amount as if the employee had elected coverage under the HMO Tier 1 option for the same coverage tier. If an employee elects coverage under a high deductible health plan with Health Savings Account ("High Deductible HSA"), if offered, the City's monthly contribution for the High Deductible HSA shall be One Hundred Dollars (\$100.00) per month less than monthly contribution required for the City's HMO Tier 1 plan, at the same coverage tier, and the City will contribute Sixty Six Dollars and 67 Cents (\$66.67) per month to each employee's health savings account under such High Deductible HSA.

23.2. The City will pay up to twenty-five dollars (\$25.00) per month toward the full

cost of individual or family dental coverage. The City will provide a dental plan with no deductible.

23.3. Police officers who retire or are laid off during the term of this Agreement may retain the insurance coverage provided for herein by assuming the full cost of the premiums for such insurance.

23.4. If a police officer is killed in the line of duty, the City shall pay the full cost of health insurance and dental coverage for the employee's surviving spouse and children. Such payments for the surviving spouse will end two (2) years after the employee's death or upon the spouse's remarriage, whichever occurs first. Payments for a child will end two (2) years after the employee's death or upon the child reaching the age of nineteen (19) years, whichever occurs first.

ARTICLE 24. MILITARY LEAVE

Any permanent employee who presents official orders requiring his attendance for a period of training or active duty as a member of the United States Armed Forces shall be entitled to military leave for a period or periods not to exceed a total of six months in any consecutive two years, and he shall be entitled to full pay from the City for such period. Military leave shall be in addition to, and may not be concurrent with, authorized vacation leave. If an employee receives multiple (two or more) orders for deployment for extended periods of six (6) or more months in a three year period, the following provision shall apply to the second or subsequent deployment: Any base pay received by the employee from the military for his regularly scheduled city work days during which he is placed on military leave status, excluding additions to base pay, and travel and meal allowance, up to an amount

equal to the military leave pay provided to him by the City, shall be paid by the employee to the City.

ARTICLE 25. VACATION LEAVE

25.1 Every police officer with less than five (5) years completed continuous service with the City shall accrue vacation leave at the rate of ten (10) hours for each completed month of service.

25.2 Every police officer with more than five (5), but less than ten (10) years of completed continuous service with the City shall accrue vacation leave at the rate of twelve (12) hours for each completed month of service.

25.3 Every police officer with more than ten (10), but less than fifteen (15) years of completed continuous service with the City shall accrue vacation leave at the rate of fourteen (14) hours for each completed month of service.

25.4 Every police officer with more than fifteen (15) years of completed continuous service with the City shall accrue vacation leave at the rate of sixteen (16) hours for each completed month of service.

25.5 The vacation leave above provided shall be in addition to any and all vacation leave accrued pursuant to the provisions of Article 26 (Holidays) of this Agreement.

25.6 Credit for vacation leave may be accumulated to a maximum of twice the amount accrued annually by the particular police officer at any one time, and such leave may be granted in minimum and maximum periods as provided by the Chief, with the approval of the Mayor; provided, however, that vacation leave will not be granted in excess of credit therefor earned prior to the starting day of leave.

The Chief shall keep the necessary records of vacation leave allowance. Vacation schedules shall be worked out between the Chief and the police officers. The police officer in the classification with the longest consecutive length of service with the Department shall be given first choice, the next senior police officer second choice, and the like for succeeding conflicts, if any. Each police officer shall be assigned the dates on which he/she is required to sign for first and second vacation choices. Each police officer will be made aware of his/her selection dates by a notice attached with his/her pay check for October. Selections shall commence on November 10. If an officer fails to sign up for vacation on the assigned dates, he/she will be passed, until he/she signs the selection list. The dates should be spread out, with one officer scheduled each day in each working unit. The failure of an officer to sign for vacation on his/her assigned dates shall not be grievable pursuant to this Agreement, as long as the City maintains records showing that the notice required hereunder was attached with his/her pay check.

25.7 For the purpose of calculating accrual of vacation leave, the term "continuous service" shall mean the total number of years of completed service with the City of Pueblo in any employment capacity, without a separation from said service. Leave, suspensions, and periods of time during which a police officer is laid off due to reduction in force shall not be considered as breaking the continuous nature of his service, but neither shall such periods of time during which said police officer is laid off be included in the computation of the number of his completed years of service with the City. Any police officer who voluntarily terminates his service as a police officer and subsequently returns to duty as such shall have his continuous service counted from the date of his return.

25.8 At his written request, a police officer annually shall be paid in money the equivalent of up to eighty (80) hours of vacation time. Following submission of a written request, a Personnel Action Form ("PAF") will be generated to initiate the payment. The Police Department will keep written requests on file and the City will honor all signed forms accordingly by duly paying such vacation time, assuming sufficient vacation balance is available to the Police Officer. If the approved written request and PAF are received by the City Finance office prior to the 20th day of any month, the payment for such vacation will be issued on the date of the normal payroll distribution in the same month. If the approved written request and PAF are received by the City Finance office after the 20th day of any month, payment for such vacation time will be issued the following month. Such payments will occur on the normal payroll distribution date in accordance with the submission deadlines above in the form of a separate check. Every effort will be made to process such requests in a timely fashion. In the event of an emergency, a Police Officer may be paid the equivalent in money for such vacation leave as he is entitled to for that year, with the approval of the Mayor.

25.9 Upon separation for any reason of an employee from the service and employment of the City of Pueblo, the employee shall be paid at his regular rate of pay, immediately for the amount of accrued vacation leave standing to his credit as of the effective date of his separation. In the event of death of a police officer, such sums shall be paid to the beneficiary designated by the officer and if no beneficiary is designated to the surviving spouse of the officer. In the event there shall be no surviving spouse, then such sums shall be paid to the estate of such employee.

ARTICLE 26. HOLIDAYS

26.1 The following days are Holidays for the purposes of this Agreement:

- (a) The first day of January (New Year's Day)
- (b) The third Monday in January (Martin Luther King Day)
- (c) The third Monday in February (Presidents' Day)
- (d) The last Monday in May (Memorial Day)
- (e) The nineteenth day of June (Juneteenth Day)
- (f) The fourth day of July (Independence Day)
- (g) The first Monday in September (Labor Day)
- (h) The second Monday in October (Columbus Day)
- (i) The fourth Thursday in November (Thanksgiving Day)
- (j) The day after Thanksgiving
- (k) The twenty fifth day of December (Christmas Day)
- (l) Any day that may be designated as a holiday by proclamation of the President of the City Council.

26.2 Police Officers shall not be entitled to any Holiday benefits as such but shall receive eight (8) hours of vacation at the end of each completed year of service for each holiday heretofore enumerated.

26.3 Each employee working for the City on any election day shall be allowed such time off as is necessary to vote. Such time off shall be scheduled by the Chief. This section shall not apply to any employee whose hours of employment on the day of the election are such that there are three (3) or more hours between the time of opening and

the time of closing of the polls during which the employee is not employed on the job.

26.4 Credit for vacation leave accrued under Section 26.2 of this Article may be accumulated to a maximum of twice the amount accrued annually by the particular Police Officer at any one time.

26.5 Employees may take sixteen (16) hours of personal leave during the calendar year. Such time shall not accumulate; employees, however, may submit a written request to be paid for these sixteen (16) hours of personal leave on an annual basis. The Police Department will keep written requests on file and the City will honor all signed forms accordingly by duly paying such personal holiday time. If the approved written request and PAF are received by the City Finance officer prior to the 20th day of any month, the payment for such personal holiday will be issued on the date of the normal payroll distribution in the same month. If the approved written request and PAF are received by the City Finance office after the 20th day of any month, payment for such personal holiday time will be issued the following month. Such payments will occur on the normal payroll distribution date in accordance with the submission deadlines above in the form of a separate check. Every effort will be made to process such requests in a timely fashion.

ARTICLE 27. SICK LEAVE

27.1 Sick leave shall be accrued by each permanent full time police officer at the rate of twelve (12) hours for each month of completed full time service for the City of Pueblo to a maximum of one thousand and six hundred (1,600) hours. An employee hired on or after January 1, 1996 shall accrue sick leave at the rate of ten (10) hours for each month of completed full time service for the City of Pueblo to a maximum of one thousand

and six hundred (1,600) hours.

27.2 Paid sick leave to the extent the same is accrued and unused shall be granted to police officers in case of actual illness, injury or disability of the police officer, occurring without negligence of the police officer; or for an amount and reasons consistent with that required under the Healthy Families and Workplaces Act ("HFWA") each calendar year for illness of the employee's spouse, child, parent, parent-in-law, or member of the employee's household, subject to verification thereof. A medical certificate subscribed by the treating physician on forms supplied by the City shall be required for any absence for which paid sick leave is claimed by the employee for his own illness, injury or disability exceeding four (4) consecutive working days when such leave is covered and designated under the HFWA and three (3) consecutive working days once any leave under the HFWA has been exhausted; provided, further, the Mayor, or the Chief in any case of suspected abuse of sick leave privileges, may require such medical certificate for any absence for which paid sick leave is claimed by the employee. Requests for sick leave for an officer's last scheduled work shift before a vacation or scheduled time off, or for his first regularly scheduled work shift after a vacation or scheduled time off may be indicative of such abuse. Use or attempted use of paid sick leave benefits for any reason other than actual illness or disability shall be deemed an activity unbecoming an employee of the City. Disability caused by injury while on duty shall be compensated as otherwise provided.

27.3 Upon separation for any reason, other than death, discharge, or retirement an officer hired prior to January 1, 1996, whose sick leave accumulation exceeds six hundred (600) hours shall be paid at his regular rate of pay for the amount of sick leave

accumulated over six hundred (600) hours but not to exceed six hundred (600) hours.

27.3.1 Upon separation due to retirement or death, an officer hired prior to January 1, 1996, shall be paid at his regular rate of pay for all accumulated sick leave, but not to exceed nine hundred and sixty (960) hours. For the purpose of this section, an officer separating by resignation or lay-off, after twenty or more years service, shall be considered to be retiring.

27.3.2 In the event of death, such sum shall be paid to the beneficiary designated by the employee and, if no beneficiary is designated, to the surviving spouse of such employee. In the event there shall be no surviving spouse, then such sum shall be paid to the estate of such employee.

27.3.3 Separation benefits shall be paid immediately upon the effective date of separation.

27.3.4 Employees hired on or after January 1, 1996 shall not be reimbursed for unused sick leave upon separation.

27.3.5 Reserved.

27.3.6 Employees who have at least 15 years of service and nine hundred and sixty (960) hours of accrued, unused sick leave to their credit, may annually sell back up to eighty (80) hours of sick leave for 1/2 pay. The number of sick leave hours sold back to the City shall be deducted from the employee's accrual, but his accrual will be increased by future sick leave accrued but unused, to the maximum of one thousand and six hundred (1,600) hours. The amount of hours available for buy back under Sections 27.3 and 27.3.1 shall be permanently reduced by one half of the hours sold back to the City. The Police

Department will keep written requests on file and the City will honor all signed forms accordingly by duly paying such sick time. If the approved written request and PAF are received by the City Finance office prior to the 20th day of any month, the payment for such sick time will be issued on the date of the normal payroll distribution in the same month. If the approved written request and PAF are received by the City Finance office after the 20th day of any month, payment for such sick time will be issued the following month. Such payments will occur on the normal payroll distribution date in accordance with the submission deadlines above in the form of a separate check. Every effort will be made to process such requests in a timely fashion.

27.3.7 No sick leave benefits shall be payable to any employee injured while in the employ of an employer other than the City of Pueblo.

27.3.8 MATERNITY LEAVE. An employee shall be granted leave for the birth of the employee's child. Maternity leave shall commence at the time of the child's birth or at the time recommended by the mother's physician and such leave shall expire upon the physician's written recommendation or six weeks from the date of birth, whichever occurs first.

27.3.9 PATERNITY LEAVE. Paternity leave shall not exceed three (3) weeks and shall commence at the time of the birth of the child, unless otherwise agreed by the employee and the appropriate supervisor.

27.3.10 MATERNITY/PATERNITY ACCRUAL: An employee may utilize either sick leave, vacation leave, or such leave as may be available under the Family Medical Leave Act of 1993 for maternity/ paternity purposes.

ARTICLE 28. FUNERAL LEAVE

28.1 In the event of the death of an employee's spouse, spousal equivalent as defined in section 6-8-1 (33.1) of the Pueblo Municipal Code of Ordinances, child, including step-child, parent, including step-parent, brother, sister or grandchild occurs, the employee shall be entitled to paid administrative leave up to ten (10) consecutive scheduled work days for funeral leave. Such leave shall not be accrued or subject to any maximum and not charged against other employee leave.

28.2 In the event of the death of an employee's grandparent, mother-in-law, father-in-law or other relative residing in the same household as the Officer, the employee shall be entitled to take leave for ten (10) consecutive scheduled work days for funeral leave. Such time off shall be paid and covered by sick leave or other accrued leave, assuming the employee has a sufficient amount of paid leave available.

28.3 Each Police Officer shall be entitled to paid leave from duty for one (1) calendar day per year to attend the funeral of a person other than the Officer's immediate family provided the employee has sufficient paid leave available.

28.4 In the event of the death of a departmental employee, employees of the Police Department may be granted funeral leave not to exceed four (4) hours for attendance at the funeral.

ARTICLE 29. DUTY DISABILITY - INJURY LEAVE

29.1 ACCRUAL OF BENEFITS. Each permanent, full-time employee injured while in the performance of his duties as a police officer for the City of Pueblo inside or outside the City limits shall be paid injury leave in a sum equal to the employee's full salary

for the period of disability not to exceed one calendar year from the date of injury, except that an employee who undergoes surgery for such a duty injury shall be entitled to a total of one year of such paid injury leave, during a period ending two years from the date of injury, whenever he may be disabled and unable to work as a result of such duty injury. Even though the period of time during such an employee who undergoes surgery for a duty related injury is two calendar years from the date of such duty injury, the total amount of said injury leave to which an employee is entitled is a sum equal to one year of such employee's full salary. Notwithstanding the foregoing, no officer shall be eligible for such injury leave if it is determined by the Chief that the injury was caused, at least in part, by the injured officer's engagement in a "frolic," or the injury was caused by the injured officer's willful failure to observe reasonable standards of safety for police officers.

Injury leave benefits as set forth herein are maximum benefits for each injury. Employees on injury leave shall be granted all employees' benefits the same as if they were in active service of the City.

29.2 OTHER BENEFITS. Injury leave benefits provided for herein shall be withheld from any employee entitled thereto unless and until he makes a claim for compensation under the Worker's Compensation Act of Colorado or elects to otherwise pursue a different remedy under the provisions of 8-52-100 et. seq. C.R.S. 1973.

Worker's Compensation temporary disability benefits paid or payable to an employee for the same period of time he receives injury leave benefits hereunder shall be deducted by the City from said injury leave benefits.

Receipt of injury leave benefits hereunder by an employee shall operate as and be a

partial assignment to the City of said employee's interest in and to any cause of action against a third party as defined in Title 8, Article 52, C.R.S. 1973, as amended, to the extent of injury leave benefits paid or payable hereunder by the City to said employee. During such time as he is receiving injury leave benefits hereunder and for a period of sixty (60) days from and after the receipt of the final payment thereof, said employee shall have an exclusive right to engage the services of an attorney-at-law to settle or otherwise dispose of said cause of action which shall not be settled or otherwise disposed of without the written consent of the City. If said employee engages the services of an attorney as aforesaid, the City shall not be liable for costs or attorneys' fees in connection therewith; however, in lieu thereof, the City agrees to limit its pro rata share of any recovery so effected to seventy-five percent (75%) of injury leave benefits paid or payable to the employee hereunder. If said employee fails to engage the services of an attorney, as aforesaid, the City may take such action as it deems advisable for the recovery of one hundred percent (100%) of all injury leave benefits paid to said employee, and said employee will cooperate with the City in such action as it may take and furnish any and all papers and information in his possession deemed by the City to be necessary in connection therewith.

29.3 INJURY WHILE EMPLOYED BY THIRD PERSON. No injury leave benefits shall be payable to any employee injured while in the employ of an employer other than the City of Pueblo.

29.4 An employee eligible for a disability pension will take all necessary steps to obtain a disability pension upon commencement of such disability. Upon actual receipt of disability pension payments, the employee shall be ineligible to receive injury

leave, or any other leave. Any retroactive pension payments received by the employee for any period that the employee received injury or sick leave pay shall be reimbursed to the City or deducted from the employee's separation check. The employee shall provide to the City all pension documentation necessary to calculate the correct amounts.

ARTICLE 30. PARTIALLY DISABLED EMPLOYEES - LIGHT DUTY

30.1 If, as a result of an injury or illness, an employee is temporarily disabled and unable to efficiently perform the duties of his position, but is able to efficiently perform the duties of some other position of the Police Department in which a vacancy exists and which position is compatible with the employee's skills and abilities, then the Chief may refer the employee for placement in such vacant position for a period not to exceed six (6) months or as otherwise provided in Section 30.6. Upon approval of the department head and Mayor, the employee may be so employed. Such assignment shall be called light duty.

30.2 The salary of an employee on light duty shall be at least equal to the salary at which he was employed at the time of his injury or illness.

30.3 During his period of temporary disability in a paid status, the said employee shall be entitled to pay pension contributions and shall continue to receive health-medical plan benefits, and accrue credits for sick leave and vacation leave.

30.4 Upon presentation of a doctor's certificate stating that the employee is physically capable of performing all the duties of the position in which he was classified to work at the time of his injury or illness, he or she shall be returned to full duty at that classification. If the department head determines that the work of the employee upon return to work is not satisfactory, the department head may cause the employee to be re-examined

to determine his or her ability to perform.

30.5 Any employee who refuses to cooperate in the placement program, by failure to accept or continue in the employment offered, shall, as of any such refusal, be disciplined.

30.6 The six month limitation in the above Section 30.1 may be applied separately to each act or condition upon which any resulting injuries or illnesses occur. The determination of whether an injury or illness results from the same act or condition or a separate act or condition shall rest solely in the discretion of the City, and any such determination shall not be subject to grievance and arbitration by the Union under this Agreement.

If an employee who qualifies for light duty also qualifies for injury leave based upon the same injury or illness (herein "Work Related Light Duty"), the City may extend the light duty assignment beyond six months and until the employee reaches maximum medical improvement as determined by the City's designated physician. Work Related Light Duty shall take precedence over and may displace light duty assignments to an officer based upon a non-duty related illness or injury.

ARTICLE 31. COMPENSATION DURING PAID LEAVE

Except as otherwise provided in this Agreement, a police officer, during periods of authorized leave with pay, shall, in addition to being paid his salary as if he were performing duties during such periods of leave, receive the following benefits and compensation as if he were present and performing his regular duties:

31.1 Accrual of vacation and sick leave;

31.2 Uniform allowance;

31.3 College education bonus;

31.4 College tuition reimbursement;

31.5 Longevity compensation;

31.6 Insurance coverage;

31.7 Shift differential;

31.8 Such other benefits as by the terms of this Agreement are intended to be available during periods of authorized leave.

ARTICLE 32. LEAVES OF ABSENCE

32.1 The Police Chief after consultation with the Mayor may authorize special leaves of absence without pay for any period or periods not to exceed six (6) calendar months in any one calendar year for the following purposes: attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the employee and the City, for an extended period such as settling estates, liquidating a business, maternity, serving on a jury and attending court as a witness, and for purposes other than above that are deemed beneficial to the City service.

32.2 The Mayor may authorize special leaves of absence without pay for any reasonable purpose and for any reasonable length of time upon the request of a police officer.

32.3 If after exhaustion of all available leave, including injury, vacation and sick leave, a police officer shall fail or be unable to return to work due to physical disability

he shall, at his request, be placed on special leave without pay until he is able to return to work, but in no event shall such special leave exceed one year. Such special leave shall be automatically terminated if and when the employee is granted a disability or other pension pursuant to the Statutes of the State of Colorado and ordinances of the City of Pueblo establishing pensions for police officers. During such time that an employee is on special leave under this article, the employee shall respond to phone calls, phone messages or other electronic or written communication from City of Pueblo staff within a reasonable amount of time not to exceed three (3) business days. Absent such contact by the City, the employee shall provide a status update via email to City of Pueblo staff in intervals no longer than thirty (30) days while on special leave. At the exhaustion of special leave under this article, if an employee is unable to return to duty, his or her employment shall be terminated regardless of whether the employee has been granted a disability or other pension pursuant to any Colorado statute and/or City of Pueblo ordinance establishing pensions for police officers.

32.4 When a member of the bargaining unit incurs a serious non-service connected illness or injury with medical verification and the illness or injury extends one week after all available paid leave has been utilized, members of the bargaining unit may voluntarily transfer to the affected member's vacation leave account enough current earned vacation time to maintain the affected bargaining unit employee in a pay status, without accrual of vacation or sick leave, for a period not to exceed 1,120 hours of duty time. After the one week waiting period, the ill or injured employee shall be paid retroactively from the transferred vacation, if any, for that one week. This policy shall be strictly voluntary on the

part of the members of the bargaining unit. Any combination of paid or unpaid leave under Section 32.3 and 32.4 shall not exceed one year.

32.5 When a police officer requests and receives a leave of absence without pay pursuant to this Article, such leave shall not be considered as breaking the continuous nature of his service, but neither shall such period be included in the computation of the number of his completed years of service.

ARTICLE 33. WORK SCHEDULE

33.1 There shall be two (2) prescribed work schedules and shifts for police officers, denominated as schedules "A," or "B," as hereinafter set forth:

A. (1) The basic daily work shift for police officers assigned to the "A" schedule shall consist of eight (8) consecutive hours of duty in any twenty four (24) hour period. However, once during each twenty eight (28) day work period, a police officer assigned this schedule may be required to work at his regular rate of pay for more than eight (8) hours in a twenty four (24) hour period for the purpose of accomplishing rotation of shifts, or attendance at inservice training scheduled for three (3) or more consecutive days.

(2) The work schedule of such police officers during each twenty eight (28) day work period shall provide for two (2) consecutive days off during each seven (7) consecutive days within the work period. Police officers shall not be required to work more than five (5) consecutive days of duty, at their regular rate of pay, except for the purpose of shift rotation, or rotation of days off, when they may be required to work up to eight (8) consecutive days at their regular rate of pay.

B. (1) The basic daily work shift for police officers assigned to the "B"

schedule shall consist of ten (10) consecutive hours in any twenty four hour period. Officers working in the operations bureau of the police department shall be assigned to this "B" shift and schedule.

(2) The work schedule of such police officers during each twenty eight day work period shall provide at least three (3) consecutive days off for each four (4) days worked. Such officers shall not be required to work more than four (4) consecutive days, at their regular rate of pay, except for the purposes of professional development training which may require a five (5) consecutive eight (8) hour day schedule. Such officers have at least one day before and one day after such training as days off. Professional development training, which utilizes the change of schedule authorized by this section, shall not be required more than three (3) times annually.

(3) Except for officers assigned the "B" schedule in the Traffic Unit, regularly scheduled days off shall rotate for police officers assigned the "B" schedule by rotating forward one (1) day at the end of each seven consecutive, work weeks. In order to accomplish such rotation of scheduled days off, such rotating officers shall have four consecutive days off, then resume the schedule of three consecutive days off, until their next scheduled rotation of days off. The initial rotation for one of the teams on each watch shall occur in the fourth week after this schedule is implemented, as a starting point for that team's rotation. In no event shall an officer have more than one instance of four consecutive days off during any seven consecutive, work weeks unless assignment changes are made at administration's direction or as the result of an approved leave.

(4) Officers assigned the "B" schedule in the Traffic Unit shall work

the non-rotating schedule approved and implemented on February 27, 2017.

(5) Officers assigned the "B" schedule in the patrol division shall work frozen shifts and shall bid for their shift assignments pursuant to Article 44 of this Agreement.

33.2 During each work day, when conditions reasonably permit, each police officer shall be entitled to one half (1/2) hour as a meal break. Police officers on meal break shall be allowed to remain out of service and out of their assigned beats unless the needs of the department require their immediate return to police duties.

33.3 There shall be no split shifts.

ARTICLE 34. REPORTING

34.1 Any officer or employee who finds it necessary to be absent from duty due to emergency, shall report the reasons therefor to his supervisor or department at least one hour before working time, on the first day of such absence. If this is not possible, the employee shall report to his supervisor or department at the earliest possible time and shall state the reasons for his failure to report at least one hour before working time. Failure of an employee to so report may be grounds for disciplinary action.

34.2 All unauthorized absences without leave shall be grounds for disciplinary action. Forfeiture of pay shall be made for all periods of unauthorized absences.

34.3 Unauthorized absences for more than forty (40) consecutive work hours shall be deemed to be and shall constitute a resignation from employment by the employee.

ARTICLE 35. MISCELLANEOUS PROVISIONS

35.1 Shift schedules shall not be assigned arbitrarily or capriciously with respect to police officers who are enrolled in course work at an accredited institution of higher education that is job related and has been approved in advance by the Mayor.

35.2 Notice shall be given to the Union at least sixty days prior to any promotional examination for a class listed in Article 14 of this Agreement. A reading material list shall be provided at least six months prior to the test if new material is added, changed or deleted since the previous year's reading material list. Upon request of the Union, a meeting shall be held by two designated representatives of the Union, and two designated representatives of the City, who shall meet with the Civil Service Commission to discuss concerns relating to the scheduling of such promotional examinations.

35.3 Employees shall keep the City informed of their current address, phone number, and such other information as the City may reasonably require.

35.4 SMOKING PROHIBITED

In accordance with Section 7-6-4 of the Pueblo Municipal Code, smoking by any member of the bargaining unit is prohibited in all enclosed facilities, including buildings and vehicles which are owned or leased by the City of Pueblo. An outdoor area adjacent to the Police Department Building located more than twenty (20) feet from any entryway thereto shall be and is hereby designated as a smoking area. The City shall construct in said designated area a weather shelter.

35.5 FAMILY MEDICAL LEAVE.

The parties understand that they are subject to the Family and Medical Leave Act of 1993, and that all applicable provisions of the FMLA are controlling over any provisions of

this agreement in conflict therewith.

35.6 TAKE-HOME VEHICLES

City owned vehicles may be assigned to officers as take-home vehicles at the discretion of the Chief of Police and subject to reasonable rules and regulations of the Police Department.

35.7 The City and the Union agree to establish a committee consisting of representatives of the Fire Union, the Police Union, and the City. The committee shall meet, when requested by one of the parties, to study, consider and make recommendations to the parties regarding drug-testing programs for public safety employees. The consultations and recommendations of the committee shall not be subject to the grievance or arbitration procedure of this Agreement and shall not be binding upon any of the parties.

ARTICLE 36. DISCIPLINE AND DISCHARGE

36.1 A newly hired police patrol officer serving an entry level probationary period shall have no right to appeal his or her discipline or discharge under this Agreement.

36.2 The Union recognizes that the employer has the authority to suspend, demote, discharge or take other appropriate disciplinary action against employees for just cause. Any employee, except an entry-level probationary employee, who is subject to discipline may appeal same pursuant to the grievance procedure or to the Civil Service Commission pursuant to Title VI of the Code of Ordinances, but not both. The filing of any appeal under one procedure constitutes a waiver of any right to appeal in another forum. Specifically, the grievance procedure set forth herein may not be utilized by an employee who has utilized the Civil Service appeal procedure.

36.3 In the event disciplinary action more punitive than a written reprimand is recommended or considered by the Chief of Police, the Chief of Police shall provide the employee with written notice that includes: A scheduled meeting date no less than five (5) calendar days after such delivery of the notice and an opportunity to respond orally or in writing on or before the meeting date. The written notice will be considered to be delivered upon personal delivery to the employee or, if served by mail, one (1) day after the statement has been mailed by FedEx Standard Overnight mail to the employee. When an employee is off duty including on approved leave whether it be vacation, injury or any other form of approved leave, the employee shall not be served personally but shall be served by FedEx Standard Overnight mail.

36.4 Appeal of disciplinary matters involving suspension or discharge may be initiated at step three of the grievance procedure within seven (7) days of the date of the action.

36.5 Any employee who is the subject of a citizen's written complaint, on a matter which is not of a criminal nature, filed with the Internal Affairs Office shall be provided with a copy of the complaint in writing as soon as possible and he/she shall respond, if requested, within forty-eight (48) hours. Such an employee shall not be required to submit to interrogation regarding such complaint upon less than forty-eight (48) hours' notice, subsequent to the officer's receipt of the complaint. Nothing contained herein, however, shall preclude an officer from voluntarily discussing a complaint at any time. Upon final resolution of such investigation, the employee will be notified as soon as possible of the resolution.

36.6 If an employee has not received a disciplinary action, excluding demotion, suspension or dismissal, for a period of three (3) years, he/she may request that all disciplinary action, excluding demotion, suspension and dismissal, over three (3) years old be removed from his/her file maintained in the City Personnel Department.

36.7 Except, pursuant to a court order, or by consent of the employee, no portion of an investigative Internal Affairs report, on a matter which is not of a criminal nature, shall be given to, or maintained by anyone outside the City's Police Department or the city administration, except as necessary to accomplish any personnel action.

36.8 Without limiting the right to representation granted an employee by City ordinance, City Charter, law or constitution, any employee shall be entitled to representation by attorney, union representative or fellow employee in any meeting with a supervisor or internal affairs investigator, if such employee reasonably suspects that the subject matter of such meeting could result in disciplinary action.

ARTICLE 37. GRIEVANCE PROCEDURE

37.1 An employee and/or the Union, or the City, when damaged by an alleged violation of an express term of this Agreement, or by discrimination violative of State or Federal law, may process a grievance in strict conformity with the procedures and provisions set forth in this Article.

37.2 REPRESENTATION.

Any police officer may seek the assistance of a union representative in the preparation and presentation of a grievance. However, any employee may seek redress or adjustment of grievances or complaints by discussion with appropriate Police Department

officials without the necessity of consulting with the Union nor involving a Union representative in such discussions.

37.3 GENERAL.

37.3.1 DAYS. Whenever the word "days" is used in this Article, that word shall mean calendar days.

37.3.2 WRITTEN GRIEVANCE. Any grievance to be processed beyond the first step of the grievance procedure must be in writing and must state each of the following: (a) the matter complained of; (b) the date on which the matter complained of occurred; (c) the sections or provisions of the Collective Bargaining Agreement allegedly misapplied or misinterpreted; (d) the disposition sought by the grievant; (e) the signature of the grievant or grievants who claim to be aggrieved by the matter being complained of and to whom any remedies shall apply; and, (f) the date of the grievance.

37.3.3 Any City official may take any action through a designee or alternate.

37.4 GRIEVANCE PROCEDURE.

37.4.1 The grievant will attempt to informally resolve grievances whenever possible through discussion with his supervisor. Unless a grievance arises at a higher administrative level, supervisory employees in the Police Department shall meet with the grievant and participate in such discussions and attempts to resolve grievances.

37.4.2 STEP ONE. If the matter is not resolved, the grievance must be presented to the grievant's Deputy Chief in written form, in accordance with the conditions set forth above, within fourteen (14) calendar days of the date on which the incident or event giving rise to the grievance occurred or when the grievant knew or should have known of

the facts giving rise to the grievance. The Deputy Chief shall give his written answer to the grievance within seven (7) days of the date on which he or she received the grievance. The Deputy Chief and the Union/Grievant may agree in writing to extend the time to answer the grievance for the purpose of allowing the parties to meet to discuss the grievance.

37.4.3 STEP TWO. If the grievant is not satisfied with the answer provided by the Deputy Chief, the grievant and/or the Union may request a meeting with the Chief or his or her designee to hear such grievance, provided that the request is made in writing, signed by the grievant and/or the Union, and is presented to the Chief or his or her designee within seven (7) calendar days of the date of the Deputy Chief's answer in the previous step of the procedure. The meeting to hear such grievance shall be held within seven (7) calendar days of the filing of the request for such meeting. The Chief or his or her designee shall answer the grievance in writing within seven (7) days of the date on which the meeting is held. The Chief may require the presence of an individual grievant at this Step, if the grievance was filed by a single individual. Employees required to attend such a meeting when they are not otherwise on duty or on paid leave shall be compensated at the rate of time and one-half in cash for a minimum of one (1) hour.

37.4.4 STEP THREE. If the grievant is not satisfied with the decision of the Chief or his designee, the Union may request a meeting with the Mayor or his designee provided that such request is in writing, is signed by the grievant and/or the Union and provided that the request is presented to the Manager or his designee within seven (7) days of the date of the written answer provided by the Chief or his designee. The meeting relating to such grievance shall be held within ten (10) calendar days of the filing of the request for

such meeting. The Mayor shall answer the grievance in writing within ten (10) days of the date on which the meeting was held.

37.4.5 STEP FOUR. If the decision rendered by the Mayor or his designee is unsatisfactory to the grievant, the Union may within fifteen (15) days following receipt of the answer of the Mayor request the appointment of an arbitrator pursuant to the American Arbitration Association's then current Labor Arbitration Rules, by filing the appropriate Demand. Arbitration shall be pursuant to the then current rules of the American Arbitration Association and the Uniform Arbitration Act. The decision of the Arbitrator shall be final and binding on the City, the employee and the Union.

37.5 MISCELLANEOUS PROVISIONS.

37.5.1 Any grievant may, upon request, be represented at any level of this grievance procedure by a representative of the Union, or by counsel with the approval of the Union, but no employee may be represented by any representative of any employee organization other than the Union. Any employee may discuss any matter, including the presentation of a grievance, with the Department and may have such grievance adjusted without intervention by the Union, provided that any such adjustment shall not be inconsistent with the terms of this Agreement.

37.5.2 The fees and expenses of the arbitrator shall be borne equally by the parties, and each party shall pay its own costs for such arbitration.

37.5.3 If the grievant and/or the Union shall agree in writing to waive their right to utilize such other administrative forums available to them, charges of discrimination may be heard by an Arbitrator.

37.5.4 All claims for back wages shall be limited to the amount of wages that the grievant otherwise would have earned less any compensation received for any employment obtained subsequent to removal from the City payroll and less any unemployment compensation benefits. If the State Department of Labor, Division of Employment and Training, seeks reimbursement from the grievant for unemployment compensation benefits received, the grievant shall provide to the City a copy of the State's request for reimbursement and the City shall reimburse the State on the grievant's behalf.

37.5.5 The processing or discussing of any grievance filed under this Agreement, may be during the working time of the grievant and the Union representative involved, if any, to a reasonable extent. The City will take the employees work schedule into account in scheduling grievance hearings when possible.

37.5.6 TIME LIMITS. The time limits set forth for the processing of grievances shall be strictly adhered to. In the event that a grievance is not appealed to the next step of the grievance procedure within the time limits provided at any step, such grievance shall be declared closed and settled on the basis of the most recent City decision. In the event of failure to answer a grievance or hold a meeting within the time limit provided, it shall be considered a denial and the Union may appeal the grievance to the next step of the procedure in accordance with the time limitations specified. Extensions of time may be requested by either party. To be effective, any extension of time must be set forth in writing.

37.5.7 Any provision of this Agreement to the contrary notwithstanding, the following matters shall not be proper subjects for the grievance procedure provided in this Article.

37.5.7.1 Any matter which arose outside of the period during which this Agreement, or the immediately preceding Agreement, is effective.

37.5.7.2 Any matter not within the administrative control of the City.

37.5.8 The City by and through an officer, official or employee of the City may initiate a grievance alleging that the Union, a Union official or employee has violated an express provision of this Agreement by filing a grievance with the President of the Union within fourteen (14) days of the occurrence of the violation or, within fourteen (14) days of the date knowledge of same was received by the City official involved. The Union president shall respond to the grievance in writing within seven (7) days of the date on which he received it. In the event the matter is not resolved the City may, at its option, demand arbitration by giving notice of intent to submit to arbitration to the president of the Union within fifteen (15) days following receipt of the answer of the Union president. Arbitration shall be pursuant to the then current Rules of the American Arbitration Association and the Uniform Arbitration Act. The decision of the arbitrator shall be final and binding on the City, the employee and the Union.

37.5.9 The privilege of processing grievances on duty time will not be abused.

37.5.10 SCOPE OF ARBITRATOR'S AUTHORITY. The findings and decision of the arbitrator shall be consistent with applicable Colorado law and with the expressed terms of this Agreement. The arbitrator shall have no power or authority to add to, subtract from, disregard, alter or modify any of the terms of this Agreement.

ARTICLE 38. PAYROLL DEDUCTION OF DUES AND FEES.

38.1 The City shall, on a regular basis, deduct dues and fees uniformly

required of all similarly situated police officers from the pay of all Police Officers who have voluntarily authorized such deductions in writing on a form provided for this purpose by the Union or the City; the Union will notify the City as to the amount of dues, or dues and initiation fees, to be deducted. Such notification will be certified to the City in writing over the signature of the authorized officer or officers of the Union. Changes in the Union membership dues or fees will be similarly certified to the City and shall be done at least forty-five (45) days in advance of the effective date of such change. The City will remit to the Union such sums within thirty (30) days.

38.2 The Union agrees that it shall act as the exclusive bargaining agent for all employees covered by this Agreement and shall negotiate agreements and bargain collectively for all employees within the bargaining unit, without discrimination and without regard to whether or not said employees are Union members.

38.3 If an employee has no earnings due him for the pay period in question, no deductions will be made for that employee for that period. The collection of money described herein other than for the current period shall not be the responsibility of the City.

38.4 The sole responsibility of the City will be to pay over to the Union any sums actually deducted from the pay of employees on a current basis. Any funds deducted as herein provided shall be paid to the Union Treasurer within thirty (30) days after such deduction.

38.5 The Union agrees to indemnify, defend and save the City and its employees harmless against any and all claims, demands, suits, or other forms of liability that shall arise out of, or as a result of, any conduct taken by the City for the purpose of

complying with this Article, except acts of negligence for which the City is responsible.

38.6 No party shall have any right or interest whatsoever in any money authorized withheld until such money is actually paid over to them in accordance with this Article.

ARTICLE 39. SEVERABILITY, SAVINGS, AND AMENDMENTS.

39.1 The provisions of this Agreement are severable and the legal invalidity of any provision or provisions shall not affect or invalidate other provisions. However, if any provision of this Agreement should be declared or rendered invalid by Congress, the state legislature or any court of competent jurisdiction, then the parties to this Agreement shall meet within fifteen (15) days from the date they learn of such declaration and negotiate in good faith for the purpose of agreeing upon a lawful provision which would accomplish the intent of the parties as expressed by the provision declared invalid.

39.2 Special, labor/management conferences involving matters of importance to either party may be arranged between the Union President and the Mayor or his designee. Representatives of the parties to this Agreement will meet within fifteen (15) days after receipt of notification. Any notification shall include a statement of the matter to be discussed at the meeting. The Union President shall be granted leave with pay to attend such special conference.

39.2.1 No party shall be obligated in any manner to agree to any proposed amendment and the failure to agree to any proposed amendment shall not initiate the arbitration or election procedures set forth in Section 8-14 of the Charter of the City of Pueblo. The failure of any party to reach agreement on any matter raised at a special

conference shall not be indicative of bad faith, nor shall such failure initiate the grievance or arbitration procedures available under this Agreement. Provided, however, that either party may request the mediation services of the Federal Mediation and Conciliation Service to resolve any disagreement regarding a proposed amendment raised at a special, labor/management conference. The parties agree to participate in such mediation.

39.3 No amendments of, or appendix to, this Agreement is effective unless in writing and signed by representatives of both parties having actual authority to execute such amendment or appendix.

ARTICLE 40. WAIVER AND NOTICE

40.1 Failure of the City or the Union to enforce, or insist upon, the performance of any term, condition or provision of this Agreement in any one or more instances shall not be deemed a waiver of such term, condition or provision. No term, condition or provision of this Agreement shall be deemed waived by either of the parties hereto unless such waiver is reduced to writing and signed by an agent of the respective party who has actual authority to give such waiver. If such written waiver is given, it shall apply only to the specific case for which the waiver is given and shall not be construed as a general or absolute waiver of the term, condition or provision, which is the subject matter of the waiver.

40.2 Where any provision of this Agreement requires that any notice or information be given by one party hereto to the other party within a specified time, such requirement will not be met unless such notice is personally served upon the official of the other party designated to receive such notice under the terms of this Agreement or left at

such person's residence with a person 18 years of age or older or regular business office during normal business hours with his secretary or clerk within the time limits specified in this Agreement.

ARTICLE 41. OTHER CONDITIONS

During the term of this Agreement, no existing practice affecting a mandatory subject of bargaining, as defined in Section 8-14 of the Charter of the City of Pueblo, shall be changed, except by mutual written agreement of the parties. The term "existing practice affecting mandatory subject of bargaining" does not include any right reserved to the City under Article 4 of this Agreement.

ARTICLE 42. ENTIRE AGREEMENT

The Union and the City agree that this Agreement is intended to cover all matters affecting wages, rate of pay, hours, grievance and disciplinary procedures, working conditions, and all other terms and conditions of employment and similar and related subjects, and that it supersedes and cancels all prior practices and agreements on matters covered by this Agreement, whether written or oral, and that during the term of this Agreement, neither the City nor the Union will be required to negotiate on any further matters affecting these or any other subjects not specifically set forth in this Agreement.

ARTICLE 43. PENSION CONTRIBUTION

For each person hired as a police officer on or after January 1, 1997, who is eligible for the death and disability coverage provided by part 8 of Article 31 of Title 31, C.R.S., the contribution to the FPPA death and disability pension fund required by Sec. 31-31-811(4) shall be assessed against the City in the amount of 2.6% of the member's

applicable salary as set forth in Section 31-31-811(4); provided that if the required contribution level is increased, the amount in excess of 2.6% of the member's applicable salary shall be assessed against the member.

Each person hired as a police officer on or after January 1, 1997, shall be required as a condition of employment to make a monthly contribution through payroll deduction equal to the contribution on behalf of the member required under Section 31-31-811(4), C.R.S., in excess of 2.6% of the member's applicable salary.

ARTICLE 44. SHIFT ASSIGNMENT

44.1 Officers assigned to the patrol division or other working units of the police department, wherein they are assigned to one (1) or more frozen (non-rotating) shifts, shall be assigned to one (1) of the frozen shifts by the following methodology:

A. Once each year immediately prior to the annual selection of blocks of vacation, officers assigned to the Patrol

Division or other working units with frozen shifts shall bid for their shift assignments.

B. Assignments to frozen shifts shall be based upon consecutive length of service with the department and the selection methodology shall be the same as for vacation selection, except that Sergeants shall bid for shifts based upon their continuous service since last promotion. Sergeants shall bid as a group prior to patrol officers and corporals bidding as a single group.

C. The assignment of an officer to a frozen shift shall not be changed between annual assignments, except pursuant to the provisions of this Article or by transfer of the officer to a different division or working unit of the police department.

44.2 Officers desiring to trade shift assignments for the remainder of an annual assignment term may do so by filing a request for trade with the division commander. Notice of such request shall be posted for ten (10) days. At the end of ten (10) days the officer may trade shifts with the most senior employee desiring the trade. If no officer agrees to trade, the officer requesting a trade shall remain with his frozen shift assignment. An officer may request a shift trade not more than once each six (6) month period.

44.3 A police officer transferred by the Chief of Police to a division or other working unit of the police department with frozen shifts, shall have the opportunity to select his shift assignment by bumping the least senior employee on the shift he desires, if there is no vacancy on such shift and if such bumped employee has less seniority than the bumping officer. A bumped officer shall exercise similar bumping rights within the same division or working unit; provided, however, that an officer assigned to a frozen shift from a different division or working unit after annual assignments may be assigned a frozen shift in another division or working unit based upon the operational needs of the Department on a temporary basis not to exceed eighty (80) work days in each calendar year.

44.4 The Chief of Police may transfer an officer from one frozen shift to another within the same division or working unit on a temporary basis not to exceed eighty (80) work days in each calendar year, provided that the reason for such transfer is not contrary to any of the other provisions of this agreement and is not for the purpose of avoiding the payment of overtime compensation.

44.5 The Chief of Police may involuntarily transfer an officer from one frozen shift to another within the same division or working unit, but such transfer shall be for just

cause only, subject to the grievance procedure.

ARTICLE 45. SHIFT DIFFERENTIAL

45.1 For the purpose of determining eligibility for payment of shift differential, there shall be three (3) duty watches at the Pueblo Police Department as follows:

A. Watch I (days) shall constitute all duty assignments which begin between 6:00 a.m. and 10:00 a.m. of any work day.

B. Watch II (afternoons) shall consist of all duty assignments which begin between 10:00 a.m. and 4:00 p.m. of any work day.

C. Watch III (graveyard) shall consist of all duty assignments other than Watch I or Watch II.

45.2 In addition to all other compensation payable pursuant to this agreement, an officer assigned to Watch II for any portion of a calendar month shall be paid a shift differential for that month in an amount equal to eighty cents (\$.80) per hour multiplied by the number of hours in a normal work month.

45.3 In addition to all other compensation payable pursuant to this agreement, an officer assigned to Watch III for any portion of a calendar month shall be paid a shift differential for that month in an amount equal to one dollar and sixty cents (\$1.60) per hour multiplied by the number of hours in a normal work month.

45.4 For the purpose of this Article, a normal work month shall consist of one hundred seventy-three and eighty-three-one-hundredths (173.83) hours.

45.5 No officer shall be entitled to shift differentials under both Section 45.2 and Section 45.3 of this Article for the same month. If an officer is assigned to both Watch

II and Watch III during the same month, he shall receive shift differential only for Watch III for that month.

Signed this _____ day of _____, 2025.

CITY OF PUEBLO

By _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

INTERNATIONAL BROTHERHOOD OF
POLICE OFFICERS (IBPO) LOCAL 537

By _____
President

By _____
Secretary

APPROVED AS TO FORM:

IBPO Attorney

AMENDMENT TO THE COLLECTIVE
BARGAINING AGREEMENT

This amendment to the collective bargaining agreement ("Amendment") is executed this 26th day of August, 2019, by and between Pueblo, a municipal corporation ("City"), and International Brotherhood of Police Officers Local 537 ("Union") (collectively the "Parties").

WHEREAS, City and Union are parties to a collective bargaining agreement commencing January 1, 2019 and ending December 31, 2019 ("Labor Agreement").

WHEREAS, the Parties are interested in transitioning from a fully-insured to a self-funded health insurance plan ("Self-Funded Health Benefit Plan").

WHEREAS, in order to proceed with such transition, City desires and Union is willing to agree to certain terms and conditions which will be applicable to such Self-Funded Health Benefit Plan.

NOW THEREFOR, in consideration of the foregoing and the mutual covenants herein contained, the Parties stipulate, acknowledge and agree as follows:

1. If the City elects after consultation with the Union to transition to a Self-Funded Health Benefit Plan to be available in calendar year 2020 and thereafter, the following terms and conditions shall govern such plan, shall bind the Parties and shall supersede any conflicting or inconsistent provision of the Labor Agreement:

- a. Plan Design. If a Self-Funded Health Benefit Plan is provided to covered employees of Amalgamated Transit Union Division No. 662 ("Transit"), the City, Transit, Pueblo Association of Government Employees, International Association of Fire Fighters Local No. 3 and Union shall meet as a committee and confer with respect to determining the health plan design and benefits to be provided under such plan. Each party shall have one vote for a total of five (5) votes with respect to selecting such health plan design. The majority vote of the committee shall determine the plan and benefits; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits.

Alternatively, if a Self-Funded Health Benefit Plan is not provided to covered employees of Transit, the City, Pueblo Association of Government Employees, International Association of Fire Fighters Local No. 3 and Union shall meet as a committee and confer with respect to determining the health plan design and benefits to be provided under such plan. Each party shall have one vote for a total of four (4) votes with respect to selecting such health plan design. The majority vote of the committee shall determine the plan and benefits; provided, however, if no majority vote is cast or if the

plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits.

- b. **Premiums and Contributions.** Premiums shall be determined by City based upon the recommendation of City's insurance broker consultant, the plan design chosen pursuant to above Subsection 1.a., and the funding level acceptable to City. Employees who are eligible and select an offered plan shall pay the cost of any applicable premium by payroll deduction subject to the contributions herein provided. The City shall pay 95% of the actual premium for an individual policy per month but not to exceed \$824.67. The City shall pay 78% of the actual cost of a premium toward the cost of a single plus spouse, single plus child or children or family policy per month for employees but not to exceed \$1,433.75 with respect to a single plus spouse plan or \$1,303.40 with respect to a single plus child or children plan or \$1,680.72 with respect to a single plus family plan ("Contribution Cap"). The Contribution Cap applicable to each coverage tier, i.e. individual, single plus spouse, single plus child or children or family coverage tier, shall be increased by fifty percent (50%) of any increase between the HMO Tier 1 premium for such coverage tier in the current year and the recommended HMO Tier 1 premium for such coverage tier in the subsequent year. If the employee elects coverage under a PPO option, if offered, the City's contribution to payment for such PPO shall be in the same dollar amount as if the employee had elected coverage under the HMO Tier 1 option for the same coverage tier. If an employee elects coverage under a high deductible health plan with Health Savings Account ("High Deductible HSA"), if offered, the City's monthly contribution for the High Deductible HSA shall be One Hundred Dollars (\$100.00) per month less than monthly contribution required for the City's HMO Tier 1 plan, at the same coverage tier, and the City will contribute Sixty Six Dollars and 67 Cents (\$66.67) per month to each employee's health savings account under such High Deductible HSA.
- c. **Self-Funded Contracts and Documents.** All contracts, programs and documents necessary to transition to and administer the Self-Funded Health Benefit Plan shall be determined and selected by City including but not limited to all costs and expenses of administrations, any third-party administration, if selected, stop loss policy, if selected, HIPAA privacy and security policies, and plan administration policies and procedures.
- d. **Plan assets.** All assets of the Self-Funded Health Benefit Plan, including but not limited to premiums, reserves and reimbursements, shall be the property of the City to be used solely for providing benefits for enrolled employees and assuring funding of the Self-Funded Health Benefit Plan at a risk level acceptable to City.

2. For calendar year 2020, the Union waives any present or future right, contingent or otherwise, that it may have to negotiate any change to the terms and conditions of this Amendment in any successor collective bargaining agreement. The intent and purpose of the foregoing waiver is that the Self-Funded Health Benefit Plan available in calendar year 2020 shall be subject to and governed by the terms and conditions of this Amendment, and this Amendment shall be construed and applied consistent with such intent and purpose. Notwithstanding the foregoing, the City shall not be prohibited or otherwise limited by this Amendment from asserting or otherwise maintaining in any future negotiation of a successor collective bargaining agreement that any term or condition of this Amendment is not a mandatory subject of bargaining.

3. To the extent the parties negotiate a successor contract to the Labor Agreement which provides for extension of the collective bargaining agreement in calendar year 2021 or 2022 and if the City provides a Self-Funded Health Benefit Plan in calendar year 2020 and if the City does so elect to extend the term of such successor collective bargaining agreement for calendar year 2021 or 2022, the Union may commence negotiations after receipt of notice of such election with respect to the terms and conditions of this Amendment by serving notice pursuant to Section 8-14, City Charter, on or before June 20, 2020 or June 20, 2021, as applicable. If the Union exercises such option to open negotiations with respect to the terms and conditions of this Amendment, no other provision of the collective bargaining agreement shall be opened for negotiations.

4. With respect to any provision relating to determining plan design during any subsequent calendar year negotiation for a successor collective bargaining agreement after 2020, including any reopening as set forth in above Section 3, the parties expressly stipulate and agree that the then current provisions for determining plan design shall govern the method and manner in which the plan design is selected for the following calendar year even though such provisions may be amended in the successor agreement.

5. Should the City elect to discontinue the Self-Funded Health Benefit Plan, the provisions of the Labor Agreement applicable to a fully-insured health benefit plan shall be reinstated; provided, however, any changes in the Contribution Caps shall be maintained.

6. Union expressly stipulates, acknowledges and agrees that City is materially relying upon the faithful performance of each and every provision of this Amendment, and without this Amendment, including each and every provision, the City would not consider proceeding with a transition from a fully funded health insurance plan to a Self-Funded Health Benefit Plan.

7. This Amendment represents the entire agreement between the Parties and supersedes all prior discussions and written agreements or understandings with respect to the subject matter of this Amendment. This Amendment may be amended only by an instrument in writing signed by the Parties. If any provision of this Amendment is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Amendment shall continue in full force and effect. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

8. This Amendment shall be construed in accordance with and governed by the laws of the State of Colorado.

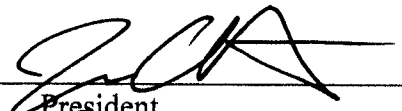
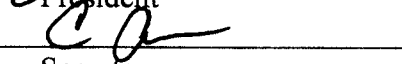
9. This Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

10. The persons signing this Amendment on behalf of Union represent and warrant that such parties and Union have the requisite power and authority to enter into, execute, and deliver this Amendment and that this Amendment is a valid and legally binding obligation of Union enforceable against Union in accordance with its terms.

Executed at Pueblo, Colorado, the day and year first above written.

UNION
INTERNATIONAL BROTHERHOOD
OF POLICE OFFICERS LOCAL 537

CITY
Pueblo, a municipal corporation

By 
President
By 
Secretary

By 
Mayor
ATTEST:


City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Marisa Pacheco, Director of Human Resources
Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2024 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION TO THE AUTHORIZED STAFFING OF THE POLICE DEPARTMENT ENTITLED COMMUNITY INITIATIVE TO REDUCE VIOLENCE (CIRV) PROGRAM MANAGER

SUMMARY:

The Police Department requests the addition of one full-time position, entitled Community Initiative to Reduce Violence (CIRV) Program Manager associated with the previously awarded and accepted Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance Grant # 2023-CP-23-11 under project # CI2219 for the remainder of 2024 and 2025. No General Fund expenditures are required for the position.

PREVIOUS COUNCIL ACTION

On December 11, 2023, Ordinance No. 10613 was approved by City Council. The Ordinance provided authorized staffing for Fiscal Year 2024.

On July 8, 2024, Ordinance No. 10733 was approved by City Council. The Ordinance accepted grant funds of \$131,660 to fund the program costs and position associated with the grant for the remainder of 2024 and 2025.

BACKGROUND:

The Police Department requests the addition of a full-time position to perform management and coordination of the Community Initiative to Reduce Violence (CIRV) Program. The new classification title will be Community Initiative to Reduce Violence (CIRV) Program Manager. This position will provide primary management of a new program designed to develop and strengthen partnerships between community resources and law enforcement partners to reduce juvenile crime in the Pueblo

community.

The Community Initiative to Reduce Violence (CIRV) Program will consist of interdependent work groups across local government, law enforcement, academic, corporate, health and non-profit sectors. The program structure is designed to implement a collaborative, integrated approach to preventing violent crime and criminal activity of youth populations. As an employee of the Pueblo Police Department, the civilian position will be responsible for identifying appropriate participants and partners for CIRV, outreach and collaboration, data gathering and analysis, working with partners to define and highlight the problem of youth violence, gang activities and prevention techniques developing and executing a CIRV workplan including meaningful, relevant projects, sourcing of sustainable funding for the program beyond 2025 and grant compliance activities.

FINANCIAL IMPLICATIONS:

The accepted grant allotted a total of \$131,660 in funding for the position. This will cover salary and benefits for the remainder of 2024, assuming a November hire and all of 2025.

CIRV Project Manager

Cost Item	Approximate Annual Cost	Estimated Actual Cost 2024 (2 months)
Salary	\$ 63,727	\$ 10,621
Retirement (PERA)	\$ 9,419	\$ 1,570
Health Insurance	\$ 23,151	\$ 3,858
Dental Insurance	\$ 296	\$ 49
Life Insurance	\$ 72	\$ 12
Medicare	\$ 924	\$ 154
Estimated Position Cost	\$ 97,589	\$ 16,265

The remainder of funding will be used for a computer, operating supplies and program materials for the life of the grant program.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain staffing levels as they are which will not allow the City to fulfill obligations under the accepted grant funding for the CIRV Program as outlined in the Colorado Division of Criminal Justice, Adult and Juvenile Assistance Grant.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING THE FISCAL YEAR 2024 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION TO THE AUTHORIZED STAFFING OF THE POLICE DEPARTMENT ENTITLED COMMUNITY INITIATIVE TO REDUCE VIOLENCE (CIRV) PROGRAM MANAGER

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and functionality for the City of Pueblo Police Department; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following section captioned "Police" of Ordinance No. 10613, being the 2024 Staffing Ordinance, is amended as follows:

Police

Police Chief	1
Police Deputy Chief	3
Police Captain	8
Police Sergeant	25
Police Corporal	55
Police Patrol Officer	115
Abandoned Vehicle Coordinator	1
Abatement Worker	2
Administrative Technician	2
Building Custodian	1
Code Enforcement Manager	1
Code Enforcement Officer	9
<u>Community Initiative to Reduce Violence (CIRV)</u>	<u>1</u>
<u>Program Manager</u>	
Community Service Officer	6
Crime Analyst	1
Dispatch Manager	1
Dispatch Training Coordinator	1
Emergency Services Dispatcher	24
Emergency Services Dispatcher Supervisor	3
Office Assistant/ Police Records Technician	11
Office Assistant/Investigations Technician	1
Office Assistant/Police Services Technician	1
Office Assistant/Property & Evidence Technician	3
PD Community Engagement Manager	1
Police Payroll Technician	2
Police Records Manager	1
Real Time Crime Center Technician	4
Senior Office Assistant	8
Social Media Specialist	1
Total	[292] 293

SECTION 2.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2024 Budget and staffing with respect to the number and allocation of positions within the Police Department and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Marisa Pacheco, Director of Human Resources
Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2024 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR THE COMMUNITY INITIATIVE TO REDUCE VIOLENCE (CIRV) PROGRAM MANAGER

SUMMARY:

Attached for consideration is an ordinance establishing the salary schedule for the grant-funded position of Community Initiative to Reduce Violence (CIRV) Program Manager. The position will be funded by Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance Grant # 2023-CP-23-11 under project # CI2219 for the remainder of 2024 and 2025. No General Fund expenditures are required for the position.

PREVIOUS COUNCIL ACTION:

On December 11, 2023, Ordinance No.10614 was approved by City Council. The Ordinance provided the classification and pay plan for the fiscal year 2024.

On July 8, 2024, Ordinance No.10733 was approved by City Council. The Ordinance accepted grant funds of \$131,660 to fund the program costs and position associated with the grant for the remainder of 2024 and 2025.

BACKGROUND:

The Police Department requests the addition of a full-time position to perform management and coordination of the Community Initiative to Reduce Violence (CIRV) Program. The new classification title will be Community Initiative to Reduce Violence (CIRV) Program Manager. This is new program and is under development and is a partnership between community resource providers and Law Enforcement partners to reduce juvenile crime in our community.

This position will be a classified, non-bargaining position within the City and subject to all Civil Service rules with respect to hiring.

FINANCIAL IMPLICATIONS:

The accepted grant allotted a total of \$131,660 in funding for the position. This will cover salary and benefits for the remainder of 2024, assuming a November hire and all of 2025.

CIRV Project Manager

Cost Item	Approximate Annual Cost	Estimated Actual Cost 2024 (2 months)
Salary	\$ 63,727	\$ 10,621
Retirement (PERA)	\$ 9,419	\$ 1,570
Health Insurance	\$ 23,151	\$ 3,858
Dental Insurance	\$ 296	\$ 49
Life Insurance	\$ 72	\$ 12
Medicare	\$ 924	\$ 154
Estimated Position Cost	\$ 97,589	\$ 16,265

The remainder of funding will be used for a computer, operating supplies and program materials for the life of the grant program.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

If this ordinance is not approved, and assuming the establishment of the Community Initiative to Reduce Violence (CIRV) Program Manager position is approved, no salary range will be associated with the classification, the position cannot be filled, and the grant funds will be forfeited and returned to the Division of Criminal Justice, Office of Adult and Juvenile Assistance.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2024 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR THE COMMUNITY INITIATIVE TO REDUCE VIOLENCE (CIRV) PROGRAM MANAGER

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Section 6-5-16 (B) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2024 pay scale for the classification of Community Initiative to Reduce Violence (CIRV) Program Manager.

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

B. The monthly pay range for the classification of Community Initiative to Reduce Violence (CIRV) Program Manager for 2024

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
(B) ADMINISTRATIVE							
Community Initiative to Reduce Violence (CIRV) Program Manager	4835.66	4993.81	5152.31	5310.61	5484.57	5658.93	5833.11

SECTION 2.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., TO RENDER PROFESSIONAL ENGINEERING SERVICES RELATED TO THE DESIGN OF THE DIGESTER COVERS AND MIXING SYSTEM REPLACEMENT, POLYMER SYSTEM REPLACEMENT, AND PHASE 4 ELECTRICAL IMPROVEMENTS

SUMMARY:

This Ordinance approves an agreement with the City's Engineer of Record, Brown and Caldwell, Inc., for professional engineering services associated with the design of the digester covers and mixing system replacement, polymer system replacement, and Phase 4 electrical improvements.

PREVIOUS COUNCIL ACTION:

Resolution No. 15497 awarded an agreement between the City of Pueblo and Brown and Caldwell, Inc., to provide engineering services for the Pueblo Wastewater Department, on February 12, 2024.

Ordinance No. 9641 awarded an agreement between the City of Pueblo and Brown and Caldwell, Inc., for consulting engineering services to replace the headworks and primary clarifier area control panels and motor control centers at the James R. Dilorio Water Reclamation Facility on January 20, 2020.

BACKGROUND:

The James R. Dilorio Water Reclamation Facility (WRF) treats all the wastewater for the City of Pueblo. The WRF will be upgrading the lids on digesters 3 and 4. The upgrade is required because the structures that allow the lids to float are beginning to fail, and new air quality regulations will require the lids to be updated to prevent methane from being released. The polymer system will be replaced because it is

reaching the end of its useful life. This system is an integral part of the solids handling system. The electrical system will be upgraded to eliminate the use of fuses on the pole and to allow the electrical system to be reset without relying on the fuses that are on the electrical pole. This upgrade will allow WRF staff to reset the system without the necessity for a contractor to reset the system and leaving the WRF without power.

The scope of work under the agreement shall include preliminary and final design and bid support with respect to the following items:

1. Digester mixing system replacement.
2. Replacement of two floating digester covers, including evaluation of new Colorado Air Quality requirements to guide direction for digester covers replacement.
3. Verification and revision of existing design documents for replacement of the polymer system.
4. Incoming electrical service improvements, elimination of existing fuses and installation of resettable protection devices on the incoming electrical service; and
5. Consolidation of design documentation with existing electrical improvements projects to create a single construction package.

FINANCIAL IMPLICATIONS:

Funds for this project in the amount of \$918,915 are available from the Sewer User Fund and have been appropriated in the Sewer User Fund (WW2401).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Alternative No. 1 - No Action

If no upgrades are performed on the digester covers, polymer system, and the incoming electrical system, the condition of the equipment will continue to deteriorate until an emergency repair is required at a higher cost than the planned project. The WRF would also risk violating its discharge permit if the equipment upgrades are not upgraded, and an outage were to happen.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 08-26-24 SOW Digester, Polymer and Electrical Improvements
2. 08-26-24 23-130 Brown and Caldwell Agmt Digester Covers Polymer Syst Phase

ORDINANCE NO.

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., TO RENDER PROFESSIONAL ENGINEERING SERVICES RELATED TO THE DESIGN OF THE DIGESTER COVERS AND MIXING SYSTEM REPLACEMENT, POLYMER SYSTEM REPLACEMENT, AND PHASE 4 ELECTRICAL IMPROVEMENTS

WHEREAS, the City of Pueblo owns, operates, and maintains a wastewater system subject to the requirements of the Federal Clean Water Act and the Colorado Water Quality Control Act; and

WHEREAS, the digester covers, polymer system, and the electrical system are at the end of their useful life and need replacement; and

WHEREAS, the City is obligated to comply with the effluent limits contained in the discharge permit; and

WHEREAS, Brown and Caldwell, Inc. is the consulting Engineer of Record and is the most qualified to serve the Pueblo Wastewater Department; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The agreement between The City of Pueblo, a Colorado Municipal Corporation and Brown and Caldwell, Inc. attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds of \$918,915 for work performed under this agreement shall be from the Sewer User Fund Project No.23-130 (WW2401).

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached agreement to effectuate the transactions described therein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

Digester Covers and Mixing System Replacement, Polymer System Replacement, and Phase 4 Electrical Improvements Project

Scope of Services

Prepared for
City of Pueblo, CO
June 2024

Project Understanding

This scope of work describes Brown and Caldwell (Consultant) and City of Pueblo Department of Wastewater (Pueblo WW) activities that will occur as part of the design phase of the Digester Covers and Mixing System Replacement, Polymer System Replacement, and Phase 4 Electrical Improvements Project at the James R. Dilorio Water Reclamation Facility (JRDWRF).

The Phase 4 Plant Electrical Improvements has been designed. During bidding of the construction of the Phase 4 Electrical System Improvements, no bids were received. In response, Pueblo WW has decided to merge the polymer system replacement, floating digester covers replacement, mixer system construction packages, and incoming electrical service improvements with the electrical improvement construction package in the anticipation of creating a more enticing project for contractors to bid.

This Scope of Services includes the work to be provided by Brown and Caldwell for the Pueblo WW to perform detailed design services for:

- Digester mixing system replacement
- Replacement of two (2) floating digester covers (Digesters 3 and 4), including evaluation of new Colorado Air Quality Requirements to guide direction for digester covers replacement
- Verification and revisions to existing design documents for replacement of the polymer system
- Incoming electrical service improvements, elimination of existing fuses and installation of resettable protection devices on the incoming electrical service
- Consolidation of design documentation with existing electrical improvements project to create a single construction package

It is expected that the proposed improvements will not require the Colorado Department of Public Health and Environment (CDPHE) Application Procedures for Amendment of Existing Site Location Approval Procedures, pursuant to 5 CCR 1002-22 (22.8).

Engineering services included herein are for:

- Preliminary and final design
- Bid support

Future services that will be provided under separate agreement:

- Engineering services during construction
- Controls Integration (Programmable Logic Controller [PLC] and Supervisory Control and Data Acquisition [SCADA] programming)
- Operational support during startup/commissioning

This Scope of Services includes the following phases:

- Phase 100 – Project Management and Opinion of Probable Construction Cost (OPCC)
- P4 Phase 850 – 30% Digester Floating Cover Replacement, Digester Mixing System, and Incoming Electrical Service Improvements. (This scope is being completed under Amendment #1, dated April 9, 2024 under Phase 4 Electrical Project.)
- Phase 300 – 75% Digester Floating Cover Replacement, Digester Mixing System, and Incoming Electrical Service Improvements
- Phase 400 – 90% Dewatering Polymer System Verification and Revisions



- Phase 500 – Bidding Services
- Phase 600 – Supplemental Services and Contingency

Two (2) attachments are included with this Scope of Services:

- Attachment 1 - Schedule
- Attachment 2 – Compensation
 - The full compensation for this scope of work is \$1,089,681.00.
 - The compensation for this scope of work has been partially funded through reallocated funds as described in Project IV Electrical Scope Amendment #1, dated April 9, 2024. \$170,776 was reallocated from services not performed and applied to this scope of work.
 - The compensation to approved for this proposal is \$918,915.00.

Pueblo WW Responsibility

Pueblo WW will provide Consultant all available and relevant information to aid in the design process. This includes, but is not limited to:

- PDF files of all existing plant construction drawings
- Access to the plant site and facility to validate and verify as constructed conditions
- Knowledgeable staff who can discuss operational and maintenance issues
- Survey information pertinent to the project scope

Project Assumptions and Limitations

The following overall assumptions were made in the development of this Scope of Services:

- **Scope Basis.** This scope of work is the entirety of services offered for this project under the subject Agreement of Professional Services. Services identified in Agreement Schedule 1, unless indicated herein, are not included.
- **Project Schedule.** The work on this project is projected to commence in April 2024 and is targeted to be complete in June 2025. This includes 9 months for design and 4 months for bidding. See Attachment 1 – Schedule. The schedule includes assumptions such as regulatory and Pueblo WW review times that are not controlled by the Consultant.
- **Design Submittals/Deliverables.** Due to the varying levels of complexity, the following design submittals are anticipated:
 - 30% design submittal for floating digester covers, mixing system replacement, and incoming electrical system improvements
 - 75% design submittal for floating digester covers, mixing system replacement, and incoming electrical system improvements
 - 90% design submittal for dewatering polymer system replacement
 - 100% design submittal (Bid Set) for consolidated project design package including: digester floating covers and mixing system, dewatering polymer system, and electrical improvements
- **Decisions.** The design approach is based on interactive workshops for each design submittal/deliverable detailed above. Decisions will be reached in the workshop setting and summarized/documented and maintained in an issues/decision log. Additionally:

- The 30% design submittal for the floating digester covers and mixing system will document major decisions. Any alternatives analysis will be completed during the 30% design phase. All other design decisions will be expedited between Consultant and Pueblo WW using workshops and direct communications and documented in a decision log.
- It is expressly understood and mutually agreed that the dewatering polymer system design effort includes modifications to the existing design documentation for compliance to current codes and coordination with the polymer system vendor to confirm their scope of supply and make minor modifications to the existing design to accommodate changes required for the vendor's supply.
- No allowance has been made in this scope of work for modifying design documentation for the electrical system improvements.
- No value engineering is included in this scope.
- **Pueblo WW Design Review Comments.** The Pueblo WW project manager will compile and reconcile Pueblo WW staff comments on all Consultant deliverables. All project reviews and comment periods are assumed to be ten (10) working days to accommodate the project schedule. The Consultant team will not continue design during project review of submittals to avoid over-developing items that may change based on Pueblo WW's feedback.
- **Codes and Standards.** The design will be based on federal, state, and local codes and standards in effect at the beginning of the project. Any changes in these codes may necessitate a change in scope and will be subject to renegotiation. The existing plant facilities are assumed to be in full compliance with current drainage, electrical, building, mechanical, plumbing, seismic, and other codes that apply to these types of facilities. Revisions and rehabilitation of existing plant facilities to achieve compliance with current codes are specifically excluded from this scope of work, **with the exception of the new Colorado Air Quality requirements which will be evaluated as part of Phase 850.** The installing Contractor will prepare a building permit application for each building facility and respond to comments from Pueblo Building Services with modifications included in the Bid Set submittal. Pueblo WW will pay all permit fees.
- **Bidding as One Project.** All designs will be merged as part of a single package to be publicly bid as one project using the traditional design-bid-build method of delivery.
- **Specifications.** BC's master specifications will be used as the basis for technical specifications (modified Construction Specification Institute MasterFormat® 2020 – Divisions 01 through 46). Pueblo's master specifications will be used for Division 00 (introductory information; bidding and contract requirements). Preparation of contract design specifications will be based on the use of standard BC document protocols and specification formats, including bidding forms and general specification conditions like those which have been used on previous projects with Pueblo WW. All specifications will be prepared in Microsoft Word. Electronic delivery format will be PDF.
- **Drawings.** Design will be produced in the Autodesk suite of products using AutoCAD, AutoCAD Civil 3D, and Revit, based upon BC Document Production Standards (DPS), 2023 version. Electronic delivery format will be PDF.
- **Estimates or OPCC.** In providing OPCC, financial analyses, economic feasibility projections, and schedules for this project, Consultant has no control over cost or price of labor/materials; unknown or latent conditions of existing equipment/structures; competitive bidding procedures and market conditions; time or quality of performance by third parties; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, Consultant makes no warranty the City's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinions, analyses, projections, or estimates.

- **Record Drawings.** Pueblo WW will provide PDF files of all existing plant construction drawings. These drawings are considered record drawings and will be relied upon to be accurate for design purposes. Pueblo WW will provide to Consultant all data in their possession relating to Consultant's services on this project. Consultant will reasonably rely upon the accuracy, timeliness, and completeness of the information provided. If provided documents are found to be erroneous in content, an adjustment to work scope subject to renegotiation with Pueblo WW may be required.
- **Unknown Conditions.** Consultant is not responsible for additional effort that may be required for issues related to unknown conditions that may impact the design or construction.
- **Design Gates.** The final design phase will not commence until all decisions are final and Pueblo WW approves the preliminary design.
- **Coordination Meetings.** The BC Project Manager, Design Manager, and up to four additional design engineers (discipline leads) may attend progress meetings with Pueblo WW. Meetings will be held virtually and on a monthly frequency.

The following table summarizes key assumptions for each of the major design disciplines.

Discipline Area	Key Scope Assumptions
Geotechnical	There are no Geotechnical activities planned for this project.
Architectural	- No modifications are required for the Dewatering Polymer System design documentation. - Building architecture (materials, construction) will be similar to existing structures. - No landscape architect services will be required for this Project.
Civil	- Dewatering during construction is the responsibility of the Contractor. - Additional site security and fencing is not required. - Existing topographical survey information and base mapping will be utilized for the design of new facilities and modifications of existing facilities. - Surveying will be furnished by Pueblo WW, in accordance with generally accepted practice (expected services will include general location, construction baseline and benchmarks, pothole work, and water surface elevations). Deliverables will include electronic files, AutoCAD Civil 3D 2019 or newer. - Additional topographical survey information to augment the existing base mapping will be identified by Consultant to be obtained by Pueblo WW for the design of new facilities and modifications of existing facilities. - Legal, easement, and plat surveys for the site will not be required. - Landscaping and irrigation plans will not be prepared. - No traffic analysis or traffic control design are required. Unimproved road east of the secondary clarifiers will not be modified. - The capacity of the existing fire protection system is adequate to handle the new facilities.
Structural	- No retaining walls will be required. - Structural inspection of the interior surface of the digesters will occur only after the contractor has cleaned and made safe access for inspection. - Structural design will be limited to equipment pads, housekeeping pads, slabs on grade, and access platforms and stairs less than 6 feet in height. - The digester tanks are structurally sound and can accommodate digester cover attachment and appropriate uplift forces from the digester gas system and overflow addition pipe penetrations to accommodate the proposed digester mixing system. - No changes made to existing cover access platforms or guardrails.
Process	No process modeling is required.
Process Mechanical	- Design concerning "plant-wide" utility systems such as basin drainage, water and in-plant waste collection/disposal will be limited to extension of and/or changes to existing piping. No new structures or equipment will be needed. - Active cathodic protection will not be required for buried piping. - Piping 2 inches in diameter and smaller will be field routed, unless needed to show appropriate design intent. - Pipe supports will be Contractor-designed based upon a performance specification. - Pipe expansion/contraction control measures will be Contractor-designed based upon a performance specification. - Seismic bracing/control measures for piping will be specified for Contractor design. - Digester mixing design will be based on Computation Fluid Dynamics (CFD) modelling by the Vendor.
Building Mechanical	- No HVAC design is required under this SOW. Any HVAC design that is part of an existing package is assumed to be adequate. - Limited plumbing systems to include drainage and hose bibs. No restroom is anticipated. - Where emergency fixtures are planned, tepid water (80 – 85 °F) will be provided. - Fire suppression is not anticipated.

Discipline Area	Key Scope Assumptions
Electrical	• 30 Percent Design phase documents will be limited to discipline general drawings, site drawings identifying major electrical system tie-ins/sources, and electrical load distribution. • Existing installation meets current NEC requirements; effort to bring existing installation up to new code requirements not included. • Existing areas are correctly rated and designed per NFPA 820; effort to bring existing installation up to current area classification requirements not included. • Electrical specifications will be provided during the Final Design phase only. • It is assumed the net change in plant electrical load resulting from the project will not require upgrade of the plant's existing electrical service. • Fire detection/ alarm: BC will provide a specification defining the performance requirements for the system. The system will be designed and constructed by the Contractor using licensed specialists as required. • Conduit and cable tray supports: BC will provide a specification defining the performance requirements for hangers and supports. The Contractor will develop hanger and support details and route and install all conduits and cable trays. • Short-circuit, coordination, and arc flash analyses: BC will provide a specification for the performance of these analyses. The analyses will be performed by the Contractor using data for the actual electrical equipment procured and installed. • Site security, cameras, and public address systems will not be included.
Instrumentation	• I&C will match the existing system and components available during the Project. • I&C will be similar in type and sophistication to match existing facilities. Analog elements and components will be used, and no significant modifications to existing I&C equipment or systems will be needed. • A design for modifying the existing programmable logic controller (PLC)-based supervisory control and data acquisition system (SCADA) will be provided for the process areas being modified. Significant modifications to existing I&C equipment or systems will not be required. • Pueblo will provide "as-built" documentation of the existing process instrumentation and control system. Pueblo-provided information will include, but not be limited to, existing motor and control circuit diagrams, panel shop drawings, process instrument information, and process control system software documentation. • The new instrumentation and control system modifications will be based on the use of existing PLCs with the assumption spare capacity is available. Plant status monitoring will be by the existing commercially available PC-based software package. Remote access to plant components will not be provided. • 30 Percent Design will include process & instrumentation diagrams (P&IDs), completed to a level sufficient to identify the primary processes and process equipment and extent of major modification of treatment process. P&IDs will be completed during the Final Design phase. • 30 Percent Design will include a Control System Block Diagram drawing depicting the site's major network modifications. Final Design will update the drawing to include all network modifications, in the Project-modified process areas only. • Discipline specifications will be provided during the Final Design phase only. • The Basis of Design TM will be provided during the 30 Percent Design phase, without modification during Final Design. • The public address system design or modification will not be included. • Security system and video system design are excluded from this scope of work. • Vendor-supplied control system packages will be interfaced through hardwired signals. • SCADA and PLC programming will be conducted via remote access. Programming of vendor supplied control packages is excluded from this scope of works. • The Construction Contractor will provide field staff to perform loop and continuity tests.
Permitting	• Wetlands, biological assessments, or archaeological investigations and surveys will not be necessary. • The Construction Contractor will secure other project-related permits such as the grading, building, electrical, and plumbing permits. • No effort associated with right-of-way permits is included as all construction activities will occur within the site boundaries of the existing plant. • Contractor is responsible for obtaining Stormwater Pollution Prevention Plan (SWPPP) Permit. • Pueblo WW will coordinate directly with the fire marshal for review as part of the Building Services permit application process.

Detailed Scope of Services

The following sections present Consultant's detailed scope of work.

Phase 100 – Project Management

Task 101: Project Management Planning

An internal Project Management Plan (PMP) will be created to document the key project information required by all project team members to assist them in executing the project to meet the required objectives: on time, on budget, high quality, and meeting Pueblo WW's critical success factors. The key elements of the project plan are described below:

- Project Charter, which will establish the project goals, objectives, and critical success factors.
- Project team members, their roles, and responsibilities, including a staffing plan (management, engineering, QA/QC, etc.)
- Scope of Services with work breakdown structure
- Project schedule
- Project budgets
- Communications Plan
- Risk Management Plan
- QA/QC Plan
- BIM Execution Plan
- Project documentation plan and file structure
- Change management process
- Health and Safety Plan for field work

Task 102: Project Controls and Reporting

Invoicing will occur monthly and will be prepared and submitted to Pueblo WW via email in an approved format. Invoices shall include total contract amount, total charges to date, previous billings, outstanding balance, current amount remaining, and total amount due. Invoice will include a narrative description of the work performed during the invoice period.

Assumptions:

- It is anticipated that the duration of the design phase is 9 months.
- It is anticipated that the duration of the bidding phase is 4 months.

Deliverables:

- Monthly invoices

Task 103: Project Management and Design Management

Objective. To support the general Project Management and Design Management activities throughout the project.

Approach. Consultant will provide management oversight on the project in accordance with BC policies and standard practices. This task also includes the development of the Front-End Division 01 specifications for the project. Other activities include monthly progress meetings, miscellaneous project meetings, site visits, bidding support, construction sequencing evaluation, and project closeout.

Pueblo Responsibilities:

- Provide the updated Division 00 documents for review by Consultant to ensure consistency with Division 01 documents and other portions of the contract.

Assumptions:

- The Division 00 documents will require no significant edits.

Deliverables:

- Division 01 project technical specifications

Task 104: Internal QA/QC

Objective. To implement Consultant's internal QA/QC program to review deliverables from this scope. The deliverables for this scope of work include the following:

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System
- 90% Design of the Dewatering Polymer System
- Bid Set of the Consolidated Construction Package (Digester Floating Cover Replacement, Digester Mixing System, Dewatering Polymer system, and Phase 4 Electrical Improvements)

Approach. Consultant will provide appropriate calculation and deliverable QA reviews by in-house, senior staff members. No external value engineering reviews are included in this scope.

Task 105: Cost Estimating

Objective. To provide an Opinion of Probable Construction Cost (OPCC) at each design phase milestone.

Approach. Consultant will provide an OPCC for each of the four (4) design submittals. Each OPCC will be developed and submitted in accordance with the Association for the Advancement of Cost Engineering Estimate Classification System. Cost estimates will be subdivided by major engineering disciplines.

Since an OPCC for the Phase 4 Electrical Improvements project has recently been completed, only updates to cover escalation will be performed to the existing OPCC for the Phase 4 Electrical Improvements will be prepared under this scope.

The following is a list of each Design Submittal and corresponding AACE estimate Class.

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 4 estimate (with an expected accuracy range of -30 to +50%)
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 3 estimate with an expected accuracy range of -20 to +30%)
- 90% Design of the Dewatering Polymer System, Class 2 estimate (with an expected accuracy range of - 15 to +20%)
- Bid Set of the Consolidated Construction Package (Digester Floating Cover Replacement, Digester Mixing System, Dewatering Polymer system and Phase 4 Electrical Improvements) Class 1 estimate (with an expected accuracy range of - 10 to +150%)

Pueblo Responsibilities:

- Review cost estimates and construction schedule

Deliverables:

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 4 OPCC
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 3 OPCC
- 90% Design of the Dewatering Polymer System, Class 2 OPCC
- Bid Set of the Consolidated Construction Package Class 1 OPCC

Task 106: BIM Services

Objective. To provide Building Information Modeling (BIM) services in support of engineering design throughout the project. The 3D digital representations of the designs will allow engineering disciplines to collaborate and coordinate more efficiently during the design phase.

Approach. Consultant will provide BIM services to integrate structured, multi-disciplinary data for detailed digital representation of the digester floating cover and mixing system and the dewatering polymer system. This task includes subcontractor support for LIDAR integration, including model and content checking.

P4 Phase 850 – 30% Design Digester Floating Cover Replacement and Mixing System

The 30% design will commence with the advancement of the planning concept for the floating digester cover replacement and a new digester mixing system. This design will also consider new air quality regulations and the potential impact to the design. The concepts for the floating digester cover replacement and the new digester mixing system will be documented in two separate technical memorandums (TM). Each TM will be submitted to Pueblo WW for review. Upon receiving concurrence from Pueblo WW for each TM the Consultant will proceed with design.

Objective. To document the basis for final design for the Project scope of work to achieve the following objectives:

- Form the basis for detailed design and preparation of contract documents and obtain Pueblo WW approval on general arrangement and direction of proposed design.
- Develop a technical memorandum (TM) detailing the basis of design of the digester mixing system (process needs, equipment sizing) and electrical power needs and review against the existing power supply from the existing Digester electrical room.
- Develop a technical memorandum (TM) detailing the basis of design of the floating digester covers process needs and evaluate future air quality regulation implications to the design.
- Establish design approaches for digester floating covers and mixing system.
- Develop conceptual level construction sequencing plan.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 30% design phase.

Additionally, the following meetings with Pueblo WW are included within the discipline specific tasks:

- **Kickoff Meeting and Site Visit.** Consultant will conduct a 3-hour in-person kick-off meeting with Pueblo WW staff to establish project expectations, discuss issues and concerns, and develop a foundation for collaborative teamwork. Concepts for discussion will include elements of the proposed design, general plant design, and construction considerations. Consultant will walk the site with Pueblo WW staff.
- **30% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 30% design drawings and specification list.

Task 851: Civil Design

Objective. To develop a preliminary overall site layout, including major process/yard piping, earthwork, drainage, and initial identification of construction constraints, as needed; and to coordinate these concepts with the other design disciplines as needed.

Approach. Develop the following elements:

- Civil 3D models of both existing and proposed features
- Horizontal and vertical control
- Preliminary site layout, including but not limited to, major process piping, grading, pavement, site drainage, and site access
- Drawings as identified in the preliminary drawing list
- Specification list

Pueblo Responsibilities:

- Confirm or establish design criteria for site improvements using decision/issues log; discuss 30% design criteria in coordination meeting between Pueblo WW and Consultant Design Lead
- Review the 30% design submittal
- Provide site survey data as needed to inform design
- Confirm site utility features through field locates or other methods where there is reasonable expectation the base map drawings may require additional information or verification
- Coordinate with fire marshal for review of proposed facilities and determine minimum fire flow at required residual pressure; provide Consultant with fire flow design criteria for on-site water system extensions

Deliverables:

- Drawings as identified in preliminary drawing list
- Specification list

Task 852: Structural Design

Objective. To establish the basis of design criteria which determines the boundary conditions for subsequent project design decisions. Establish the structural requirements in support of the overall process configuration from a schematic and spatial configuration. This includes establishing preliminary structural sizing and identification of major equipment and piping layouts, and site constraints that will affect the structural configuration and design. Develop structural design to the 30% design level and coordinate general arrangement drawings with other disciplines.

Approach: Develop the following elements:



- Structural design criteria
- Major structural components depicted on general arrangement drawings
- Coordinate Process Mechanical/Structural requirements for major equipment and advise appropriate methods of rehabilitation and modifications
- Summarize all proposed site improvements and new facilities for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Structural Drawings including General Notes, Legends, and General Arrangement Plan Sheets

Task 853: Process Mechanical Design

Objective. To develop the overall process configuration from a schematic and spatial configuration for the proposed improvements. To finalize process calculations and parameters for equipment sizing and locating proposed improvements within the existing Digester Building. To develop general arrangement drawings to the preliminary design level. Coordinate with other disciplines to show key discipline components on the general arrangement drawings. Major discipline models have been developed.

Approach. Develop the following elements:

- Develop design criteria
- Major equipment type and preliminary model selections made for use in laying out equipment
- P&IDs developed to indicate major process lines and mechanical equipment
- Coordinate major utilities with civil discipline
- Coordinate model development
- Develop control narratives and coordinate with I&C engineers on instrumentation requirements
- Develop initial pump selections and a list of digester cover manufacturers
- Prepare description summary of design criteria and equipment sizing for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design Submittal
- Provide input on pump selection and digester cover preferences

Deliverables:

- P&IDs (mechanical aspect only)
- General arrangement plans and select sections showing major equipment and key piping

Task 854: Electrical Design

Objective: To develop electrical design for providing power to the proposed digester mixing system from the existing digester electrical room. Coordinate discipline-specific requirements with other disciplines.

Approach. Develop the following elements:

- Determine preliminary service loads for all new equipment and evaluate capacity of existing electrical system
- Preliminary layout of electrical room and area space including power distribution
- Prepare description summary of available power from existing digester electrical room and power supply for proposed digester mixing system for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Power one-line diagrams (power distribution)
- Site electrical power plan drawings

Task 855: Instrumentation Design

Objective: To develop instrumentation design to the 30% design level, develop draft process and instrumentation diagrams (P&IDs) supporting the replacement of the floating digester covers and digester mixing system and the existing network cabling connecting the local control system with the existing facility. Coordinate discipline-specific requirements with the other design disciplines and coordinate draft construction sequencing plan.

Approach. Determine scope of new process instrumentation, system network and local control system requirements and provide draft design process and instrumentation diagrams (P&IDs) and TM edits supporting the 30% Design.

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Draft Process and Instrumentation Diagrams (P&IDs)
- Control system block diagram

Task 856: Digester Mixing TM Preparation

Objective. Prepare the Digester Mixing Technical Memorandum (TM) submittal.

Approach. Consultant will submit a PDF of the draft TM and a PDF of the final TM, updated with Pueblo WW review comments. A one (1) hour virtual meeting to discuss the TM review comments will be conducted to describe the TM's findings, discuss comments, and agree to the proposed approach for the digester mixing system.

Pueblo Responsibilities:

- Review draft TM and provide consolidated review comments
- Coordinate interaction with Pueblo Building Department and Fire Marshal for design review
- Attend TM review meeting

Deliverables:

- Draft and Final TM
- TM review meeting agenda and minutes

Task 857: Digester Floating Cover TM Preparation

Objective. Prepare the Digester Floating Cover Technical Memorandum (TM) submittal.

Approach. Prior to preparation of the TM, Consultant will visit the site to perform an assessment of the volume of digester gas escaping the existing digesters. Consultant will submit a PDF of the draft TM and a PDF of the final TM, updated with Pueblo WW review comments. A one (1) hour virtual meeting to discuss the TM review comments will be conducted to describe the TM's findings, discuss comments, and agree to the proposed approach for the digester covers.

Pueblo Responsibilities:

- Review draft TM and provide consolidated review comments
- Coordinate interaction with Pueblo Building Department and Fire Marshal for design review
- Attend TM review meeting

Deliverables:

- Draft and Final TM
- TM review meeting agenda and minutes

Task 858: Incoming Electrical Service Improvements

Objective. Elimination of existing fuses and installation of resettable protection devices on the incoming electrical service

Approach. Design bypass of the existing pole-mounted fuses and interrupters on each of the incoming 13.2kV electrical service feeds. Design new pad-mounted vacuum interrupters on each of the incoming 13.2kV electrical service feeds. This will include intercepting the underground conduits from the poles to the existing plant main switchgear and re-routing them to the new pad-mount interrupters, as well as connecting the interrupters to the plant network for monitoring. Perform a targeted coordination study of the existing 13.2kV distribution system, from the two electrical services up to primaries of the plant's (8) existing 13.2kV to 480V transformers and recommend changes to fuse sizes to improve coordination to the extent possible, or potential improvements for a separate future project to improve coordination. This coordination effort would be related to the recently discovered utility issues. A separate coordination study, short-circuit study and arc flash analysis will still be part of the work by the construction contractor as part of the overall construction package that includes the new P4 equipment.

Pueblo Responsibilities:

- Coordinate with BC and review the Technical Specification

Deliverables:

- Technical Specification for the Interrupters

Phase 300 – 75% Design Digester Floating Cover Replacement and Mixing System

The 300 Series tasks are for effort required to advance the design from the 30% design level to final design, ready for public bidding of the Project. This will be accomplished with a milestone deliverable at 75% design.

After addressing comments from the 75% design submittal, the design will be finalized and subsequently merged with the other construction packages for bidding.

Discipline specific tasks include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur bi-weekly.

Specific assumptions that apply to all detailed design phases include the following:

- Decisions logged in the 30% Design phase will be followed in the detailed final design tasks. Decisions that are changed or altered drastically will be addressed by amendment if necessary.
- Because at this time the exact nature of the 30% design outcomes is not known, the detailed final design scope is based on assumption that a new “jet” style pumped mixing system will be designed.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 75% Design Phase.

Additionally, the following meetings with Pueblo WW are included within the discipline specific tasks:

- **75% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 75% design drawings and specifications.

Task 301: Civil Design

Objective. To develop a final overall site layout, including all process/yard piping, earthwork, and drainage, and to coordinate these concepts with the other design disciplines as needed.

Approach. To develop the following elements:

- Complete and final Civil 3D models of proposed features
- Final drawings as identified in the preliminary drawing list
- Final specifications

Pueblo Responsibilities:

- Review 75% Design Submittal
- Confirm site utility features through field locates or other methods where there is reasonable expectation the base map drawings may require additional information or verification
- Provide site survey data as needed to inform design

Deliverables:

- Civil drawings as identified in the preliminary drawing list
- Civil technical specifications

Task 302: Structural Design

Objective: Provide the structural design up to and including final drawings and specifications for public bidding of the Project.

Approach. Structural drawings will be based on as-built drawings of the existing facilities, structural calculations, and new/existing background. The controlling code will be the 2015 International Building Code with local amendments. Structural drawings and specifications will be prepared for the expected incidental design details.

Pueblo Responsibilities:

- Review 75% Design Submittal

Deliverables:

- Structural drawings and standard details
- Structural technical specifications

Task 303: Process Mechanical Design

Objective. To prepare process and instrumentation documents and mechanical design documents up to and including 75% drawings and specifications for public bidding of the Project.

Approach. This task consists of all work necessary for completion of the P&IDs included in the design of the digester covers and mixing system. P&ID drawings will be based on as-built drawings of the existing facilities, engineering calculations, and the characteristics of new process equipment needed for this Project. This task also includes process design, equipment sizing and selection, process piping layout, and the final mechanical plan views, mechanical sections and details, and completed specifications.

Pueblo Responsibilities:

- Review 75% Design Submittal
- Provide all necessary shop drawings, submittals, records, and operation and maintenance information necessary to establish the facility conditions that the mechanical design is based on.

Deliverables:

- Process and Instrumentation Diagrams
- Process mechanical drawings, specifications, and standard details

Task 304: Electrical Design

Objective. Prepare electrical design drawings and specifications up to and including 75% drawings and specifications for public bidding of the Project.

Approach. The scope of this task consists of all work necessary to prepare all electrical power improvements for the digester covers and mixing system design, including all raceway and cable schedules, and control schematics with reference to I&C specified process instrumentation and control devices. Electrical design drawings will include plans, one-line diagrams, electrical conduit and conductor schedules, and electrical construction details. Electrical plan drawings will show equipment locations and associated cable or raceways and indicate equipment connections as home-run type symbols with reference to which motor control center or electrical panel that a cable is to be connected. Specific activities are as follows:

- Review the general and mechanical design requirements

- Determine power requirements as needed
- Prepare one-line diagrams for the plant distribution systems
- Complete motor and control schematics for all electrical devices external to vendor-supplied equipment
- Develop electrical drawings, including site plans, power and instrumentation plans, lighting & receptacle plans, and grounding plans
- Develop raceway and cable and panel schedules
- Develop electrical specifications

Pueblo Responsibilities:

- Review 75% Design submittal
- Supply current as-built drawings for all buried and exposed power supply cables, duct banks, raceways, instrument cables, communication cabling, yard piping, process piping, and structures at the plant

Deliverables:

- Electrical drawings, specifications, and standard details

Task 305: Instrumentation Design

Objective. To develop 75% design process instrumentation and controls drawings and technical specifications, supporting the full replacement of the existing floating digester covers, new process instrumentation, and new pumping system. Process replacement will include use of the existing local controller and network connection back to the facility's existing SCADA system.

Approach. The scope of this task consists of all work necessary to develop the instrumentation and controls construction documents for the digester cover and mixing system design. Specific activities are as follows:

- Finalize P&IDs with process mechanical discipline
- Write narrative descriptions of control strategies and sequences
- Specify sensors and instruments to be used and coordinate with electrical for hazardous environments requirements
- Complete drafting of instrumentation and control system drawings, including symbol and detail sheets
- Provide installation details for I&C equipment
- Provide final control system network diagrams
- Develop technical specifications for control system hardware and software requirements
- Provide specification coordination within electrical and mechanical equipment sections

Pueblo Responsibilities:

- Review 75% Design Submittal

Deliverables:

- Instrumentation drawings, specifications, and standard details

Phase 400 – 90% Dewatering Polymer System Verification and Revisions

The 400 Series tasks are for effort required to extract the dewatering polymer drawings and technical specifications from the “2017 Upgrades and Rehab Project”, validate the existing design documentation completed several years ago against the current vendor scope of supply and applicable Codes, and make necessary revisions to the Dewatering Polymer System design documentation in preparation for bidding.

Specific assumptions that apply to this series of tasks include:

- Revisions to the previous design documentation will be minimal in nature, reflecting only minor adjustments to the vendor’s scope of supply. If for any reason the revisions are substantial in nature then this will be addressed by amendment, if necessary.
- Revisions to the previous design documentation, will be minimal reflecting only minor adjustments to applicable codes. If for any reason the revisions are substantial in nature then this will be addressed by amendment, if necessary.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 90% Design Phase.

Additionally, the following meeting with Pueblo WW is included within the discipline specific tasks:

- **90% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 90% design drawings and specifications.

Task 401: Structural Design

Objective. Extract structural design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide structural design documentation, including final drawings and specifications for bidding.

Approach. Structural drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and the latest edition of the International Building Code with local amendments. Structural drawings and specifications will be prepared for slabs, structural steel, concrete reinforcement, anchor bolts, bracing, miscellaneous metals, and other structural aspects of any new/existing facilities associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Structural drawings, specifications, and standard details

Task 402: Process Mechanical Design

Objective. Extract process mechanical design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide the process mechanical design documentation, including final drawings and specifications for bidding.

Approach. Process mechanical drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply. Process mechanical drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.



Pueblo Responsibilities:

- Review 90% Design Submittal.

Deliverables:

- Process and Instrumentation Diagrams
- Process mechanical drawings, specifications, and standard details

Task 403: Electrical Design

Objective. Extract electrical design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide the electrical design documentation, including final drawings and specifications for bidding.

Approach. Electrical drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and applicable Codes such as the latest version of the National Electric Code (NEC). Electrical drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Electrical drawings, specifications, and standard details

Task 404: Instrumentation Design

Objective. Extract instrumentation design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project”, and provide the instrumentation design documentation to 90% design drawings and specifications for bidding.

Approach. Instrumentation drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and applicable Codes. Instrumentation drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Instrumentation drawings, specifications, and standard details

Phase 500 – Bidding Services

The 500 Series tasks are for effort required to prepare and consolidate the three independent design packages into a single package “Bid Set” for public bidding of the project and provide bidding assistance to Pueblo WW, including issuance of bid documents, preparation, and issuance of RFIs/Addenda, and bid evaluation.

Task 501: Bid Document Preparation and Consolidation

Objective. Prepare and consolidate design documentation prepared in Phases 200, 300 and 400 into a single bid package and prepare bid document submittals.

Approach. Prepare the following elements:

- Final design drawings and specifications submitted to Pueblo WW for review
- Pueblo WW review comments incorporated into Bid Set submittal
- Integrate Pueblo WW supplied front-end documents into Bid Set

Pueblo Responsibilities:

- Review Final Design Submittal drawings and specifications
- Advertising and bidding of Project

Deliverables:

- Final Design Submittal, drawings, and specifications
- Bid Set documents, drawing and specifications, referred to as Project Manual

Task 502: Bid Period Services

Objective. To assist Pueblo WW with bidding the Project.

Approach. Prepare the following elements:

- Prepare up to three (3) addenda for Pueblo WW as required prior to bid closing
- Attend and participate in pre-bid conference
- Respond to bidder questions during bid period
- Allot up to eighty (80) engineering hours to respond to bidders' questions and update design documentation (specifications and drawings) to include all disciplines, as needed
- Allot up to forty (40) engineering hours to assist Pueblo WW in bid evaluations

Pueblo Responsibilities:

- Lead efforts to electronically distribute plans and specifications and addenda to prospective bidders and maintain the plan holder's list
- Perform bid evaluations

Deliverables:

- Pre-bid conference agenda and meeting minutes
- Preparation of up to three (3) addenda
- Letter and supporting documentation to Pueblo WW recommending award to successful bidder

Phase 600 – Supplemental Services and Contingency

The 600 Series tasks are included for effort required to assist Pueblo WW in performing supplemental engineering services for any out of scope arising from unforeseen conditions.

Task 601: Supplemental Services

Objective. Assist Pueblo WW in performing out of scope services directed by Pueblo WW.

Upon written authorization by Pueblo WW and mutual agreement on scope and fee, Consultant shall provide supplemental services as needed for the design of additional features for this Project. Supplemental services are as defined by Pueblo WW.

Task 602: Contingency

Objective. Assist Pueblo WW in performing out of scope services arising from unknown conditions.

Upon written authorization by Pueblo WW and mutual agreement on scope and fee, Consultant shall utilize contingency funds as needed for the Design of this Project. Contingency funds may cover additional effort required beyond the assumptions in this scope of work due to unknown conditions.

ATTACHMENT 1 - SCHEDULE

ATTACHMENT 2 - COMPENSATION



[illegible]



**AGREEMENT FOR PROFESSIONAL ENGINEERING
SERVICES BY AND BETWEEN CITY OF PUEBLO AND
BROWN AND CALDWELL, INC.**

23-130

WASTEWATER DEPARTMENT ENGINEER OF RECORD - DIGESTER
COVERS AND MIXING SYSTEM REPLACEMENT, POLYMER
SYSTEM REPLACEMENT, AND PHASE 4 ELECTRICAL
IMPROVEMENTS PROJECT

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES BY AND BETWEEN CITY OF PUEBLO AND BROWN AND CALDWELL, INC.

1. INTRODUCTION

THIS AGREEMENT ("Agreement") made and entered this _____ day of _____, 20_____, by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and Brown and Caldwell, Inc., a registered California Corporation (hereinafter referred to as "Consultant"), a professional engineering firm, for Consultant to render certain professional planning, design, engineering, construction management and related services for City in connection with Bid 23-130 Wastewater Department Engineer of Record -Digester Covers and Mixing System Replacement, Polymer System Replacement, and Phase 4 Electrical Improvements Project, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

Consultant shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[n/a] - Study and Report Phase

[X] - Preliminary Design (Schematic) Phase

[X] - Final Design Phase

[X] - Construction Documents and Bidding Phase

[n/a] - Construction Phase

- A. Upon completion of any phase, Consultant shall not proceed with work on the next phase, if any, until authorized in writing by City to proceed therewith.
- B. Such services shall include all usual and customary professional engineering services (including civil, structural, mechanical, and electrical engineering) and other services including design, environmental, and construction management planning services (directly or through its professional subconsultants and subcontractors) as generally stated herein and as more specifically set forth in Schedule 1. Consultant shall also provide any landscape engineering, surveying, and geotechnical services incidental to its services on the Project.
- C. In performing the professional services, Consultant shall complete the services described in Schedule 1 attached hereto and incorporated herein by reference (the "Services") and the items identified in Section 2 of this Agreement which are applicable to each phase for which Consultant is to render professional services. In the event of a conflict, the Scope of Services set forth in Schedule 1 shall prevail.
- D. Professional engineering services (whether furnished directly or through a professional subconsultant or subcontractor) shall be performed under the direction and supervision of a registered engineer in good standing and duly licensed to practice in the State of Colorado.

Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to City and which shall be signed by and bear the seal of such registered engineer.

- E. Surveying work included within this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

2. CONSULTANT'S RESPONSIBILITIES

2.1. Study and Report Phase

If Consultant is to provide professional services with respect to the Project during the Study and Report Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with City to determine the requirements for the Project and review available data. Advise City as to the necessity of providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist City in obtaining any such services.
- B. Provide special analyses of City's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- C. Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.
- D. Provide general economic analysis of City's requirements applicable to various alternatives.
- E. Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to City and setting forth Consultant's findings and recommendations with opinions of probable costs.
- F. Consultant shall furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with City. City may request additional electronic copies as needed for no additional charge. City may request additional hard copies as needed as a reimbursable expense.

2.2. Preliminary Design (Schematic) Phase

If Consultant is to provide professional services with respect to the Project during the Preliminary Design (Schematic) Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Consult with City and determine the general design concept and Project requirements based upon information furnished by City as well as any study or report on the Project.
- B. Prepare and submit to City preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

- C. Prepare and submit to City a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.
- D. Provide written disclosure to City of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to City based thereon.
- E. Prepare and submit to City a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.
- F. Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to City for City's use and shall review same in person with City. City may request additional electronic copies as needed for no additional charge. City may request additional hard copies as needed as a reimbursable expense.

2.3. Final Design Phase

Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. After consultation with the City, receipt of City's selection of any design options and review of the preliminary design documents, if any, prepare and submit to City final drawings showing the scope, extent, and character of the work to be performed by contractors, and specifications describing such work and the requirement therefor. Such plans and specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including drawings and specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Consultant shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR Part 36 Standards.
- B. Make revisions to the drawings and specifications reasonably requested by City and informing the City of any change in probable construction costs as a result of such revisions.
- C. Provide technical criteria, written descriptions, and design data for City's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.
- D. Based upon Consultant's professional judgment in accordance with applicable standards of care, prepare and submit to City a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

- E. Consultant shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to City for City's use and shall review same in person with City. City may request additional copies as needed as a reimbursable expense.

2.4. Construction Documents and Bidding Phase

If Consultant is to provide professional services with respect to the Project during the Construction Documents and Bidding Phase, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Prepare and submit to City draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Consultant shall consider and incorporate, to the extent both advisable and feasible, City's standard forms of agreement, warranty, payment and performance bond requirements, general conditions, and selected specifications.
- B. After review and comment by City, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify drawings and/or specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to City. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to City in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.
- C. Make recommendations to City concerning the need for prequalification of equipment, vendors or bidders, and, if requested by City, incorporate prequalification requirements in final bid and construction contract documents.
- D. Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Consultant in writing to all plan holders.
- E. Consult with and make recommendations to City concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which City may reasonably request Consultant's advice.

2.5. Construction Phase

If Consultant is to provide professional services with respect to the Project during the Construction Phase, after award by the City of a general contractor for construction of the Project, Consultant shall perform the following unless otherwise stated in Schedule 1:

- A. Perform all duties and functions to be performed by Consultant under the terms of the construction contract.

- B. Visit the Project site, perform observations as to the progress and quality of the work and advise the City as to same. The frequency and level of observation shall be commensurate with the nature of the work and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Consultant's obligation concerning level of observation.
- C. Make determinations as to whether the work is proceeding in general accordance and compliance with the construction contract documents.
- D. Promptly advise the City in writing of any observed omissions, substitutions, defects, or deficiencies noted in the work of any contractor, subcontractor, supplier, or vendor on the Project.
- E. Reject any work on the Project that does not conform to the contract documents.
- F. On request of the City, the construction contractor or any subcontractor on the Project, issue written interpretations as to the drawings and specifications and requirements of the construction work.
- G. Review shop drawings, samples, work product data, and other submittals of the Contractor for general conformance with the design concept of Project and compliance with the drawings, specifications, and all other contract documents, and indicate to Contractor and City with respect thereto, any exceptions noted, or modification or resubmittals required.
- H. Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the City for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Consultant's representation to City that it has made periodic observations of the Project during construction and that to the best of its knowledge, the work for which payment has been sought has been completed by Contractor in general accordance with the drawings, specifications, and other contract documents.
- I. Subject to written concurrence by City, promptly render a written recommendation to City concerning all proposed substitutions of material and equipment.
- J. Draft, for City's consideration, and offer recommendations upon, all proposed change orders and contract modifications.
- K. On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the City any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.
- L. The Consultant shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of

the City or Contractor, the Consultant shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work on the Project. The interpretations and decisions of the Consultant shall be final and binding on the Contractor and City, unless the Director of Wastewater of the City shall, within seven calendar days after receipt of the Consultant's interpretation or decision, file its written objections thereto with the Consultant and Contractor.

2.6. Additional Responsibilities

This section applies to all phases of Consultant's work:

- A. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including designs, drawings, specifications, reports, and other services, irrespective of City's approval or acquiescence to same. Consultant shall, without additional compensation, correct or revise any negligent errors, omissions, or other deficiencies in its work in breach of applicable standards of care.
- B. Consultant shall be responsible, in accordance with applicable law, to City for all loss or damage to City to the extent caused by Consultant's negligent acts or omissions.
- C. Consultant's professional responsibility shall comply with the generally accepted standard of care applicable to the type of engineering and architectural services provided in effect at the time services are rendered and commensurate with the size, scope, and nature of the Project.
- D. Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend City from any and all claims, suits, loss, or injury to Consultant's employees. Notwithstanding the foregoing, Consultant is not responsible for the health and safety duties of workers, agents or third parties not under Consultant's control, including compliance with health and safety programs and precautions.
- E. Consultant acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the City has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that Consultant has selected and intends to employ or assign the key personnel and consultants identified and noted within Schedule 2, attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, City shall have the right to object in writing to employment on the Project of any such key person, consultant, or assignment of principal responsibility, in which case Consultant will employ alternate personnel for such function or reassign such responsibility to another to whom City has no reasonable objection.

Thereafter, Consultant shall not assign or reassign Project work to any person to whom City has reasonable objection.

1. Within five (5) days of execution of this Agreement, Consultant shall designate in writing a Project representative who shall have complete authority to bind Consultant, and to whom City should address communications.
- F. Promptly after execution of this Agreement and upon receipt of authorization from City to proceed, Consultant shall submit to City for approval a schedule showing the order in which Consultant proposes to accomplish its work, with dates on which it will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay City's timetable for achievement of interim tasks and final completion of Project work, provided however, the Consultant will not be responsible for delays beyond its control.
- G. Before undertaking any work which Consultant considers beyond or in addition to the scope of work and services which Consultant has contractually agreed to perform under the terms of this Agreement, Consultant shall advise City in writing (1) that Consultant considers the work beyond the scope of this Agreement, (2) the reasons the Consultant believes the out of scope or additional work should be performed, and (3) a reasonable estimate of the cost of such work. Consultant shall not proceed with such out of scope or additional work until authorized in writing by City. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Consultant shall be compensated for its direct costs and professional time at the rates set forth in Schedule 2 "Fee Schedule".

3. CITY'S RESPONSIBILITIES

City shall:

- A. Designate a representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of City to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind City as to matters of legislative or fiscal policy.
- B. Advise Consultant of City's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.
- C. Provide Consultant with available information pertinent to the Project including any previous reports, studies or data possessed by City which relates to design or construction of the Project. Consultant shall rely on information provided without verification unless otherwise agreed in Schedule 1. City shall notify Consultant of any known or potential health or safety hazards existing at or near the project site.

- D. Arrange for Consultant to have access to enter private and public property as required for Consultant to perform its services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Consultant, and render written decisions pertaining thereto within a reasonable time. The City's approval of drawings, design, specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Consultant of responsibility for the professional adequacy of the work. The City's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- F. Upon advice of the necessity to do so from Consultant, obtain required approvals and permits for the Project. The Consultant shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.
- G. Notify Consultant whenever City becomes aware of any substantial development or occurrence which materially affects the scope or timing of Consultant's services.
- H. City shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of City's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for City to act with respect to any matter involving policy or significant financial impact.

4. TIME FOR PERFORMANCE

Consultant's obligation to render services shall continue for such period of time as may reasonably be required for completion of the work contemplated in Schedule 1 "Services" of this Agreement. The proposed work schedule attached as Schedule 3 may be adjusted by mutual agreement of all parties.

5. PAYMENT

- A. City will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, except for services for additional work or work beyond the scope of this Agreement as shown in A1 below, an amount not to exceed \$918,915.00 in the aggregate as set forth in the grand total shown in Schedule 2 "Fee Schedule".
 - 1. The maximum amount of each phase shall not exceed the amount specified in Schedule 2 for such phase unless agreed upon by Consultant and City with a written Change Order or written Amendment.
 - 2. A written Change Order may be considered for an increase amount of the applicable phase for up to 10% of the grand total cost of the project.

3. A written Amendment approved by City Council, Consultant, and Department Director shall be utilized for any agreed upon change to each phase exceeding 10% of the grand total.
- B. Consultant shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount set forth above, for actual professional services rendered and reimbursable expenses incurred.
 1. Such applications shall be submitted based upon the hourly rates and expense reimbursement provisions for each phase as set forth in Schedule 2 and shall contain appropriate documentation that such services have been performed and expenses incurred.
 2. Such applications for payment of each phase shall not exceed 90% of said phase until final work of the phase has been completed. The final application for payment for each phase shall be the remaining 10% of the phase and shall be paid upon satisfactory completion of the phase as approved by City.
 3. The applications for payment shall be submitted monthly with consideration of City for review of satisfactory completion and payment within 45 days of the date of such application is received provided that sufficient documentation has been furnished.
 4. The final application for payment for the final 10% of the final phase, shall be held by City until all previous phases and current final phase have been completed to City's reasonable satisfaction and all required Consultant submittals have been provided.
- C. No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."
- D. No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's negligent errors or omissions.
- E. Compensation for authorized Services beyond the scope of this Agreement shall be governed by Section 2.

6. TERMINATION

- A. City reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon 10 days' written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work, stop incurring expenses, and shall promptly deliver to City all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Consultant may have accumulated in performing this Agreement, together with all finished work and work in progress. Consultant shall at all times act in good faith with respect to the orderly transfer of work to the City or any entity designated by City.

- B. Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to the date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or City. Consultant shall provide a detailed final invoice to the City within fourteen (14) calendar days from the effective date of termination, itemizing the work completed, costs incurred, and any outstanding payments due. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 5, and the Consultant expressly waives any right to claim damages, including but not limited to lost profits, anticipated revenue, or indirect or consequential damages arising out of or relating to the termination for convenience.
- C. In the event termination of this Agreement or Consultant's services is for breach of this Agreement by Consultant, or for other fault of Consultant including but not limited to any failure to timely proceed with the Services, or to pay its employees and Consultants, or to perform work with the level of care and skill ordinarily exercised by consultants performing similar services at the time services are performed and in a manner deemed satisfactory by City's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.
- D. Consultant's responsibility for its completed work and services shall survive any termination.

7. GENERAL PROVISIONS

7.1. Ownership of Documents

All designs, drawings, specifications, technical data, and all other documents or instruments procured or produced by the Consultant in the performance of this Agreement shall be the sole property of the City upon payment to Consultant for work performed and the City is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Consultant agrees that the City shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, technical data, reports, and all other documents pertaining to the work to be performed under this Agreement. In the event City uses the information provided hereunder for another project independent from Project, without adaptation by Consultant, City shall hold harmless Consultant from all loss, claims, injury, and judgments arising from the use of such information for such other project.

7.2. Advertising

Unless specifically approved in advance in writing by City, Consultant shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Consultant's employees. Consultant may make an accurate statement that it worked for City on the Project, but if Consultant wishes to include representations in advertising

or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the City for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.3. Equal Employment Opportunity

In connection with the performance of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, or age. Consultant shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, national origin, disability, or age.

7.4. Notices

Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the City or the Consultant by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the City of Pueblo, City of Pueblo, Department of Wastewater, Attn: Andra Ahrens, Director, 1300 S. Queens Avenue, Pueblo, Colorado, 81001; or to the Consultant, Brown and Caldwell, Inc., Attn: Michael Thorstenson, Principal-In-Charge, 1527 Cole Blvd., Suite 300, Lakewood, Colorado, 80401. Either party may change their address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

7.5. Entire Agreement

This instrument contains the entire agreement between the City and the Consultant respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the City or the Consultant in relation thereto not expressly set forth in this instrument are null and void. Notwithstanding the foregoing, Bid 23-130 Wastewater Department Engineer of Record - Digester Covers and Mixing System Replacement, Polymer System Replacement, and Phase 4 Electrical Improvements Project, is hereby incorporated herein, and Consultant agrees to abide by and comply with the same. In the event of any conflict between any provision of this Agreement and a provision of any Schedule or attachment to this Agreement, the provision in any Schedule or attachment shall control and supersede the conflicting provision in the Agreement.

7.6. Subcontracts

- A. City acknowledges that Consultant is the prime contractor and the only party with whom City has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of City, and City shall be a third-party beneficiary of those subcontract provisions.

- B. Consultant shall indemnify and defend City from all claims and demands for payment for services provided by subcontractors of Consultant to the extent City has paid Consultant for services performed by Consultant's subconsultants and subcontractors.
- C. Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the City has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that it has selected and intends to employ or assign the key personnel and consultants identified in its proposal submitted to City prior to execution of this Agreement to induce City to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to City and receiving City's consent thereto. Consultant shall not assign or reassign Project work to any person to whom City has reasonable objection.

7.7. Successors and Assigns

This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Consultant may be assigned by it without the written consent of the City. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

7.8. Amendments

No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representatives of both Consultant and City.

7.9. Choice of Law, Jurisdiction, and Venue

Colorado law, the Pueblo City Charter, the Pueblo Municipal Code, and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference that conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the County of Pueblo. In the event of litigation the court shall award the prevailing party its court costs and reasonable attorney fees.

7.10. Severability

If any provision of this Agreement, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced.

7.11. Appropriations

The City is prohibited by law from making commitments beyond the term of the current City Fiscal Year. Payment to Consultant beyond the current City Fiscal Year is contingent on the appropriation and continuing availability of agreement funds in any subsequent year. The City's obligation to pay Consultant shall be contingent upon funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the City's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If City funds are not appropriated, or otherwise become unavailable to fund this Agreement, the City may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The City shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination. Consultant shall confirm availability of Agreement Funds before proceeding and/or making obligations for work exceeding the initial and subsequent annual appropriations.

7.12. Force Majeure

Neither party shall be responsible for delays caused by circumstances beyond its reasonable control including but not limited to governmental action, statute, ordinance, rule or regulation, strike or other labor troubles, fire, acts of God, or other incidents outside of either party's control that makes performance or acceptance impossible or impractical. The Consultant shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control created from any force majeure event.

8. DISPUTES

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which the designated Agreement representatives cannot resolve shall be referred in writing to the Mayor's Office for the City for a final determination of the issue. The Parties agree that participation in this administrative procedure shall be a condition precedent to the initiation of litigation or mediation, as mutually agreed, except in the case of an emergency or other conditions that entitle either Party to seek injunctive or emergency relief from a court of competent jurisdiction, in which no participation in the preceding alternative dispute resolution process shall be required.

9. INSURANCE

9.1. Conditions

- A. Consultant agrees that it has procured and will maintain during the term of this Agreement, such insurance as will protect it and City from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in Section 10.2.

- B. Consultant agrees to hold harmless, defend and indemnify City from and against any liability to third parties, to the extent caused by the negligent acts, errors or omissions of Consultant, its employees, subcontractors, and consultants.

9.2. Minimum Requirements

- A. Commercial General Liability Insurance. The Consultant shall secure and maintain during the period of this Contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Consultant with respect to all work performed by it and all its subcontractors under the Contract, to be written on a commercial general liability policy form. This insurance shall be written in amounts not less than a combined single limit of \$1,000,000 for each occurrence and aggregate for bodily injury including death and property damage. This policy of insurance shall name the City of Pueblo, its agents, officers, and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, and blanket contractual coverage. The policy shall also provide "Completed Operations and Projects Liability" coverage.
- B. Commercial Automobile Liability Insurance. The Consultant shall procure and maintain during the period of the Contract and for such additional time as work on the project is being performed, Commercial Automobile Liability Insurance. This insurance shall be written with limits of liability of \$1,000,000 each accident for bodily injury and property damage. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Consultant from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes, and similar equipment whether owned, leased, hired or used by Consultant.
- C. Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the City.
- D. Professional Liability Insurance with coverage of not less than \$1,000,000 each claim and aggregate in a form and with a self-insured retention acceptable to City.
- E. Consultant shall furnish to City a certificate or certificates of insurance showing compliance with this Section. Consultant shall obtain a special endorsement from its insurance carrier that provides that the insurance shall not be cancelled or non-renewed until ten (10) days after written notice has been given to City and provide a copy of such endorsement to City. Consultant shall promptly notify City of any substantial change in, or cancellation, or non-renewal of any such insurance.

10. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the City, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b). No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

11. ACCESSIBILITY

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Consultant therefore, will use its best reasonable professional efforts in accordance with applicable standards of care to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project. Notwithstanding, unless otherwise specified in the Scope of Services, City shall have sole responsibility as between City and Consultant with compliance with the ADA and related regulations.

12. IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant certifies that it has complied with the United States Immigration Reform and Control Act of 1986. Consultant represents and warrants that to the extent required by said Act, all persons employed by Consultant for performance of this Agreement have completed and signed Form I-9 verifying their identities and authorization for employment.

13. PERA LIABILITY

The Consultant shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Consultant shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Agreement.

14. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

- Schedule 1 - "Scope of Services" consisting of 20 pages.
- Schedule 2 - "Fee Schedule" and "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 1 page.
- Schedule 3 - "Work Schedule" consisting of 1 page.

15. ELECTRONIC SIGNATURE

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (1) an original, and all of which taken together shall constitute one and the same agreement, (2) a valid and binding agreement and fully admissible under state and federal law, and (3) enforceable in accordance with its terms.

This Agreement, together with all Project Documents incorporated by reference, constitutes the entire Agreement between City and Contractor with respect to their subject matter, and may not be amended a modified except by written document signed by both parties.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

BROWN AND CALDWELL, INC.

By _____
Naomi Hedden, Director of Purchasing

By _____
Michael J. Thorstenson, Principal-In-Charge

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
CONTACT AND FUNDS ARE AVAILABLE

Mayor Heather Graham for Finance Director

APPROVED AS TO FORM
Department of Law

Robert P. Jagger, Deputy City Attorney

Attachments: Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule and Identification of Personnel, Subcontractors,
and Task Responsibility
Schedule 3 - Work Schedule
Additional Information for Agreement

Schedule 1

Scope of Service

Excerpt from Consultant's Proposal dated June 2024, Pages 1 – 20

Project Understanding

This scope of work describes Brown and Caldwell (Consultant) and City of Pueblo Department of Wastewater (Pueblo WW) activities that will occur as part of the design phase of the Digester Covers and Mixing System Replacement, Polymer System Replacement, and Phase 4 Electrical Improvements Project at the James R. Dilorio Water Reclamation Facility (JRDWRF).

The Phase 4 Plant Electrical Improvements has been designed. During bidding of the construction of the Phase 4 Electrical System Improvements, no bids were received. In response, Pueblo WW has decided to merge the polymer system replacement, floating digester covers replacement, mixer system construction packages, and incoming electrical service improvements with the electrical improvement construction package in the anticipation of creating a more enticing project for contractors to bid.

This Scope of Services includes the work to be provided by Brown and Caldwell for the Pueblo WW to perform detailed design services for:

- Digester mixing system replacement
- Replacement of two (2) floating digester covers (Digesters 3 and 4), including evaluation of new Colorado Air Quality Requirements to guide direction for digester covers replacement
- Verification and revisions to existing design documents for replacement of the polymer system
- Incoming electrical service improvements, elimination of existing fuses and installation of resettable protection devices on the incoming electrical service
- Consolidation of design documentation with existing electrical improvements project to create a single construction package

It is expected that the proposed improvements will not require the Colorado Department of Public Health and Environment (CDPHE) Application Procedures for Amendment of Existing Site Location Approval Procedures, pursuant to 5 CCR 1002-22 (22.8).

Engineering services included herein are for:

- Preliminary and final design
- Bid support

Future services that will be provided under separate agreement:

- Engineering services during construction
- Controls Integration (Programmable Logic Controller [PLC] and Supervisory Control and Data Acquisition [SCADA] programming)
- Operational support during startup/commissioning

This Scope of Services includes the following phases:

- Phase 100 – Project Management and Opinion of Probable Construction Cost (OPCC)
- P4 Phase 850 – 30% Digester Floating Cover Replacement, Digester Mixing System, and Incoming Electrical Service Improvements. (This scope is being completed under Amendment #1, dated April 9, 2024 under Phase 4 Electrical Project.)
- Phase 300 – 75% Digester Floating Cover Replacement, Digester Mixing System, and Incoming Electrical Service Improvements
- Phase 400 – 90% Dewatering Polymer System Verification and Revisions

- Phase 500 – Bidding Services
- Phase 600 – Supplemental Services and Contingency

Two (2) attachments are included with this Scope of Services:

- Attachment 1 - Schedule
- Attachment 2 – Compensation
 - The full compensation for this scope of work is \$1,089,681.00.
 - The compensation for this scope of work has been partially funded through reallocated funds as described in Project IV Electrical Scope Amendment #1, dated April 9, 2024. \$170,776 was reallocated from services not performed and applied to this scope of work.
 - The compensation to approved for this proposal is \$918,915.00.

Pueblo WW Responsibility

Pueblo WW will provide Consultant all available and relevant information to aid in the design process. This includes, but is not limited to:

- PDF files of all existing plant construction drawings
- Access to the plant site and facility to validate and verify as constructed conditions
- Knowledgeable staff who can discuss operational and maintenance issues
- Survey information pertinent to the project scope

Project Assumptions and Limitations

The following overall assumptions were made in the development of this Scope of Services:

- **Scope Basis.** This scope of work is the entirety of services offered for this project under the subject Agreement of Professional Services. Services identified in Agreement Schedule 1, unless indicated herein, are not included.
- **Project Schedule.** The work on this project is projected to commence in April 2024 and is targeted to be complete in June 2025. This includes 9 months for design and 4 months for bidding. See Attachment 1 – Schedule. The schedule includes assumptions such as regulatory and Pueblo WW review times that are not controlled by the Consultant.
- **Design Submittals/Deliverables.** Due to the varying levels of complexity, the following design submittals are anticipated:
 - 30% design submittal for floating digester covers, mixing system replacement, and incoming electrical system improvements
 - 75% design submittal for floating digester covers, mixing system replacement, and incoming electrical system improvements
 - 90% design submittal for dewatering polymer system replacement
 - 100% design submittal (Bid Set) for consolidated project design package including: digester floating covers and mixing system, dewatering polymer system, and electrical improvements
- **Decisions.** The design approach is based on interactive workshops for each design submittal/deliverable detailed above. Decisions will be reached in the workshop setting and summarized/documented and maintained in an issues/decision log. Additionally:

- The 30% design submittal for the floating digester covers and mixing system will document major decisions. Any alternatives analysis will be completed during the 30% design phase. All other design decisions will be expedited between Consultant and Pueblo WW using workshops and direct communications and documented in a decision log.
- It is expressly understood and mutually agreed that the dewatering polymer system design effort includes modifications to the existing design documentation for compliance to current codes and coordination with the polymer system vendor to confirm their scope of supply and make minor modifications to the existing design to accommodate changes required for the vendor's supply.
- No allowance has been made in this scope of work for modifying design documentation for the electrical system improvements.
- No value engineering is included in this scope.
- **Pueblo WW Design Review Comments.** The Pueblo WW project manager will compile and reconcile Pueblo WW staff comments on all Consultant deliverables. All project reviews and comment periods are assumed to be ten (10) working days to accommodate the project schedule. The Consultant team will not continue design during project review of submittals to avoid over-developing items that may change based on Pueblo WW's feedback.
- **Codes and Standards.** The design will be based on federal, state, and local codes and standards in effect at the beginning of the project. Any changes in these codes may necessitate a change in scope and will be subject to renegotiation. The existing plant facilities are assumed to be in full compliance with current drainage, electrical, building, mechanical, plumbing, seismic, and other codes that apply to these types of facilities. Revisions and rehabilitation of existing plant facilities to achieve compliance with current codes are specifically excluded from this scope of work, **with the exception of the new Colorado Air Quality requirements which will be evaluated as part of Phase 850.** The installing Contractor will prepare a building permit application for each building facility and respond to comments from Pueblo Building Services with modifications included in the Bid Set submittal. Pueblo WW will pay all permit fees.
- **Bidding as One Project.** All designs will be merged as part of a single package to be publicly bid as one project using the traditional design-bid-build method of delivery.
- **Specifications.** BC's master specifications will be used as the basis for technical specifications (modified Construction Specification Institute MasterFormat® 2020 – Divisions 01 through 46). Pueblo's master specifications will be used for Division 00 (introductory information; bidding and contract requirements). Preparation of contract design specifications will be based on the use of standard BC document protocols and specification formats, including bidding forms and general specification conditions like those which have been used on previous projects with Pueblo WW. All specifications will be prepared in Microsoft Word. Electronic delivery format will be PDF.
- **Drawings.** Design will be produced in the Autodesk suite of products using AutoCAD, AutoCAD Civil 3D, and Revit, based upon BC Document Production Standards (DPS), 2023 version. Electronic delivery format will be PDF.
- **Estimates or OPCC.** In providing OPCC, financial analyses, economic feasibility projections, and schedules for this project, Consultant has no control over cost or price of labor/materials; unknown or latent conditions of existing equipment/structures; competitive bidding procedures and market conditions; time or quality of performance by third parties; and other economic and operational factors that may materially affect the ultimate Project cost or schedule. Therefore, Consultant makes no warranty the City's actual Project costs, financial aspects, economic feasibility, or schedules will not vary from Consultant's opinions, analyses, projections, or estimates.

- **Record Drawings.** Pueblo WW will provide PDF files of all existing plant construction drawings. These drawings are considered record drawings and will be relied upon to be accurate for design purposes. Pueblo WW will provide to Consultant all data in their possession relating to Consultant's services on this project. Consultant will reasonably rely upon the accuracy, timeliness, and completeness of the information provided. If provided documents are found to be erroneous in content, an adjustment to work scope subject to renegotiation with Pueblo WW may be required.
- **Unknown Conditions.** Consultant is not responsible for additional effort that may be required for issues related to unknown conditions that may impact the design or construction.
- **Design Gates.** The final design phase will not commence until all decisions are final and Pueblo WW approves the preliminary design.
- **Coordination Meetings.** The BC Project Manager, Design Manager, and up to four additional design engineers (discipline leads) may attend progress meetings with Pueblo WW. Meetings will be held virtually and on a monthly frequency.

The following table summarizes key assumptions for each of the major design disciplines.

Continue to next page.

Discipline Area	Key Scope Assumptions
Geotechnical	There are no Geotechnical activities planned for this project.
Architectural	- No modifications are required for the Dewatering Polymer System design documentation. - Building architecture (materials, construction) will be similar to existing structures. - No landscape architect services will be required for this Project.
Civil	- Dewatering during construction is the responsibility of the Contractor. - Additional site security and fencing is not required. - Existing topographical survey information and base mapping will be utilized for the design of new facilities and modifications of existing facilities. - Surveying will be furnished by Pueblo WW, in accordance with generally accepted practice (expected services will include general location, construction baseline and benchmarks, pothole work, and water surface elevations). Deliverables will include electronic files, AutoCAD Civil 3D 2019 or newer. - Additional topographical survey information to augment the existing base mapping will be identified by Consultant to be obtained by Pueblo WW for the design of new facilities and modifications of existing facilities. - Legal, easement, and plat surveys for the site will not be required. - Landscaping and irrigation plans will not be prepared. - No traffic analysis or traffic control design are required. Unimproved road east of the secondary clarifiers will not be modified. - The capacity of the existing fire protection system is adequate to handle the new facilities.
Structural	- No retaining walls will be required. - Structural inspection of the interior surface of the digesters will occur only after the contractor has cleaned and made safe access for inspection. - Structural design will be limited to equipment pads, housekeeping pads, slabs on grade, and access platforms and stairs less than 6 feet in height. - The digester tanks are structurally sound and can accommodate digester cover attachment and appropriate uplift forces from the digester gas system and overflow addition pipe penetrations to accommodate the proposed digester mixing system. - No changes made to existing cover access platforms or guardrails.
Process	No process modeling is required.
Process Mechanical	- Design concerning "plant-wide" utility systems such as basin drainage, water and in-plant waste collection/disposal will be limited to extension of and/or changes to existing piping. No new structures or equipment will be needed. - Active cathodic protection will not be required for buried piping. - Piping 2 inches in diameter and smaller will be field routed, unless needed to show appropriate design intent. - Pipe supports will be Contractor-designed based upon a performance specification. - Pipe expansion/contraction control measures will be Contractor-designed based upon a performance specification. - Seismic bracing/control measures for piping will be specified for Contractor design. - Digester mixing design will be based on Computation Fluid Dynamics (CFD) modelling by the Vendor.
Building Mechanical	- No HVAC design is required under this SOW. Any HVAC design that is part of an existing package is assumed to be adequate. - Limited plumbing systems to include drainage and hose bibs. No restroom is anticipated. - Where emergency fixtures are planned, tepid water (80 – 85 °F) will be provided. - Fire suppression is not anticipated.

Discipline Area	Key Scope Assumptions
Electrical	• 30 Percent Design phase documents will be limited to discipline general drawings, site drawings identifying major electrical system tie-ins/sources, and electrical load distribution. • Existing installation meets current NEC requirements; effort to bring existing installation up to new code requirements not included. • Existing areas are correctly rated and designed per NFPA 820; effort to bring existing installation up to current area classification requirements not included. • Electrical specifications will be provided during the Final Design phase only. • It is assumed the net change in plant electrical load resulting from the project will not require upgrade of the plant's existing electrical service. • Fire detection/ alarm: BC will provide a specification defining the performance requirements for the system. The system will be designed and constructed by the Contractor using licensed specialists as required. • Conduit and cable tray supports: BC will provide a specification defining the performance requirements for hangers and supports. The Contractor will develop hanger and support details and route and install all conduits and cable trays. • Short-circuit, coordination, and arc flash analyses: BC will provide a specification for the performance of these analyses. The analyses will be performed by the Contractor using data for the actual electrical equipment procured and installed. • Site security, cameras, and public address systems will not be included.
Instrumentation	• I&C will match the existing system and components available during the Project. • I&C will be similar in type and sophistication to match existing facilities. Analog elements and components will be used, and no significant modifications to existing I&C equipment or systems will be needed. • A design for modifying the existing programmable logic controller (PLC)-based supervisory control and data acquisition system (SCADA) will be provided for the process areas being modified. Significant modifications to existing I&C equipment or systems will not be required. • Pueblo will provide "as-built" documentation of the existing process instrumentation and control system. Pueblo-provided information will include, but not be limited to, existing motor and control circuit diagrams, panel shop drawings, process instrument information, and process control system software documentation. • The new instrumentation and control system modifications will be based on the use of existing PLCs with the assumption spare capacity is available. Plant status monitoring will be by the existing commercially available PC-based software package. Remote access to plant components will not be provided. • 30 Percent Design will include process & instrumentation diagrams (P&IDs), completed to a level sufficient to identify the primary processes and process equipment and extent of major modification of treatment process. P&IDs will be completed during the Final Design phase. • 30 Percent Design will include a Control System Block Diagram drawing depicting the site's major network modifications. Final Design will update the drawing to include all network modifications, in the Project-modified process areas only. • Discipline specifications will be provided during the Final Design phase only. • The Basis of Design TM will be provided during the 30 Percent Design phase, without modification during Final Design. • The public address system design or modification will not be included. • Security system and video system design are excluded from this scope of work. • Vendor-supplied control system packages will be interfaced through hardwired signals. • SCADA and PLC programming will be conducted via remote access. Programming of vendor supplied control packages is excluded from this scope of works. • The Construction Contractor will provide field staff to perform loop and continuity tests.
Permitting	• Wetlands, biological assessments, or archaeological investigations and surveys will not be necessary. • The Construction Contractor will secure other project-related permits such as the grading, building, electrical, and plumbing permits. • No effort associated with right-of-way permits is included as all construction activities will occur within the site boundaries of the existing plant. • Contractor is responsible for obtaining Stormwater Pollution Prevention Plan (SWPPP) Permit. • Pueblo WW will coordinate directly with the fire marshal for review as part of the Building Services permit application process.

Detailed Scope of Services

The following sections present Consultant's detailed scope of work.

Phase 100 – Project Management

Task 101: Project Management Planning

An internal Project Management Plan (PMP) will be created to document the key project information required by all project team members to assist them in executing the project to meet the required objectives: on time, on budget, high quality, and meeting Pueblo WW's critical success factors. The key elements of the project plan are described below:

- Project Charter, which will establish the project goals, objectives, and critical success factors.
- Project team members, their roles, and responsibilities, including a staffing plan (management, engineering, QA/QC, etc.)
- Scope of Services with work breakdown structure
- Project schedule
- Project budgets
- Communications Plan
- Risk Management Plan
- QA/QC Plan
- BIM Execution Plan
- Project documentation plan and file structure
- Change management process
- Health and Safety Plan for field work

Task 102: Project Controls and Reporting

Invoicing will occur monthly and will be prepared and submitted to Pueblo WW via email in an approved format. Invoices shall include total contract amount, total charges to date, previous billings, outstanding balance, current amount remaining, and total amount due. Invoice will include a narrative description of the work performed during the invoice period.

Assumptions:

- It is anticipated that the duration of the design phase is 9 months.
- It is anticipated that the duration of the bidding phase is 4 months.

Deliverables:

- Monthly invoices

Task 103: Project Management and Design Management

Objective. To support the general Project Management and Design Management activities throughout the project.

Approach. Consultant will provide management oversight on the project in accordance with BC policies and standard practices. This task also includes the development of the Front-End Division 01 specifications for the project. Other activities include monthly progress meetings, miscellaneous project meetings, site visits, bidding support, construction sequencing evaluation, and project closeout.

Pueblo Responsibilities:

- Provide the updated Division 00 documents for review by Consultant to ensure consistency with Division 01 documents and other portions of the contract.

Assumptions:

- The Division 00 documents will require no significant edits.

Deliverables:

- Division 01 project technical specifications

Task 104: Internal QA/QC

Objective. To implement Consultant's internal QA/QC program to review deliverables from this scope. The deliverables for this scope of work include the following:

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System
- 90% Design of the Dewatering Polymer System
- Bid Set of the Consolidated Construction Package (Digester Floating Cover Replacement, Digester Mixing System, Dewatering Polymer system, and Phase 4 Electrical Improvements)

Approach. Consultant will provide appropriate calculation and deliverable QA reviews by in-house, senior staff members. No external value engineering reviews are included in this scope.

Task 105: Cost Estimating

Objective. To provide an Opinion of Probable Construction Cost (OPCC) at each design phase milestone.

Approach. Consultant will provide an OPCC for each of the four (4) design submittals. Each OPCC will be developed and submitted in accordance with the Association for the Advancement of Cost Engineering Estimate Classification System. Cost estimates will be subdivided by major engineering disciplines.

Since an OPCC for the Phase 4 Electrical Improvements project has recently been completed, only updates to cover escalation will be performed to the existing OPCC for the Phase 4 Electrical Improvements will be prepared under this scope.

The following is a list of each Design Submittal and corresponding AACE estimate Class.

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 4 estimate (with an expected accuracy range of -30 to +50%)
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 3 estimate with an expected accuracy range of -20 to +30%)
- 90% Design of the Dewatering Polymer System, Class 2 estimate (with an expected accuracy range of - 15 to +20%)
- Bid Set of the Consolidated Construction Package (Digester Floating Cover Replacement, Digester Mixing System, Dewatering Polymer system and Phase 4 Electrical Improvements) Class 1 estimate (with an expected accuracy range of - 10 to +150%)

Pueblo Responsibilities:

- Review cost estimates and construction schedule

Deliverables:

- 30% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 4 OPCC
- 75% Design of the Digester Floating Cover Replacement and Digester Mixing System, Class 3 OPCC
- 90% Design of the Dewatering Polymer System, Class 2 OPCC
- Bid Set of the Consolidated Construction Package Class 1 OPCC

Task 106: BIM Services

Objective. To provide Building Information Modeling (BIM) services in support of engineering design throughout the project. The 3D digital representations of the designs will allow engineering disciplines to collaborate and coordinate more efficiently during the design phase.

Approach. Consultant will provide BIM services to integrate structured, multi-disciplinary data for detailed digital representation of the digester floating cover and mixing system and the dewatering polymer system. This task includes subcontractor support for LIDAR integration, including model and content checking.

P4 Phase 850 – 30% Design Digester Floating Cover Replacement and Mixing System

The 30% design will commence with the advancement of the planning concept for the floating digester cover replacement and a new digester mixing system. This design will also consider new air quality regulations and the potential impact to the design. The concepts for the floating digester cover replacement and the new digester mixing system will be documented in two separate technical memorandums (TM). Each TM will be submitted to Pueblo WW for review. Upon receiving concurrence from Pueblo WW for each TM the Consultant will proceed with design.

Objective. To document the basis for final design for the Project scope of work to achieve the following objectives:

- Form the basis for detailed design and preparation of contract documents and obtain Pueblo WW approval on general arrangement and direction of proposed design.
- Develop a technical memorandum (TM) detailing the basis of design of the digester mixing system (process needs, equipment sizing) and electrical power needs and review against the existing power supply from the existing Digester electrical room.
- Develop a technical memorandum (TM) detailing the basis of design of the floating digester covers process needs and evaluate future air quality regulation implications to the design.
- Establish design approaches for digester floating covers and mixing system.
- Develop conceptual level construction sequencing plan.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 30% design phase.

Additionally, the following meetings with Pueblo WW are included within the discipline specific tasks:

- **Kickoff Meeting and Site Visit.** Consultant will conduct a 3-hour in-person kick-off meeting with Pueblo WW staff to establish project expectations, discuss issues and concerns, and develop a foundation for collaborative teamwork. Concepts for discussion will include elements of the proposed design, general plant design, and construction considerations. Consultant will walk the site with Pueblo WW staff.
- **30% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 30% design drawings and specification list.

Task 851: Civil Design

Objective. To develop a preliminary overall site layout, including major process/yard piping, earthwork, drainage, and initial identification of construction constraints, as needed; and to coordinate these concepts with the other design disciplines as needed.

Approach. Develop the following elements:

- Civil 3D models of both existing and proposed features
- Horizontal and vertical control
- Preliminary site layout, including but not limited to, major process piping, grading, pavement, site drainage, and site access
- Drawings as identified in the preliminary drawing list
- Specification list

Pueblo Responsibilities:

- Confirm or establish design criteria for site improvements using decision/issues log; discuss 30% design criteria in coordination meeting between Pueblo WW and Consultant Design Lead
- Review the 30% design submittal
- Provide site survey data as needed to inform design
- Confirm site utility features through field locates or other methods where there is reasonable expectation the base map drawings may require additional information or verification
- Coordinate with fire marshal for review of proposed facilities and determine minimum fire flow at required residual pressure; provide Consultant with fire flow design criteria for on-site water system extensions

Deliverables:

- Drawings as identified in preliminary drawing list
- Specification list

Task 852: Structural Design

Objective. To establish the basis of design criteria which determines the boundary conditions for subsequent project design decisions. Establish the structural requirements in support of the overall process configuration from a schematic and spatial configuration. This includes establishing preliminary structural sizing and identification of major equipment and piping layouts, and site constraints that will affect the structural configuration and design. Develop structural design to the 30% design level and coordinate general arrangement drawings with other disciplines.

Approach: Develop the following elements:

- Structural design criteria
- Major structural components depicted on general arrangement drawings
- Coordinate Process Mechanical/Structural requirements for major equipment and advise appropriate methods of rehabilitation and modifications
- Summarize all proposed site improvements and new facilities for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Structural Drawings including General Notes, Legends, and General Arrangement Plan Sheets

Task 853: Process Mechanical Design

Objective. To develop the overall process configuration from a schematic and spatial configuration for the proposed improvements. To finalize process calculations and parameters for equipment sizing and locating proposed improvements within the existing Digester Building. To develop general arrangement drawings to the preliminary design level. Coordinate with other disciplines to show key discipline components on the general arrangement drawings. Major discipline models have been developed.

Approach. Develop the following elements:

- Develop design criteria
- Major equipment type and preliminary model selections made for use in laying out equipment
- P&IDs developed to indicate major process lines and mechanical equipment
- Coordinate major utilities with civil discipline
- Coordinate model development
- Develop control narratives and coordinate with I&C engineers on instrumentation requirements
- Develop initial pump selections and a list of digester cover manufacturers
- Prepare description summary of design criteria and equipment sizing for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design Submittal
- Provide input on pump selection and digester cover preferences

Deliverables:

- P&IDs (mechanical aspect only)
- General arrangement plans and select sections showing major equipment and key piping

Task 854: Electrical Design

Objective: To develop electrical design for providing power to the proposed digester mixing system from the existing digester electrical room. Coordinate discipline-specific requirements with other disciplines.

Approach. Develop the following elements:

- Determine preliminary service loads for all new equipment and evaluate capacity of existing electrical system
- Preliminary layout of electrical room and area space including power distribution
- Prepare description summary of available power from existing digester electrical room and power supply for proposed digester mixing system for inclusion in Digester Mixing and Digester Floating Cover TMs

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Power one-line diagrams (power distribution)
- Site electrical power plan drawings

Task 855: Instrumentation Design

Objective: To develop instrumentation design to the 30% design level, develop draft process and instrumentation diagrams (P&IDs) supporting the replacement of the floating digester covers and digester mixing system and the existing network cabling connecting the local control system with the existing facility. Coordinate discipline-specific requirements with the other design disciplines and coordinate draft construction sequencing plan.

Approach. Determine scope of new process instrumentation, system network and local control system requirements and provide draft design process and instrumentation diagrams (P&IDs) and TM edits supporting the 30% Design.

Pueblo Responsibilities:

- Review 30% Design submittal

Deliverables:

- Draft Process and Instrumentation Diagrams (P&IDs)
- Control system block diagram

Task 856: Digester Mixing TM Preparation

Objective. Prepare the Digester Mixing Technical Memorandum (TM) submittal.

Approach. Consultant will submit a PDF of the draft TM and a PDF of the final TM, updated with Pueblo WW review comments. A one (1) hour virtual meeting to discuss the TM review comments will be conducted to describe the TM's findings, discuss comments, and agree to the proposed approach for the digester mixing system.

Pueblo Responsibilities:

- Review draft TM and provide consolidated review comments
- Coordinate interaction with Pueblo Building Department and Fire Marshal for design review
- Attend TM review meeting

Deliverables:

- Draft and Final TM
- TM review meeting agenda and minutes

Task 857: Digester Floating Cover TM Preparation

Objective. Prepare the Digester Floating Cover Technical Memorandum (TM) submittal.

Approach. Prior to preparation of the TM, Consultant will visit the site to perform an assessment of the volume of digester gas escaping the existing digesters. Consultant will submit a PDF of the draft TM and a PDF of the final TM, updated with Pueblo WW review comments. A one (1) hour virtual meeting to discuss the TM review comments will be conducted to describe the TM's findings, discuss comments, and agree to the proposed approach for the digester covers.

Pueblo Responsibilities:

- Review draft TM and provide consolidated review comments
- Coordinate interaction with Pueblo Building Department and Fire Marshal for design review
- Attend TM review meeting

Deliverables:

- Draft and Final TM
- TM review meeting agenda and minutes

Task 858: Incoming Electrical Service Improvements

Objective. Elimination of existing fuses and installation of resettable protection devices on the incoming electrical service

Approach. Design bypass of the existing pole-mounted fuses and interrupters on each of the incoming 13.2kV electrical service feeds. Design new pad-mounted vacuum interrupters on each of the incoming 13.2kV electrical service feeds. This will include intercepting the underground conduits from the poles to the existing plant main switchgear and re-routing them to the new pad-mount interrupters, as well as connecting the interrupters to the plant network for monitoring. Perform a targeted coordination study of the existing 13.2kV distribution system, from the two electrical services up to primaries of the plant's (8) existing 13.2kV to 480V transformers and recommend changes to fuse sizes to improve coordination to the extent possible, or potential improvements for a separate future project to improve coordination. This coordination effort would be related to the recently discovered utility issues. A separate coordination study, short-circuit study and arc flash analysis will still be part of the work by the construction contractor as part of the overall construction package that includes the new P4 equipment.

Pueblo Responsibilities:

- Coordinate with BC and review the Technical Specification

Deliverables:

- Technical Specification for the Interrupters

Phase 300 – 75% Design Digester Floating Cover Replacement and Mixing System

The 300 Series tasks are for effort required to advance the design from the 30% design level to final design, ready for public bidding of the Project. This will be accomplished with a milestone deliverable at 75% design.

After addressing comments from the 75% design submittal, the design will be finalized and subsequently merged with the other construction packages for bidding.

Discipline specific tasks include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur bi-weekly.

Specific assumptions that apply to all detailed design phases include the following:

- Decisions logged in the 30% Design phase will be followed in the detailed final design tasks. Decisions that are changed or altered drastically will be addressed by amendment if necessary.
- Because at this time the exact nature of the 30% design outcomes is not known, the detailed final design scope is based on assumption that a new “jet” style pumped mixing system will be designed.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 75% Design Phase.

Additionally, the following meetings with Pueblo WW are included within the discipline specific tasks:

- **75% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 75% design drawings and specifications.

Task 301: Civil Design

Objective. To develop a final overall site layout, including all process/yard piping, earthwork, and drainage, and to coordinate these concepts with the other design disciplines as needed.

Approach. To develop the following elements:

- Complete and final Civil 3D models of proposed features
- Final drawings as identified in the preliminary drawing list
- Final specifications

Pueblo Responsibilities:

- Review 75% Design Submittal
- Confirm site utility features through field locates or other methods where there is reasonable expectation the base map drawings may require additional information or verification
- Provide site survey data as needed to inform design

Deliverables:

- Civil drawings as identified in the preliminary drawing list
- Civil technical specifications

Task 302: Structural Design

Objective: Provide the structural design up to and including final drawings and specifications for public bidding of the Project.

Approach. Structural drawings will be based on as-built drawings of the existing facilities, structural calculations, and new/existing background. The controlling code will be the 2015 International Building Code with local amendments. Structural drawings and specifications will be prepared for the expected incidental design details.

Pueblo Responsibilities:

- Review 75% Design Submittal

Deliverables:

- Structural drawings and standard details
- Structural technical specifications

Task 303: Process Mechanical Design

Objective. To prepare process and instrumentation documents and mechanical design documents up to and including 75% drawings and specifications for public bidding of the Project.

Approach. This task consists of all work necessary for completion of the P&IDs included in the design of the digester covers and mixing system. P&ID drawings will be based on as-built drawings of the existing facilities, engineering calculations, and the characteristics of new process equipment needed for this Project. This task also includes process design, equipment sizing and selection, process piping layout, and the final mechanical plan views, mechanical sections and details, and completed specifications.

Pueblo Responsibilities:

- Review 75% Design Submittal
- Provide all necessary shop drawings, submittals, records, and operation and maintenance information necessary to establish the facility conditions that the mechanical design is based on.

Deliverables:

- Process and Instrumentation Diagrams
- Process mechanical drawings, specifications, and standard details

Task 304: Electrical Design

Objective. Prepare electrical design drawings and specifications up to and including 75% drawings and specifications for public bidding of the Project.

Approach. The scope of this task consists of all work necessary to prepare all electrical power improvements for the digester covers and mixing system design, including all raceway and cable schedules, and control schematics with reference to I&C specified process instrumentation and control devices. Electrical design drawings will include plans, one-line diagrams, electrical conduit and conductor schedules, and electrical construction details. Electrical plan drawings will show equipment locations and associated cable or raceways and indicate equipment connections as home-run type symbols with reference to which motor control center or electrical panel that a cable is to be connected. Specific activities are as follows:

- Review the general and mechanical design requirements

- Determine power requirements as needed
- Prepare one-line diagrams for the plant distribution systems
- Complete motor and control schematics for all electrical devices external to vendor-supplied equipment
- Develop electrical drawings, including site plans, power and instrumentation plans, lighting & receptacle plans, and grounding plans
- Develop raceway and cable and panel schedules
- Develop electrical specifications

Pueblo Responsibilities:

- Review 75% Design submittal
- Supply current as-built drawings for all buried and exposed power supply cables, duct banks, raceways, instrument cables, communication cabling, yard piping, process piping, and structures at the plant

Deliverables:

- Electrical drawings, specifications, and standard details

Task 305: Instrumentation Design

Objective. To develop 75% design process instrumentation and controls drawings and technical specifications, supporting the full replacement of the existing floating digester covers, new process instrumentation, and new pumping system. Process replacement will include use of the existing local controller and network connection back to the facility's existing SCADA system.

Approach. The scope of this task consists of all work necessary to develop the instrumentation and controls construction documents for the digester cover and mixing system design. Specific activities are as follows:

- Finalize P&IDs with process mechanical discipline
- Write narrative descriptions of control strategies and sequences
- Specify sensors and instruments to be used and coordinate with electrical for hazardous environments requirements
- Complete drafting of instrumentation and control system drawings, including symbol and detail sheets
- Provide installation details for I&C equipment
- Provide final control system network diagrams
- Develop technical specifications for control system hardware and software requirements
- Provide specification coordination within electrical and mechanical equipment sections

Pueblo Responsibilities:

- Review 75% Design Submittal

Deliverables:

- Instrumentation drawings, specifications, and standard details

Phase 400 – 90% Dewatering Polymer System Verification and Revisions

The 400 Series tasks are for effort required to extract the dewatering polymer drawings and technical specifications from the “2017 Upgrades and Rehab Project”, validate the existing design documentation completed several years ago against the current vendor scope of supply and applicable Codes, and make necessary revisions to the Dewatering Polymer System design documentation in preparation for bidding.

Specific assumptions that apply to this series of tasks include:

- Revisions to the previous design documentation will be minimal in nature, reflecting only minor adjustments to the vendor’s scope of supply. If for any reason the revisions are substantial in nature then this will be addressed by amendment, if necessary.
- Revisions to the previous design documentation, will be minimal reflecting only minor adjustments to applicable codes. If for any reason the revisions are substantial in nature then this will be addressed by amendment, if necessary.

Discipline specific tasks, such as Civil, Structural, etc., include effort associated with QA/QC, construction sequencing, and internal Project Team meetings. Internal Project team meetings will occur weekly during the 90% Design Phase.

Additionally, the following meeting with Pueblo WW is included within the discipline specific tasks:

- **90% Design Review Meeting.** Consultant will conduct a 2-hour virtual meeting with Pueblo WW staff to review the 90% design drawings and specifications.

Task 401: Structural Design

Objective. Extract structural design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide structural design documentation, including final drawings and specifications for bidding.

Approach. Structural drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and the latest edition of the International Building Code with local amendments. Structural drawings and specifications will be prepared for slabs, structural steel, concrete reinforcement, anchor bolts, bracing, miscellaneous metals, and other structural aspects of any new/existing facilities associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Structural drawings, specifications, and standard details

Task 402: Process Mechanical Design

Objective. Extract process mechanical design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide the process mechanical design documentation, including final drawings and specifications for bidding.

Approach. Process mechanical drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply. Process mechanical drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal.

Deliverables:

- Process and Instrumentation Diagrams
- Process mechanical drawings, specifications, and standard details

Task 403: Electrical Design

Objective. Extract electrical design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project” and provide the electrical design documentation, including final drawings and specifications for bidding.

Approach. Electrical drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and applicable Codes such as the latest version of the National Electric Code (NEC). Electrical drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Electrical drawings, specifications, and standard details

Task 404: Instrumentation Design

Objective. Extract instrumentation design documentation (technical specifications and drawings) from the “2017 Upgrades and Rehab Project”, and provide the instrumentation design documentation to 90% design drawings and specifications for bidding.

Approach. Instrumentation drawings and technical specifications will be based on the applicable design documents from the “2017 Upgrades and Rehab Project”. Design drawings and technical specifications will be updated based on vendor supply and applicable Codes. Instrumentation drawings and specifications will be prepared for components associated with the dewatering polymer system improvements.

Pueblo Responsibilities:

- Review 90% Design Submittal

Deliverables:

- Instrumentation drawings, specifications, and standard details

Phase 500 – Bidding Services

The 500 Series tasks are for effort required to prepare and consolidate the three independent design packages into a single package “Bid Set” for public bidding of the project and provide bidding assistance to Pueblo WW, including issuance of bid documents, preparation, and issuance of RFIs/Addenda, and bid evaluation.

Task 501: Bid Document Preparation and Consolidation

Objective. Prepare and consolidate design documentation prepared in Phases 200, 300 and 400 into a single bid package and prepare bid document submittals.

Approach. Prepare the following elements:

- Final design drawings and specifications submitted to Pueblo WW for review
- Pueblo WW review comments incorporated into Bid Set submittal
- Integrate Pueblo WW supplied front-end documents into Bid Set

Pueblo Responsibilities:

- Review Final Design Submittal drawings and specifications
- Advertising and bidding of Project

Deliverables:

- Final Design Submittal, drawings, and specifications
- Bid Set documents, drawing and specifications, referred to as Project Manual

Task 502: Bid Period Services

Objective. To assist Pueblo WW with bidding the Project.

Approach. Prepare the following elements:

- Prepare up to three (3) addenda for Pueblo WW as required prior to bid closing
- Attend and participate in pre-bid conference
- Respond to bidder questions during bid period
- Allot up to eighty (80) engineering hours to respond to bidders' questions and update design documentation (specifications and drawings) to include all disciplines, as needed
- Allot up to forty (40) engineering hours to assist Pueblo WW in bid evaluations

Pueblo Responsibilities:

- Lead efforts to electronically distribute plans and specifications and addenda to prospective bidders and maintain the plan holder's list
- Perform bid evaluations

Deliverables:

- Pre-bid conference agenda and meeting minutes
- Preparation of up to three (3) addenda
- Letter and supporting documentation to Pueblo WW recommending award to successful bidder

Phase 600 – Supplemental Services and Contingency

The 600 Series tasks are included for effort required to assist Pueblo WW in performing supplemental engineering services for any out of scope arising from unforeseen conditions.

Task 601: Supplemental Services

Objective. Assist Pueblo WW in performing out of scope services directed by Pueblo WW.

Upon written authorization by Pueblo WW and mutual agreement on scope and fee, Consultant shall provide supplemental services as needed for the design of additional features for this Project. Supplemental services are as defined by Pueblo WW.

Task 602: Contingency

Objective. Assist Pueblo WW in performing out of scope services arising from unknown conditions.

Upon written authorization by Pueblo WW and mutual agreement on scope and fee, Consultant shall utilize contingency funds as needed for the Design of this Project. Contingency funds may cover additional effort required beyond the assumptions in this scope of work due to unknown conditions.

Schedule 2

Fee Schedule and Identification of Personnel, Subcontractors, and Task Responsibility

Excerpt from Consultant's Proposal dated June 2024, Page 24

[illegible]**CONTRACT AMOUNT LESS P4 Phase 850 FUNDING**

\$918,915.00

Identification of Personnel, Subcontractors, and Task Responsibility noted in Rows 1 and 2 of table above.

Schedule 3

Work Schedule

Excerpt from Consultant's Proposal dated June 2024, Page 22

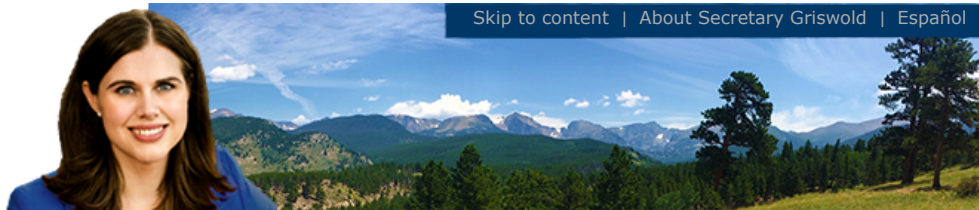
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Additional Information for Agreement

Certificate of Good Standing

PERA Questionnaire

Insurance Certificate(s)



- For this Record...**
Filing history and documents
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification
Subscribe to text notification
Unsubscribe from text notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	BROWN AND CALDWELL, INC.		
Status	Good Standing	Formation date	03/20/1978
ID number	19871067502	Form	Foreign Corporation
Periodic report month	March	Jurisdiction	California
Principal office street address	201 North Civic Drive, Suite 300, Walnut Creek, CA 94596, US		
Principal office mailing address	201 North Civic Drive, Suite 300, Walnut Creek, CA 94596, US		

Registered Agent	
Name	Corporation Service Company
Street address	1900 W Littleton Blvd, Littleton, CO 80120, US
Mailing address	1900 W Littleton Blvd, Littleton, CO 80120, US

- [Filing history and documents](#)
[Get a certificate of good standing](#)
[Get certified copies of documents](#)
[File a form](#)
[Set up secure business filing](#)
[Subscribe to email notification](#)
[Unsubscribe from email notification](#)
[Subscribe to text notification](#)
[Unsubscribe from text notification](#)

Back

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,

BROWN AND CALDWELL, INC.

is an entity formed or registered under the law of California , has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 19871067502 .

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 07/19/2024 that have been posted, and by documents delivered to this office
electronically through 07/22/2024 @ 13:47:04 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 07/22/2024 @ 13:47:04 in accordance with applicable law.
This certificate is assigned Confirmation Number 16225834 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

**COLORADO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
SUPPLEMENTAL QUESTIONNAIRE TO BE ANSWERED BY
ANY BUSINESS PERFORMING SERVICES FOR THE CITY OF PUEBLO**

Pursuant to section 24-51-1101(2), C.R.S., salary or other compensation from the employment, engagement, retention or other use of a person receiving retirement benefits (Retiree) through the Colorado Public Employees Retirement Association (PERA) in an individual capacity or of any entity owned or operated by a PERA Retiree or an affiliated party by the City of Pueblo to perform any service as an employee, contract employee, consultant, independent contractor, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of contracting for services with the City of Pueblo, this document must be completed, signed and returned to the City of Pueblo:

(a) Are you, or do you employ or engage in any capacity, including an independent contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes____, No X. (If you answered "no" please proceed to signature section at bottom of this page.)

(b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? For purposes of responding to this question, an "affiliated party" includes (1) any person who is the named beneficiary or cobeneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree's regular salary or compensation. Yes _____, No ____.

If you answered "yes" please state which of the above entities best describes your business:

_____.

(c) If you answered "yes" to both (a) and (b), you agree to reimburse the City of Pueblo for any employer contribution required to be paid by the City of Pueblo to PERA for salary or other compensation paid to you as a PERA Retiree or paid to any employee or independent contractor of yours who is a PERA Retiree performing services for the City of Pueblo. You further authorize the City of Pueblo to deduct and withhold all such contributions from any moneys due or payable to you by the City of Pueblo under any current or future contract or other arrangement for services between you and the City of Pueblo.

Please provide the name, address, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

Name	Address	DOB	Social Security Number
Name	Address	D B	Social Security Number

Failure to accurately complete, sign and return this document to the City of Pueblo may result in you being denied the privilege of doing business with the City of Pueblo.

Company Name: Brown and Caldwell

Authorized Signature:  Title: Managing Director, CS

Printed Name: Michael J. Thorstenson Date: September 22, 2023



CERTIFICATE OF LIABILITY INSURANCE

5/31/2025

DATE (MM/DD/YYYY)

7/24/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 kcasu@lockton.com	CONTACT NAME:	FAX (A/C, No):	
	PHONE (A/C, No, Ext):	E-MAIL ADDRESS:	
INSURED 1051212 BROWN AND CALDWELL AND ITS WHOLLY OWNED SUBSIDIARIES AND AFFILIATES 201 NORTH CIVIC DRIVE, SUITE 300 WALNUT CREEK CA 94596	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Hartford Fire Insurance Company		19682
	INSURER B: Hartford Accident and Indemnity Company		22357
	INSURER C: Lloyds of London		
	INSURER D: Twin City Fire Insurance Company		29459
	INSURER E: Hartford Underwriters Insurance Company		30104
INSURER F:			

COVERAGES**CERTIFICATE NUMBER:** 20783721**REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	N	37CSEQU1172	5/31/2024	5/31/2025	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 2,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 2,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
								\$
A E A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	N	N	37CSEQU1173 37CSEQU1174 37CSEQU1175	5/31/2024 5/31/2024 5/31/2024	5/31/2025 5/31/2025 5/31/2025	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
							BODILY INJURY (Per person)	\$ XXXXXXXX
							BODILY INJURY (Per accident)	\$ XXXXXXXX
							PROPERTY DAMAGE (Per accident)	\$ XXXXXXXX
								\$ XXXXXXXX
	☐ UMBRELLA LIAB ☐ EXCESS LIAB ☐ DED ☐ RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE	\$ XXXXXXXX
							AGGREGATE	\$ XXXXXXXX
								\$ XXXXXXXX
B D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	Y	37WNQU1170 37WBRQU1171	5/31/2024 5/31/2024	5/31/2025 5/31/2025	☒ PER STATUTE ☐ OTH-ER	
							E.I. EACH ACCIDENT	\$ 2,000,000
							E.I. DISEASE - EA EMPLOYEE	\$ 2,000,000
							E.I. DISEASE - POLICY LIMIT	\$ 2,000,000
C	PROFESSIONAL LIABILITY	N	N	LDUSA2400482	5/31/2024	5/31/2025	\$1,000,000 PER CLAIM & AGGREGATE	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED

CERTIFICATE HOLDER**CANCELLATION** See Attachments

20783721 PUE-26 CITY OF PUEBLO ATTN: TERESA BURNS 230 S MECHANIC STREET PUEBLO CO 81003	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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RE: BC SID 151164 PN 195746 – #23-130: DIGESTOR COVERS AND MIXING SYSTEM. CITY OF PUEBLO, ITS OFFICERS, AGENTS AND EMPLOYEES ARE ADDITIONAL INSUREDS AS RESPECTS GENERAL LIABILITY AND THIS COVERAGE IS PRIMARY AND NON-CONTRIBUTORY, AS REQUIRED BY WRITTEN CONTRACT. WAIVER OF SUBROGATION APPLIES TO WORKERS COMPENSATION/EMPLOYER'S LIABILITY WHERE ALLOWED BY STATE LAW AND AS REQUIRED BY WRITTEN CONTRACT. THIRTY DAYS NOTICE OF CANCELLATION BY THE INSURER WILL BE PROVIDED TO THE CERTIFICATE HOLDER WITH RESPECT TO THE GENERAL LIABILITY, AUTO LIABILITY, WORKERS' COMPENSATION/EMPLOYER'S LIABILITY AND PROFESSIONAL LIABILITY POLICIES. TEN (10) DAYS NOTICE WILL BE PROVIDED IN THE EVENT OF NONPAYMENT OF PREMIUM.

Named Insured: BROWN AND CALDWELL AND ITS WHOLLY OWNED SUBSIDIARIES
Policy Number: 37CSEQU1172
Policy Term: 5/31/2024 to 5/31/2025

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED BY CONTRACT OR AGREEMENT -
OPTION II**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s):	Designated Project(s) or Location(s) of Covered Operations:
WHERE REQUIRED BY WRITTEN CONTRACT	WHERE REQUIRED BY WRITTEN CONTRACT
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule above with whom you agreed in a written contract or written agreement to provide insurance such as is afforded under this policy, but only to the extent that such person or organization is liable for "bodily injury", "property damage" or "personal and advertising injury" caused by:

1. Your acts or omissions or the acts or omissions of those acting on your behalf:
 - a. In the performance of your ongoing operations for such additional insured at the project(s) or location(s) designated in the Schedule;
 - b. In connection with your premises owned by or rented to you and shown in the Schedule; or
 - c. In connection with "your work" for the additional insured at the project(s) or location(s) designated in the Schedule and included within the "products-completed operations hazard", but only if:
 1. The written contract or agreement requires you to provide such coverage to such additional insured at the project(s) or location(s) designated in the Schedule; and
 2. This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

1. The acts or omissions of the additional insured in connection with their general supervision of your operations at the projects or locations designated in the Schedule.

A. The insurance afforded to these additional insureds applies only if the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" offense is committed:

1. During the policy period; and
2. Subsequent to the execution of such written contract or written agreement; and
3. Prior to the expiration of the period of time that the written contract or written agreement requires such insurance be provided to the additional insured.

B. With respect to the insurance afforded to the additional insureds under this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional architectural, engineering or surveying services by or for you, including:

1. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; and

2. Supervisory, inspection, architectural or engineering activities.

A. Limits of Insurance

With respect to insurance provided to the additional insured shown in the Schedule, Paragraph 8. How Limits of Insurance Apply To Additional Insureds in **Section III - Limits of Insurance** does not apply.

B. Duties Of Additional Insureds In The Event Of Occurrence, Offense, Claim Or Suit

The Duties Condition in **Section IV - Conditions** is replaced by the following and applies to the additional insured shown in the Schedule:

1. Notice Of Occurrence Or Offense

The additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- a. How, when and where the "occurrence" or offense took place;
- b. The names and addresses of any injured persons and witnesses; and
- c. The nature and location of any injury or damage arising out of the "occurrence" or offense.

2. Notice Of Claim

If a claim is made or "suit is brought" against the additional insured, the additional insured must:

- a. Immediately record the specifics of the claim or "suit" and the date received; and
- b. Notify us as soon as practicable.

The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.

3. Assistance And Cooperation Of The Insured

The additional insured must:

- a. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- b. Authorize us to obtain records and other information;
- c. Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- d. Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of injury or damage to which this insurance may also apply.

4. Obligations At The Additional Insureds Own Cost

No additional insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

5. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to the additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

6. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs 1. and 2. apply to the additional insured only when such "occurrence", offense, claim or "suit" is known to:

- a. The additional insured that is an individual;
- b. Any partner, if the additional insured is a partnership;
- c. Any manager, if the additional insured is a limited liability company;
- d. Any "executive officer" or insurance manager, if the additional insured is a corporation;
- e. Any trustee, if the additional insured is a trust; or
- f. Any elected or appointed official, if the additional insured is a political subdivision or public entity.

C. Other Insurance

With respect to insurance provided to the additional insured shown in the Schedule, the Other Insurance Condition **Section IV - Conditions** is replaced by the following:

1. Primary Insurance

d. Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary we will share with all that other insurance by the method described in 3. below.

e. Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs a. and b. do not apply to other insurance to which the additional insured has been added as an additional insured or to other insurance described in paragraph 2. below.

2. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

f. Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

g. Premises Rented to You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

h. Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

i. Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

j. Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury Or Property Damage Liability; or

k. When You Are Added As An Additional Insured To Other Insurance

That is any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- a. The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- b. The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

3. Method of Sharing

If all other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

Named Insured: Brown and Caldwell

Carrier: Hartford Fire Insurance Company

Policy Number: 37CSEQU1172

Policy Term: 5/31/2020 to 5/31/2021

Primary and Non-Contributory Policy Language

Section IV – Commercial General Liability Conditions

2. Duties in the Event of Occurrence, Offense, Claim or Suit

e. Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

Named Insured: BROWN AND CALDWELL AND ITS WHOLLY OWNED SUBSIDIARIES
Carrier: Hartford Accident and Indemnity Company & Twin City Fire Insurance Company
Policy Number: 37WNQU1170 and 37WBRQU1171
Policy Term: 5/31/2024 to 5/31/2025

Waiver of Our Right to Recover From Others Endorsement

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate to directly or indirectly benefit anyone not named in the Schedule.

SCHEDULE

Any person or organization from whom you are required by written contract or agreement to obtain this waiver of rights from us.

BROWN AND CALDWELL

CARRIER: LLOYD'S OF LONDON
POLICY NUMBER: LDUSA2400482
EFFECTIVE: 5/31/2024-2025
AM BEST NUMBER: 085202
AM BEST RATING: A XV

LLOYD'S SYNDICATES:

<u>LLOYD'S SYNDICATES:</u>	<u>ALIEN ID Number:</u>
Renaissance Re #1458	AA-1120102
Munitus #7805	AA-1120067
Faraday #435	AA-1126435
Hamilton #4000	AA-1126005
Liberty #4472	AA-1126006



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Danny Nunn

SUBJECT: AN ORDINANCE AMENDING APPROPRIATIONS AND COMPILING PREVIOUS AMENDMENTS TO THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2023 AND AMENDING THE BUDGET FOR THE YEAR 2023

SUMMARY:

Attached is an Ordinance amending the original 2023 budget Ordinance to incorporate changes made throughout the year

PREVIOUS COUNCIL ACTION:

Ordinance 10348, passed and approved by the City Council on November 28, 2022, adopting the Budget for the fiscal year 2023.

BACKGROUND:

In November of 2022, the City Council adopted the annual budget for the year 2023. During the year, due to various operational changes, the City Council adopted several Ordinances and Resolutions amending that budget. This Ordinance also incorporates changes and corrections as dictated through the year-end closing process, as well as adjustments to departmental budgets as necessary. This Ordinance accumulates all of these items into one summary Ordinance, which reflects the final revised Budget for the year 2023. For the General Fund, the sum of the budget amendment for the year 2023 is \$3,540,313.

FINANCIAL IMPLICATIONS:

This action summarizes previously approved council and administrative changes to the budget and makes additional budget changes as needed.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Not applicable to this Ordinance.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2023 Year end adjust budget reconciliation

ORDINANCE NO.

AN ORDINANCE AMENDING APPROPRIATIONS AND COMPILING PREVIOUS AMENDMENTS TO THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2023 AND AMENDING THE BUDGET FOR THE YEAR 2023

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The budget for the fiscal year 2023, with amendments made thereto by the City Council, the original of which is on file with the Director of Finance, is incorporated herein in full, and hereby approved.

SECTION 2.

The General Fund Revenue for Fiscal Year 2023 is hereby amended as follows:

SOURCE	ORIGINAL	FINAL AMENDED
Taxes	102,092,312	102,092,312
Licenses & Permits	999,700	999,700
Intergovernmental	3,349,020	3,349,020
Charges for Service	4,804,841	4,804,841
Fines & Forfeits	1,536,300	1,536,300
Other Revenue	694,695	694,695
Transfers In	3,896,445	4,031,445
Fund Balance	16,862,259	20,267,572
General Fund Total	134,235,572	137,775,885

SECTION 3.

The General Fund Appropriation by Department for the Fiscal Year 2023 is hereby amended as follows:

SOURCE	ORIGINAL	FINAL AMENDED
General Government	17,081,404	17,225,227
Police	34,924,051	34,924,051
Fire	23,448,512	23,515,562
Public Works	10,041,636	9,921,383
Parks	7,654,643	7,654,643

Non-Departmental	8,499,777	8,475,954
Transfers Out	32,585,549	36,059,065
General Fund Total	134,235,572	137,775,885

SECTION 4.

The estimated Revenues as well as the budgeted Expenditures of the Special Revenue Funds, Enterprise Funds, Internal Service Funds, Debt Service Funds, and Capital Project Funds for the Fiscal Year 2023 are hereby amended as follows:

OTHER FUNDS	ORIGINAL	FINAL AMENDED
INTERGOVERNMENTAL	6,698,469	14,573,365
SPECIAL CHARGES	5,672,247	6,694,530
SPECIAL DISTRICT	668,542	690,792
OTHER SPECIAL REVENUE	355,507	555,845
HUD GRANTS	2,662,150	12,688,857
STIMULUS GRANTS	29,200	29,200
PUBLIC IMPROVEMENTS	22,855,402	98,627,587
DEBT SERVICE FUND	3,569,319	3,569,319
ECONOMIC DEVELOPMENT TAX	14,511,642	39,931,330
PUBLIC SAFETY TAX	7,537,817	9,400,017
ELMWOOD GOLF COURSE	1,777,351	1,928,437
WALKINGSTICK GOLF COURSE	1,471,021	1,571,021
HONOR FARM PROPERTIES	134,898	134,898
MEMORIAL HALL	1,754,829	2,104,829
MEMORIAL AIRPORT	2,319,989	15,317,213
PUEBLO TRANSIT	6,305,936	11,164,681
PARKING FACILITIES	797,180	922,532
WASTEWATER ENTERPRISE	30,505,697	68,454,365
STORMWATER UTILITY	6,389,608	17,932,218
STREET REPAIR UTILITY	-	1,638,510
INTERNAL SERVICE FUNDS	19,731,096	20,283,096

SECTION 5.

The officers and the staff of the City are directed and authorized to perform any and all

acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

No expenditures shall be made, or warrants issued against any monies appropriated, except in strict conformity with the Charter of the City of Pueblo and in accordance with the provisions of this Ordinance.

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

RECONCILIATION OF BUDGET ADJUSTMENT
FINAL BUDGET - 2023

FUND	ORIGINAL	ADJUSTED	DIFF	
General Fund (101)	134,235,572	137,775,885	3,540,313	
Ordinance #10408 - CI2316 Abriendo Parkway Tree Maintenance			75,000	
Ordinance #10434 - PL1801 Dillon Flyover Bridge Art Project			55,000	
Ordinance #10435 - CI2318 Enlargement of HARP Project			1,200,313	
Ordinance #10471 - CIAN23 Demolition of Unsafe Structions			1,200,000	
Ordinance #10482 - CI2322 Fountain Creek Trail Repairs			250,000	
Ordinance #10487 - PL2303 Evaluation of Landfill Operation			150,000	
Ordinance #10488 - CI2320 Fire Station 6 Land Procurement			70,000	
Ordinance #10503 - Law Department Professional Services			120,000	
Ordinance #10528 - CI2205 3 Fire Stations Arch/Design Project			100,000	
Ordinance #10563 - CI2325 Electric Vehicle Readiness Plan			10,000	
Ordinance #10623 - CI2406 Mayoral Runoff Election Expenses			175,000	
Resolution #15324 - CI2302 Transfer to FD Computer Equipment			135,000	
Total Adjustments:			3,540,313	-
Intergovernmental (210, 213, 216, 217)	6,698,469	14,573,365	7,874,896	
Federal Forfeiture project carryforward			10,135	
HUFT project carryforward			6,234,063	
Lottery project carryforward			1,630,698	
Total Adjustments:			7,874,896	-
Special Charges (231, 232, 233, 234, 235)	5,672,247	6,694,530	1,022,283	
E911 Project Carryforward			1,022,283	
Total Adjustments:			1,022,283	-
Special Districts (290, 291, 292, 293)	668,542	690,792	22,250	
YE Budget Adjustment - Fund Balance/Balance Expenses			22,250	
Total Adjustments:			22,250	-
Other Special Revenue (220, 221, 223, 225)	355,507	555,845	200,338	
Ordinance #10406 - Opioid Settlement Fund			200,338	
Total Adjustments:			200,338	-
HUD Grants (250, 251, 252, 254)	2,662,150	12,688,857	10,026,707	
CDBG Project Carryforward			3,947,164	
HOME & HOME ARPA Project Carryforward			2,894,743	
HOME ARPA Project Carryforward			3,080,370	
HS Project Carryforward			5,181	
Ordinance #10440 - CDBG/HOME Annual Plan Adjustment			99,249	
Total Adjustments:			10,026,707	-
Stimulus Grants (240, 241)	29,200	29,200	-	
Total Adjustments:			-	-
Public Improvements (260, 263, 264, 265, 401, 402)	22,855,402	98,627,587	75,772,185	
Capital Improvement Project Carryforward			55,819,515	
Planning Grant Project Carryforward			4,265,722	
Public Safety Grant Project Carryforward			788,905	
Transportation Grants Project Carryforward			722,181	
ARPA Interest			1,480,962	
Deobligate Grant Funds PS2017			(5,514)	
Deobligate Grant Funds PS2213			(151)	

FUND	ORIGINAL	ADJUSTED	DIFF
Ordinance #10075 - PL1801 Dillon Flyover Bridge Art			108,310
Ordinance #10116 - CI2207 Pueblo Food Project Grant			74,039
Ordinance #10227 - PS2207 CATPA Battle Grant FY 2022-2023			13,610
Ordinance #10367 - PL2201 Pueblo Westside Trail			850,000
Ordinance #10368 - PL2202 Lake & Orman Roundabout			1,500,000
Ordinance #10374 - PL2101 Safe Routes to School			279,180
Ordinance #10376 - CI2314 DCI Crime Prevention through Safer Streets Grant			744,000
Ordinance #10377 - TP2241 On-Call Transporation Tech Assistance			200,000
Ordinance #10386 - PS2302 CAFFE Grant			10,000
Ordinance #10388 - CI2315 FEC Implementation Grant			150,000
Ordinance #10407 - CI2218 Pueblo Food Project CDBG Grant			150,000
Ordinance #10408 - CI2316 Abriendo Parkway Tree Maintenance			75,000
Ordinance #10413 - PS2302 CAFFE Grant			10,000
Ordinance #10423 - PL2301 CO Smelter Reviatlization			22,000
Ordinance #10434 - PL1801 Dillon Flyover Bridge Art Project			55,000
Ordinance #10435 - CI2318 Enlargement of HARP Project			1,200,313
Ordinance #10439 - PS2301 Peaco Officer Behavioral Health Grant			99,464
Ordinance #10450 - CI2319 Pueblo Land Use Code			195,000
Ordinance #10455 - PS2304 Synthetic Opiate Poisoning			164,145
Ordinance #10458 - PS2305 CDS- FARO Technology Grant			86,000
Ordinance #10471 - CIAN23 Demolition of Unsafe Structions			1,200,000
Ordinance #10482 - CI2322 Fountain Creek Trail Repairs			250,000
Ordinance #10487 - PL2303 Evaluation of Landfill Operation			150,000
Ordinance #10488 - CI2320 Fire Station 6 Land Procurement			70,000
Ordinance #10497 - CI2213 One Colorado Food Project Grant			55,000
Ordinance #10499 - PL2305 Safe Streets & Roads for all			852,000
Ordinance #10501 - PL2304 Bessemer Commerce Revitalization			245,025
Ordinance #10504 - CI2323 Trailhead Blueprint Grant			53,625
Ordinance #10505 - CI2324 Pueblo Food Project Packard Fund Grant			20,000
Ordinance #10516 - PS2307 CATPA Battle Grant FY 2023 - 2024			170,461
Ordinance #10517 - PS2306 CMTR Grant			174,166
Ordinance #10528 - CI2205 3 Fire Stations Arch/Design Project			100,000
Ordinance #10535 - PS2203 Nurse 911 Grant			201,869
Ordinance #10536 - PS2311 Fire CREATE Grant			35,900
Ordinance #10550 - PS2313 Assistance to Firefighters Grant			37,080
Ordinance #10551 - PS2312 Speed Enforcement Grant			75,000
Ordinance #10563 - CI2325 Electric Vehicle Readiness Grant			50,000
Ordinance #10564 - PS2310 POST In-Service FY2024 Grant			4,947
Ordinance #10577 - PS2314 FY 2023 JAG Grant			111,507
Ordinance #10584 - CI2217 Charge Ahead Colorado Grant			45,000
Ordinance #10585 - CI2309 Road & Street Repairs			16,742
Ordinance #10587 - TP2401 FY2024 Rural Planning Grant			7,400
Ordinance #10597 - CI2309 Road & Street Repairs			25,075
Ordinance #10599 - PL2306 E 8th street bridge over Dry Creek			131,250
Ordinance #10605 - CI2328 Pueblo Food Project LFPA Grant			120,000
Ordinance #10606 - PS2315 ShotSpotter Gunfire Grant			152,714
Ordinance #10607 - PS2317 USDOJ Gunshot Locator System			300,000
Ordinance #10617 - PS2308 Fire United Way Grant			14,017
Ordinance #10618 - PS2214 PS2214 Triple Aim Community Reinvestment Grant			64,000
Ordinance #10623 - CI2406 Mayoral Runoff Election Expenses			175,000
Ordinance #10625 - CI2331 Expansion Firefighting Equipment			50,000
Ordinance #9858 - PS2017 First Appearance Grant			54,000
Public Safety JAG Interest Income			366
Resolution #15127 - CI2108 Prairie Avenue Improvements			650,000
Resolution #15260 - CI2210 Public Works Asset Management			90,029
Resolution #15373 - CI2205 3 Fire Stations Arch/Design Project			10,000
Resolution #15452 - CI2210 Public Works Asset Management			7,098

FUND	ORIGINAL	ADJUSTED	DIFF	
Resolution #15456 - CI2334 Portable EV Chargers			13,126	
Resoulution #10586 - 2024 -2025 Urban Transportation Planning Project			932,107	
Total Adjustments:			75,772,185	-
Debt Service (301, 302, 303)	3,569,319	3,569,319	-	
Total Adjustments:			-	-
Economic Development Tax (413)	14,511,642	39,931,330	25,419,688	
Project Carryforward			25,419,688	
Total Adjustments:			25,419,688	-
Police Safety Tax (270)	7,537,817	9,400,017	1,862,200	
Project Carryforward			1,862,200	
Total Adjustments:			1,862,200	-
Elmwood Golf Course (501)	1,777,351	1,928,437	151,086	
Project Carryforward			151,086	
YE Budget Adjustment - Fund Balance/Balance Expenses				
Total Adjustments:			151,086	-
Walkingstick Golf Course (502)	1,422,294	1,571,021	148,727	
Project Carryforward			48,727	
YE Budget Adjustment - Fund Balance/Balance Expenses			100,000	
Total Adjustments:			148,727	-
Honor Farm (507)	134,898	134,898	-	
Total Adjustments:			-	-
Memorial Hall (510)	1,754,829	2,104,829	350,000	
YE Budget Adjustment - Fund Balance/Balance Expenses			350,000	
Total Adjustments:			350,000	-
Memorial Airport (540, 541, 542, 543, 544)	2,319,989	15,317,213	12,997,224	
Project Carryforward			2,393,757	
Ordinance #10486 - AP2205 Rehab Runway 8R-26L			276,521	
Ordinance #10508 - AP2205 Rehab Runway 8R-26L			571,290	
Ordinance #10533 - AP2205 Rehab Runway 8R-26L			9,316,522	
Ordinance #10438 - APAN01 Advertising Pueblo County			116,534	
Ordinance #10486 - AP2205 Rehab Runway 8R-26L (AIP Fund balance)			322,600	
Total Adjustments:			12,997,224	-
Pueblo Transit (550, 551)	6,305,936	11,164,681	4,858,745	
Project Carryforward			3,027,533	
Transit Grants Project Carryforward			1,019,580	
Ordinance #10547 - PT2302 ARP Grant			297,737	
Ordinance #10405 - PT2205 Ozone Season Grant			98,996	
Ordinance #10509 - PT2301 Ozone Season Grant			414,899	
Total Adjustments:			4,858,745	-
Parking Facilities (520)	797,180	922,532	125,352	
Project Carryforward			125,352	
Total Adjustments:			125,352	-
Wastewater Enterprise (525, 526, 527)	30,505,697	68,454,365	37,948,668	
Project Carryforward			37,948,668	

FUND	ORIGINAL	ADJUSTED	DIFF	
Total Adjustments:			37,948,668	-
Stormwater Utility (535, 537)	6,389,608	17,932,218	11,542,610	
Project Carryforward			9,255,826	
Stormwater Bonds Carryforward			2,286,784	
Total Adjustments:			11,542,610	-
Street Repair (530)	-	1,638,510	1,638,510	
Project Carryforward			1,638,510	
Total Adjustments:			1,638,510	-
Internal Service (601, 602, 603,604)	19,731,096	20,283,096	552,000	
YE Budget Adjustment - Fund Balance/Balance Expenses			552,000	
Total Adjustments:			552,000	-



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE RESCINDING ORDINANCE 10714, ESTABLISHING PROJECT NO. CI2447 - ELIZABETH STREET PARKWAY OUTDOOR BASKETBALL COURTS MURAL PROJECT, AND BUDGET AND APPROPRIATE FUNDS IN THE AMOUNT OF \$10,000 TO PROJECT NO. CI2447

SUMMARY:

The attached Ordinance rescinds Ordinance No. 10714, which established Project No. LT2409, establishes Project No. CI2447 - Elizabeth Street Parkway Outdoor Basketball Courts Mural Project, and budget and appropriate funds in the amount of \$10,000.

PREVIOUS COUNCIL ACTION:

On May 28, 2024, by Ordinance No. 10714, Project No LT2409 – Elizabeth Street Parkway Outdoor Basketball Courts Mural Project was established, and funds in the amount of \$10,000 were budgeted and appropriated to Project No. LT2409.

BACKGROUND:

On March 25, 2024, City Council approved Resolution 15552 which awarded a construction contract to LER Inc., dba Renner Sports Surfaces for Project No. 24-034, Elizabeth Street Parkway – Basketball Courts Replacement. This project consists of the installation of a new post-tension concrete basketball court slab, court surfacing, striping, basketball hoops, benches, and sidewalk. This project also includes the replacement of the court lights with new LED lights.

During the project bid process, the Parks and Recreation Department advertised for qualified mural artists to design and ultimately paint original murals on each of the four outdoor basketball courts at the Elizabeth Street Parkway (SLAB). Forty-nine mural designs were submitted, and the four finalists will be painting their murals sometime in late August or early September 2024 under the guidance of the general contractor, Renner Sports Surfaces.

On May 28, 2024, by Ordinance No. 10714, Project No LT2409 – Elizabeth Street Parkway Outdoor Basketball Courts Mural Project was established, and funds in the amount of \$10,000 were budgeted and appropriated to Project No. LT2409.

On July 25, 2024, staff determined that Project LT2409, Ord 10714, was approved incorrectly. Per Colorado Lottery, Cactus Communications Funds are not considered Conservation Trust Fund Revenue because they are not original CTF Funds. Thus, these funds should not be listed under LT Projects, but under CI Projects.

FINANCIAL IMPLICATIONS:

The Colorado Lottery has agreed to sponsor each of the four mural artists with a \$2,500 commission payable to the City of Pueblo at the conclusion of the renovation project. No general fund monies will be used in this project.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Should the Council choose not to approve the attached Ordinance, establishment of Project No. CI2447, the commission to the mural artists from the Colorado Lottery will not be paid.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Ord 10714 Establishing Project LT2409 - SLAB Mural Project_05.28.24 SIGNED

ORDINANCE NO.

AN ORDINANCE RESCINDING ORDINANCE 10714, ESTABLISHING PROJECT NO. CI2447 - ELIZABETH STREET PARKWAY OUTDOOR BASKETBALL COURTS MURAL PROJECT, AND BUDGET AND APPROPRIATE FUNDS IN THE AMOUNT OF \$10,000 TO PROJECT NO. CI2447

WHEREAS, Ordinance 10714 erroneously established Project No. LT2409, which should have been established as Project No. CI2447; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Ordinance 10714 is hereby rescinded.

SECTION 2.

Project No. CI2447 is hereby established.

SECTION 3.

Funds in the amount of \$10,000.00 shall be accepted pursuant to a Sponsorship Agreement with Cactus Communications, Inc. on behalf of the Colorado Lottery and budgeted and appropriate to Project No. CI2447.

SECTION 4.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Agreement to effectuate the transactions described therein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 28, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT NO. LT2409 - ELIZABETH STREET PARKWAY OUTDOOR BASKETBALL COURTS MURAL PROJECT, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000 TO PROJECT NO. LT2409

SUMMARY:

This Ordinance establishes Project No. LT2409 - Elizabeth Street Parkway Outdoor Basketball Courts Mural Project and budgets and appropriates funds in the amount of \$10,000.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On March 25, 2024, City Council approved Resolution 15552 which awarded a construction contract to LER Inc., dba Renner Sports Surfaces for Project No. 24-034, Elizabeth Street Parkway – Basketball Courts Replacement. This project consists of the installation of a new post-tension concrete basketball court slab, court surfacing, striping, basketball hoops, benches, and sidewalk. This project also includes the replacement of the court lights with new LED lights.

During the project bid process, the Parks and Recreation Department advertised for qualified mural artists to design and ultimately paint original murals on each of the four outdoor basketball courts at the Elizabeth Street Parkway (SLAB). Forty-nine mural designs were submitted, and the four finalists will be painting their murals sometime in late August or early September 2024 under the guidance of the general contractor, Renner Sports Surfaces.

FINANCIAL IMPLICATIONS:

The Colorado Lottery has agreed to sponsor each of the four mural artists with a \$2,500 commission payable to the City of Pueblo at the conclusion of the renovation project. No general fund monies will be used in this project.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Should the Council choose not to approve the establishment of Project No. LT2409, the commission to the mural artists from the Colorado Lottery will not be paid.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10714

AN ORDINANCE ESTABLISHING PROJECT NO. LT2409 - ELIZABETH STREET PARKWAY OUTDOOR BASKETBALL COURTS MURAL PROJECT, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$10,000 TO PROJECT NO. LT2409

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project No. LT2409 is hereby established.

SECTION 2.

Funds in the amount of \$10,000.00 shall be accepted pursuant to a Sponsorship Agreement with Cactus Communications, Inc. on behalf of the Colorado Lottery and budgeted and appropriated to Project No. LT2409.

SECTION 3.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Agreement to effectuate the transactions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on May 13, 2024.

Final adoption of Ordinance by City Council on May 28, 2024.

DocuSigned by:

Mark Cliff

B7A4F51823AB462

President of City Council

Action by the Mayor:

☒ Approved on 5/30/2024 | 7:24 AM MDT

☐ Disapproved on _____ based on the following objections:

DocuSigned by:

Heather Graham

3A85950B75CA482...

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

DocuSigned by:

Vincent Petkosek

03584C7393E7439...

Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: AN ORDINANCE AMENDING ARTICLE 73, CHAPTER 3, OF TITLE XI OF THE PUEBLO MUNICIPAL CODE TO AMEND LICENSE TYPES TO ACCOMMODATE CHANGES IN COLORADO REVISED STATUTES CREATING LIQUOR LICENSES OF ENTERTAINMENT FACILITY LICENSE AND LODGING FACILITY LICENSE AND REPEALING THE LODGING AND ENTERTAINMENT FACILITY LICENSE

SUMMARY:

Attached is a proposed Ordinance which amends Section 11-3-73 of the Pueblo Municipal Code to amend the liquor license names to accommodate changes in the Colorado Revised Statutes.

PREVIOUS COUNCIL ACTION:

Section 11-3-73 P.M.C., was created by way of Ordinance No. 10043 on November 10, 2021. It was amended by Ordinance No. 10153 on April 12, 2022 which added 11-3-73(b).

BACKGROUND:

During the 2024 legislative session, the Colorado General Assembly passed SB 24-231. This modified C.R.S. §44-3-103 abolished the liquor license type of Lodging and Entertainment Facility License and created two separate licenses of Entertainment Facility License and Lodging Facility License. This ordinance adds the new language to the Pueblo Municipal Code.

Those licensees that currently have a Lodging and Entertainment Facility License will retain that until their license is due for its yearly renewal, at which time they can opt for one of the two new licenses.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Not approving this Ordinance would leave the antiquated license language in the municipal code and could lead to confusion.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING ARTICLE 73, CHAPTER 3, OF
TITLE XI OF THE PUEBLO MUNICIPAL CODE TO AMEND
LICENSE TYPES TO ACCOMMODATE CHANGES IN
COLORADO REVISED STATUTES CREATING LIQUOR
LICENSES OF ENTERTAINMENT FACILITY LICENSE AND
LODGING FACILITY LICENSE AND REPEALING THE LODGING
AND ENTERTAINMENT FACILITY LICENSE

WHEREAS, the Colorado General Assembly passed Senate Bill 24-131 abolishing the current Lodging and Entertainment Liquor License and creating two separate licenses of Entertainment Facility License and the Lodging Facility License; and

WHEREAS, Section 11-3-73 of the Pueblo Municipal Code refers to licenses holding a Lodging and Entertainment Liquor License which will need to reflect the new types of licenses; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

(a) In order to exercise the City's local option to allow common consumption areas in the City, the City Council and Mayor are hereby authorized to create, by ordinance, entertainment districts in the City.

(1) Entertainment districts shall fall entirely within the City Limits.

(2) Entertainment districts shall not exceed one hundred (100) acres and must contain at least twenty thousand (20,000) square feet of premises that, at the time the district is created, is licensed pursuant to this Article and Article 3 of Title 44 of the Colorado Revised Statutes as a:

- a. Tavern;
- b. Hotel and restaurant;
- c. Brew pub;
- d. Distillery pub;
- e. Vintner's restaurant;
- f. Beer and wine licensee;
- g. Manufacturer that operates a sales room pursuant to Section 44-3-402(2) or (7) of the Colorado Revised Statutes;
- h. Beer wholesaler that operates a sales room pursuant to Section 44-3-407(1)(b)(I) of the Colorado Revised Statutes;
- i. Limited winery;
- j. [Lodging and entertainment facility licensee; or] **Lodging Facility;**
- k. Entertainment Facility; or**
- [k.] l. Optional premises**

(3) By establishing the entertainment district, the City authorizes the licensing of designated common consumption areas in which alcoholic beverages may be sold and consumed subject to the requirements of this Code and the Colorado Liquor Code.

(b) Pursuant to authority granted to the City Council by the Colorado Liquor Code, the City hereby authorizes and creates the entertainment district, hereafter referred to as "Entertainment District No. 1," more specifically described as:

Beginning at SW corner of W 4th St and N Santa Fe Ave; South to SW corner of W 2nd St and N Santa Fe Ave; West to SE corner of W 2nd St and N Main St; South to SE corner of W City Center Dr and Central Main St; East to SW corner of W City Center Dr and S Santa Fe Ave to include all sidewalks; South to SW corner Mechanic St and S Santa Fe Ave excluding Parcel #536139005-125 S Santa Fe Ave and attached sidewalk; SW along Mechanic St to vacated Richmond Ave; SE along NE vacated Richmond Ave to SW side of alley; continuing SW along alley to Alan Hamel Ave; NW on Alan Hamel Ave along outside edge of sidewalk approximately 100 feet; crossing Alan Hamel Ave to southside of sidewalk leading to, and including pedestrian bridge crossing the Riverwalk; continuing NW along Riverwalk, including sidewalk, to NW side of S Main St; NW to alley between S Main St and S Union Ave, including parcel # 536419011-101 S Main St.; Continuing along SE side of alley from the Riverwalk to the SW side of E B St.; SE along E B St to S Main St bridge; SE along bridge to RR ROW not to include area under bridge; NW along RR ROW to NW corner of parcel #536343002, 132 W B St, Union Depot; NE along parcel to W B St then SE approximately 145' along outside edge of sidewalk NE along S Victoria Ave and N Victoria Ave, including sidewalk, to SW corner of N Victoria Ave and S Grand Ave; North on S Grand Ave to SW corner of W City Center Dr; East to SE corner N Union Ave and W City Center Dr; North to northern side of alley between W 2nd St and W City Center Dr; East to N Main St including Central Plaza Park; North to SW corner N Main St and W 4th St, including sidewalk; East along W 4th St to beginning.

The map of Entertainment District No. 1 is attached to the ordinance from which this subsection (b) derives as Exhibit A and incorporated herein by this reference. In case of a conflict between the description in this subsection (b) and the map displayed in Exhibit A, the description in this subsection shall control.

SECTION 2.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective upon final passage.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING THE 1ST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION ("CITY"), AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION ("CDOT"), PROJECT SAR M086-094 (24468) FOR THE HAAFF ELEMENTARY SAFE ROUTES TO SCHOOLS PROJECT, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$91,816.00 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves the 1st Amendment of an Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Haaff Elementary Safe Routes to Schools Project, and budgets and appropriates funds in the amount of \$91,816.00.

PREVIOUS COUNCIL ACTION:

Ordinance 10374 established the Haaff Elementary Safe Routes to Schools Project, approved an intergovernmental agreement between the City of Pueblo and the State of Colorado, and budgeted and appropriated funds in the amount of \$279,180.00.

BACKGROUND:

The City submitted a Safe Routes to Schools grant for improvements at Haaff Elementary School in 2021. This project provides safe and accessible routes to school by:

- 1) constructing multi-use sidewalks and connections to give students a direct route to the school entrance;
- 2) installation of high visibility crosswalks to alert motorists of pedestrian activity;

3) installation of ADA curb ramps to improve accommodation for all users.

The project also includes consulting services for Phase 2 of the project: reconstruction of the intersection of Jerry Murphy Road and Chinook Lane.

This Ordinance approves the 1st Amendment to the Intergovernmental Agreement relating to the Haaff Elementary Safe Routes to Schools Project, originally effective on February 15, 2023, between the City and CDOT. This amendment is due to the addition of funds in the amount of \$91,816.00 for construction of improvements at Haaff Elementary School.

FINANCIAL IMPLICATIONS:

Match funds are not required as this project is eligible for no match through COVID response.

Funds in the amount of \$91,816.00 shall be budgeted and appropriated for Project PL2101 Haaff Elementary Safe Routes to Schools.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Ordinance would deny the additional funding from the State of Colorado.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Complete Draft AM1 Pueblo (24468) 331002584 July 31 2024
2. GRANT CERTIFICATION SRTS (signed)

ORDINANCE NO.

AN ORDINANCE APPROVING THE 1ST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION ("CITY"), AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION ("CDOT"), PROJECT SAR M086-094 (24468) FOR THE HAAFF ELEMENTARY SAFE ROUTES TO SCHOOLS PROJECT, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$91,816.00 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The 1st Amendment to the Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and State of Colorado, acting by and through the Colorado Department of Transportation (CDOT), Project: SAR M086-094 (24468), Haaff Elementary Safe Routes to Schools, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the IGA 1st Amendment in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

Subject to encumbrances by the Colorado State Department of Transportation, funds from the Haaff Elementary Safe Routes to Schools (24468) in the amount of \$91,816.00 are hereby budgeted and appropriated for the Safe Routes to Schools No. PL2101 for Haaff Elementary School.

SECTION 4.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

STATE OF COLORADO AMENDMENT

Amendment #: 1

Project #: SAR M086-094 (24468)

SIGNATURE AND COVER PAGE

State Agency Department of Transportation		Amendment Routing Number 22-HA2-XC-00204-M0002
Local Agency CITY OF PUEBLO		Original Agreement Routing Number 22-HA2-XC-00204
Agreement Maximum Amount	\$370,996.00	Agreement Beginning Date February 15, 2023
		Agreement Expiration Date June 09, 2032

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Keith Stefanik, P.E., Chief Engineer Date: _____	
LOCAL AGENCY CITY OF PUEBLO By: _____ *Signature Name: _____ (Heather Graham) Title: _____ (Mayor) Date: _____	LOCAL AGENCY CITY OF PUEBLO By: _____ ATTESTED BY Name: _____ (Marisa Stoller) Title: _____ (City Clerk) Date: _____

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Amendment Effective Date: _____
--

1) PARTIES

This Amendment (the “Amendment”) to the Original Agreement shown on the Signature and Cover Page for this Amendment (the “Agreement”) is entered into by and between the Local Agency and the State.

2) TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

3) EFFECTIVE DATE AND ENFORCEABILITY

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

B. Amendment Term

The Parties’ respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

4) PURPOSE

The Parties originally entered into this Agreement on February 15, 2023 for improvements on Haaff Elementary SRTS. Now the Parties desire to add funds to the project to proceed to construction.

5) MODIFICATIONS

The Parties desire to amend the Agreement as follows:

- a) Increased project funding from \$279,180.00 by \$91,816.00 to a new total of \$370,996.00;
- b) Replace **Exhibit C-1**, with **Exhibit C-2**, which is attached hereto;
- c) Replace **Exhibit D**, with **Exhibit D-1**, which is attached hereto.

6) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT C-2 FUNDING PROVISIONS**City of Pueblo SAR M086-094 (24468)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$370,996.00, which is to be funded as follows:

1. FUNDING		
a.	Federal Funds (100% of SAR Award)	\$370,996.00
TOTAL FUNDS ALL SOURCES		\$370,996.00
2. OMB UNIFORM GUIDANCE		
a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	NJK3BNUDRHJ7
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$129,364.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a.	Federal Funds Budgeted	\$370,996.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		\$370,996.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		\$0.00
TOTAL PROJECT ESTIMATED FUNDING		\$370,996.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
a.	Total Encumbrance Amount (Federal funds)	\$370,996.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$370,996.00

Note: Only the Design funds of \$129,364.00 are currently available. Additional funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

WBS Element 24468.10.30	Performance Period Start*/End Date 01/23/2024-01/05/2025	Design 3020	\$129,364.00
WBS Element 24468.20.10	Performance Period Start*/End Date TBD- TBD	Const. 3301	\$0.00

* The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Funding Ratios

The funding ratio for the federal funds for this Work is 100% federal funds to 0% Local Agency funds, and

this ratio applies only to the \$370,996.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$370,996.00, and additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$370,996.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1. This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$370,996.00. For CDOT accounting purposes, the federal funds of \$370,996.00 and the Local Agency funds of \$0.00 will be encumbered for a total encumbrance of \$370,996.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total budget is \$370,996.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D-1:
Local Agency Resolution

GRANT CERTIFICATION

From: Kelly Grisham, Project Coordinator

To: Mark Aliff, President of the City Council
Heather Graham, Mayor

Re: Haaff Elementary Safe Routes to Schools SAR M086-094 (24468)

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.



8/15/2024



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT DT2401, WEST SIDE CONNECTOR (FHWA), APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE FEDERAL HIGHWAY ADMINISTRATION, BUDGETING AND APPROPRIATING FUNDS FROM THE RAISE GRANT PROGRAM - AWARD NUMBER 693JJ32440495 IN THE AMOUNT OF \$16,834,725.00, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance establishes Project Account DT2401 - West Side Connector (FHWA) and approves an Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation ("City") and the United States Department of Transportation by and through the Federal Highway Administration ("FHWA") relating to the West Side Connector Grant in the amount of \$16,834,725.00, and budgets and appropriates funds totaling \$16,834,725.00 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the West Side Connector project and approves the grant agreement between the City and FHWA.

The City was awarded a RAISE Grant which funds several project components that will improve transportation connectivity between the west side of the City and downtown. In the first component, Sun Mountain Boulevard (formerly Spaulding Ave) will be extended from 24th Street to 31st Street. The second component will rehabilitate seventy (70) west side bus stops to comply with ADA standards. The third component consists of planning and design for a 24th Street bridge and traffic corridor to connect the west

side area to downtown. A total of four contracts will be awarded for planning, design, and construction work associated with the proposed improvements.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$16,834,725.00 shall be budgeted and appropriated into Project Account DT2401. There is no City match requirement associated with this grant award.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without funding from the RAISE Grant.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Draft Agreement 693JJ32440495
2. raise-fy2022-fhwa-general-terms-and-conditions-20221018
3. GRANT CERTIFICATION (signed)

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT DT2401, WEST SIDE CONNECTOR (FHWA), APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE FEDERAL HIGHWAY ADMINISTRATION, BUDGETING AND APPROPRIATING FUNDS FROM THE RAISE GRANT PROGRAM - AWARD NUMBER 693JJ32440495 IN THE AMOUNT OF \$16,834,725.00, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project Account DT2401 - West Side Connector (FHWA) is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the Federal Highway Administration (FHWA), Award Number: 693JJ32440495, West Side Connector Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Subject to encumbrances by the Federal Highway Administration (FHWA), funds from the RAISE Grant Program Award Number 693JJ32440495 in the amount of \$16,834,725 are hereby budgeted and appropriated into the West Side Connector (FHWA) Project Account, DT2401.

SECTION 4.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

1. **Award No.**
693JJ32440495
2. **Effective Date**
See No. 17 Below
3. **Assistance Listings No.**
20.933
4. **Award To**
City of Pueblo
1 City Hall Place
Pueblo, CO 81003

Unique Entity Id.: NJK3BNUDRHJ7
TIN No.: 84-6000615
5. **Sponsoring Office**
U.S. Department of Transportation
Federal Highway Administration
Office of Acquisition & Grants Management
1200 New Jersey Avenue, SE
HCFA-32, Mail Drop E62-204
Washington, DC 20590
6. **Period of Performance**
Effective Date of Award –
12/31/2028
7. **Total Amount**
Federal Share: \$16,834,725
Recipient Share: \$0
Total: \$16,834,725
8. **Type of Agreement**
Grant
9. **Authority**
49 U.S.C. 6702; Infrastructure Investment and
Jobs Act (Pub. L. No. 117-58, div. J, Nov. 15,
2021); Consolidated Appropriations Act, 2022
(Pub. L. 117-103, Mar. 15, 2022)
10. **Procurement Request No.**
HOFM240076PR
11. **Federal Funds Obligated**
Base Phase: \$5,000,000
Subject to the availability of funds (SAF):
Option Phase 1: \$115,000
Option Phase 2: \$2,525,600
Option Phase 3: \$9,194,125
Total Potential Value: \$16,834,725
12. **Submit Payment Requests To**
See Article 13 of the General Terms and
Conditions.
13. **Payment Office**
See Article 13 of the General Terms and
Conditions.
14. **Accounting and Appropriations Data**
15X0C75E50.2023.070RA05500.7001000000.41010.61006600
15. **Description of Project**
West Side Connector

RECIPIENT**16. Signature of Person Authorized to Sign**

Signature _____ Date _____
Name: Heather Graham
Title: Mayor

FEDERAL HIGHWAY ADMINISTRATION**17. Signature of Agreement Officer**

Signature _____ Date _____
Name: David J. Villalobos
Title: Agreement Officer

U.S. DEPARTMENT OF TRANSPORTATION
GRANT AGREEMENT UNDER THE
FISCAL YEAR 2022 RAISE GRANT PROGRAM

This agreement is between the United States Department of Transportation (the “**USDOT**”) and the City of Pueblo (the “**Recipient**”).

This agreement reflects the selection of the Recipient to receive a RAISE Grant for the West Side Connector project.

If schedule A to this agreement identifies a Designated Subrecipient, that Designated Subrecipient is also a party to this agreement, and the parties want the Designated Subrecipient to carry out the project with the Recipient’s assistance and oversight.

The parties therefore agree to the following:

ARTICLE 1
GENERAL TERMS AND CONDITIONS.

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2022 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program: FHWA Projects,” dated October 18, 2022, which is available at <https://www.transportation.gov/policy-initiatives/raise/raise-grant-agreements>. The General Terms and Conditions reference the information contained in the schedules to this agreement. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions.
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, terminating of the RAISE Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the USDOT the RAISE Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2
SPECIAL TERMS AND CONDITIONS.

There are no special terms for this award.

**SCHEDULE A
ADMINISTRATIVE INFORMATION**

1. Application.

Application Title: Pueblo Westside Connector

Application Date: 04/14/2022

2. Recipient's Unique Entity Identifier.

See section 23.3 of the General Terms and Conditions.

3. Recipient Contact(s).

Kelly Grisham
Public Works Project Coordinator
City of Pueblo
211 East D Street Pueblo, CO 81003
(719) 553-2254
kgrisham@pueblo.us

4. Recipient Key Personnel.

None.

5. USDOT Project Contact(s).

David J. Villalobos
Agreement Officer (AO)
Federal Highway Administration
Office of Acquisition and Grants Management
HCFA-40, Mail Stop E65-312
1200 New Jersey Avenue, S.E.
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and

Travis Wheeler
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HCFA-41, Mail Stop E65-119
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and

Division Administrator
Agreement Officer Representative (AOR)
FHWA Colorado Division
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and

Armando Henriquez
Area Engineer for Region 2/Design Program Manager
FHWA Colorado Division
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Lakewood, CO 80228
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and

Ajin Hu
Grants Program Manager
FHWA Colorado Division
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Lakewood, CO 80228
(720) 963-3071
ajin.hu@dot.gov

6. Payment System.

USDOT Payment System: DELPHI eInvoicing

7. Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Office of Acquisition and Grants Management

8. Federal Award Identification Number.

See section 23.2 of the General Terms and Conditions.

9. Designated Subrecipient.

Designated Subrecipient: None.

SCHEDULE B PROJECT ACTIVITIES

1. General Project Description.

This project has three distinct components related to reconnecting the West Side of the City of Pueblo to downtown. In the first component, Spaulding/Sun Mountain Blvd. will be extended from 24th Street to 31st Street and two roundabouts will be constructed on where Spaulding intersects 27th Street and 31st Street. The second component will rehabilitate 70 West Side bus stops to comply with ADA standards. The third component, which will be funded as a planning project component, consists of planning and design for a 24th Street bridge and Downtown Corridor.

2. Statement of Work.

Preliminary Engineering

Base Phase:

- Environmental studies and NEPA document preparation
- Engineering design
- Universal Design
- Final design and construction documents

Design includes the Sun Mountain Boulevard extension and West Side bus stops for ADA compliance for later construction under the grant.

This activity also includes the planning for the 24th Street bridge and Downtown Corridor. This entails public engagement, a feasibility study, design, right-of-way needs assessment, and other pre-construction activities but will not result in construction under the grant.

Right of Way Acquisition

Option Phase 1: Easement acquisitions for the West Side Bus Stop Rehabilitation

Construction

Option Phase 2: West Side Bus Stop Rehabilitations – implementation of universal design to reconstruct seventy (70) bus stop locations. Work includes:

- Construction inspection,
- Landing pad installation,
- Shelter erection and seating installation,
- Sidewalk extensions and ADA compliant ramps,
- Solar Lighting,
- Wayfinding Signage, and
- Landscaping.

Option Phase 3: Sun Mountain Boulevard Extension – roadway construction extension from 24th Street to 31st Street and includes two roundabouts where Sun Mountain Boulevard intersects with 27th Street and 31st Street. Work includes:

- Construction Inspection,
- Construction of approximately 0.7 miles of new roadway,
- Installation of roundabouts at new intersections,
- Installation of ADA compliance non-vehicular infrastructure with ties to existing conditions at new intersections,
- Utilities extensions,
- Lighting,
- Pavement markings and signage, and
- Landscaping.

SCHEDULE C
AWARD DATES AND PROJECT SCHEDULE

1. Award Dates.

Budget Period End Date: 12/31/2028

Period of Performance End Date: See section 4.5 of the General Terms and Conditions

2. Estimated Project Schedule.

Milestone	Schedule Date
Planned NEPA Completion Date (West Side Bus Stops of Base Phase)	03/01/2025
Planned NEPA Completion Date (Sun Mountain Boulevard of Base Phase)	03/01/2025
Planned Right-of-Way Certification Date (West Side Bus Stops of Option Phase 1)	01/01/2026
Planned Project Completion Date (24th Street bridge and Downtown Corridor of Base Phase)	06/30/2027
Planned Construction Substantial Completion and Open to Traffic Date (Sun Mountain Boulevard of Option Phase 3)	06/30/2027
Planned Construction Substantial Completion and Open to Traffic Date (West Side Bus Stops of Option Phase 2)	09/15/2027

3. Special Milestone Deadlines.

None.

SCHEDULE D
AWARD AND PROJECT FINANCIAL INFORMATION

1. Award Amount.

RAISE Grant Amount: \$16,834,725

2. Federal Obligation Information.

Federal Obligation Type: Multiple

Obligations Allocation and Condition Table		
Portion of the Project	Allocation from RAISE Grant	Obligation Condition
Base Phase: Preliminary Engineering	\$5,000,000	
Option Phase 1: Right of Way Acquisition	\$115,000	If the FHWA Colorado Division Office confirms the Recipient has met all the applicable Federal, State, and local requirements.
Option Phase 2: West Side Bus Stop Rehabilitations	\$2,525,600	If the FHWA Colorado Division Office approves the PS&E for the Project and the Recipient has met all the applicable Federal, State, and local requirements.
Option Phase 3: Sun Mountain Boulevard Extension	\$9,194,125	If the FHWA Colorado Division Office approves the PS&E for the Project and the Recipient has met all the applicable Federal, State, and local requirements.

3. **Approved Project Budget.**

Eligible Project Costs					
	Base Phase: Preliminary Engineering	Option Phase 1: Right-of-Way	Option Phase 2: Construction- West Side Bus Stop Rehabilitations	Option Phase 3: Construction- Sun Mountain Boulevard Extension	Total
RAISE Funds:	\$5,000,000	\$115,000	\$2,525,600	\$9,194,125	\$16,834,725
Other Federal Funds:	\$0	\$0	\$0	\$0	\$0
Non- Federal Funds:	\$0	\$0	\$0	\$0	\$0
Total:	\$5,000,000	\$115,000	\$2,525,600	\$9,194,125	\$16,834,725

4. **Cost Classification Table.**

Cost Classification	Total Costs	Non-RAISE Previously Incurred Costs	Eligible Costs
Land, structures, rights-of-way, appraisals, etc.	\$115,000.00	\$0.00	\$115,000.00
Architectural and engineering fees	\$4,546,500.00	\$0.00	\$4,546,500.00
Construction	\$10,654,295.45	\$0.00	\$10,654,295.45
Contingency	\$1,518,929.55	\$0.00	\$1,518,929.55
Project Total	\$16,834,725.00	\$0.00	\$16,834,725.00

5. **Approved Pre-award Costs.**

None. The USDOT has not approved under this award any pre-award costs under 2 C.F.R. 200.458.

SCHEDULE E CHANGES FROM APPLICATION

Scope: No changes.

Schedule: Changes in milestone dates from the application are based on the outcome of discussions between the Recipient and FHWA to determine the best procurement strategies given the various phases of work to be undertaken under this Award. The application also assumed that the IGA would be executed by the end of 2023.

Milestone	Application Date	Schedule C Date
Planned NEPA Completion Date (West Side Bus Stops of Base Phase)	N/A - not provided in the application.	03/01/2025
Planned NEPA Completion Date (Sun Mountain Boulevard of Base Phase)	12/01/2024	03/01/2025
Planned Right-of-Way Certification Date (West Side Bus Stops of Option Phase 1)	N/A – easement needs determined after application submittal.	01/01/2026
Planned Project Completion Date (24th Street bridge and Downtown Corridor of Base Phase)	09/30/2026	06/30/2027
Planned Construction Substantial Completion and Open to Traffic Date (Sun Mountain Boulevard of Option Phase 3)	09/30/2026	06/30/2027
Planned Construction Substantial Completion and Open to Traffic Date (West Side Bus Stops of Option Phase 2)	09/30/2026	09/15/2027

Budget: There are no changes from the application total budget to the agreement total budget. However, the agreement budget was adjusted between phases to better reflect current market cost expectations and the inflationary cost impact on material goods and supplies.

Other: None.

**SCHEDULE F
RAISE PROGRAM DESIGNATIONS**

1. Urban or Rural Designation.

Urban-Rural Designation: Rural

2. Capital or Planning Designation.

Capital-Planning Designation: Capital and Planning

3. Historically Disadvantaged Community or Area of Persistent Poverty Designation.

HDC or APP Designation: Yes

4. Funding Act.

Funding Act: FY2022

SCHEDULE G
RAISE PERFORMANCE MEASUREMENT INFORMATION

Study Area: City of Pueblo West Side

Baseline Measurement Date: January 31, 2026

Baseline Report Date: March 31, 2026

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency
Rider Characteristics	Quality of Life A mail-back passenger survey distributed to each boarding streetcar passenger on a typical weekday while schools are in session. The specific survey methodology, sample expansion plan and data items require FTA approval prior to implementation, with data items for each surveyed transit rider to include origin-to-destination travel paths, travel purposes, modes of access to (and egress from) transit and socioeconomic characteristics.	Annual
Value of Housing or Land	Economic Competitiveness Quality of Life From Census data of administrative records, the median assessed value of developed and/or undeveloped parcels in the project impact area, as determined by the grantee with FTA concurrence.	Annual

SCHEDULE H CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE IMPACTS

1. Consideration of Climate Change and Environmental Justice Impacts.

The Recipient states that rows marked with “X” in the following table are accurate:

X	The Project directly supports a Local/Regional/State Climate Action Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Equitable Development Plan that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Project directly supports a Local/Regional/State Energy Baseline Study that results in lower greenhouse gas emissions. <i>(Identify the plan in the supporting narrative below.)</i>
	The Recipient or a project partner used environmental justice tools, such as the EJSCREEN, to minimize adverse impacts of the Project on environmental justice communities. <i>(Identify the tool(s) in the supporting narrative below.)</i>
	The Project supports a modal shift in freight or passenger movement to reduce emissions or reduce induced travel demand. <i>(Describe that shift in the supporting narrative below.)</i>
	The Project utilizes demand management strategies to reduce congestion, induced travel demand, and greenhouse gas emissions. <i>(Describe those strategies in the supporting narrative below.)</i>
	The Project incorporates electrification infrastructure, zero-emission vehicle infrastructure, or both. <i>(Describe the incorporated infrastructure in the supporting narrative below.)</i>
	The Project supports the installation of electric vehicle charging stations. <i>(Describe that support in the supporting narrative below.)</i>
	The Project promotes energy efficiency. <i>(Describe how in the supporting narrative below.)</i>
	The Project serves the renewable energy supply chain. <i>(Describe how in the supporting narrative below.)</i>
	The Project improves disaster preparedness and resiliency <i>(Describe how in the supporting narrative below.)</i>

	The Project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, such as through reduction in Clean Air Act criteria pollutants and greenhouse gases, improved stormwater management, or improved habitat connectivity. <i>(Describe how in the supporting narrative below.)</i>
	The Project repairs existing dilapidated or idle infrastructure that is currently causing environmental harm. <i>(Describe that infrastructure in the supporting narrative below.)</i>
	The Project supports or incorporates the construction of energy- and location-efficient buildings. <i>(Describe how in the supporting narrative below.)</i>
	The Project includes recycling of materials, use of materials known to reduce or reverse carbon emissions, or both. <i>(Describe the materials in the supporting narrative below.)</i>
	The Recipient has taken other actions to consider climate change and environmental justice impacts of the Project. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions to consider climate change and environmental justice impacts of the Project but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions to consider climate change and environmental justice impacts of the Project and will not take those actions under this award.

2. **Supporting Narrative.**

The project directly supports the Colorado Climate Plan adopted in 2015 that addresses greenhouse gas emission reductions and impacts of climate change. The plan specifically calls for the promotion of utilizing multi-modal transportation options including increased use of bicycles, car-pooling, walking, and rapid transit. The project will improve access to multi-modal transportation facilities by constructing new bus stops as well as other bicycle- and pedestrian-specific improvements.

The project also directly supports the 2045 Statewide Transportation Plan which places a strong emphasis on mobility and economic equality. Specifically, the project constructs (and/or designs) improvements that will help local residents overcome long-standing physical and economic barriers to effective and efficient transportation options.

The project will reduce greenhouse gases by shortening routes for commuters by constructing Sun Mountain. New bus stops constructed on the City's west side will also increase access to public transportation; thereby reducing the amount of passenger

vehicle trips. In addition, upon construction of the 24th Street Bridge, which will be designed through this project, total distance traveled will be reduced, further reducing greenhouse gas emissions. The City will consider climate change and environmental justice impacts of the project through completion of a NEPA evaluation that considers these and other project impacts.

SCHEDULE I
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
X	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
X	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

The project includes the planning, design, and right-of-way acquisition for new infrastructure that mitigates existing physical barriers to effective transportation for the City's west side residents (primarily Wildhorse Creek and the existing railroad tracks that separate west side residents from the City's downtown area). Specific project elements include the construction of new roadway (i.e., Sun Mountain Boulevard) together with features that enhance multimodal transportation access including sidewalks, bicycle lanes, public transit stops, and trail connections.

Specifically, the project will construct a new roadway that includes a significant arroyo crossing which inhibits vehicular, bicycle and pedestrian travel. The project includes the construction of a culvert to span this crossing, improving the transportation connectivity for all road users.

All improvements will be constructed to meet ADA accessibility standards including sidewalks, curb ramps, and bus stops.

The City of Pueblo Public Works Department has also adopted a Title VI compliance plan, which assures equal public access to public works services and the benefits of capital improvement projects across the City. The Title VI plan is available online at [City of Pueblo Public Works Department Title VI Compliance Plan](#).

SCHEDULE J LABOR AND WORK

1. Efforts to Support Good-Paying Jobs and Strong Labor Standards

The Recipient states that rows marked with “X” in the following table are accurate:

	The Recipient or a project partner has adopted the use of project labor agreements in the overall delivery and implementation of the Project. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted the use of local and economic hiring preferences in the overall delivery and implementation of the Project, subject to all applicable State and local laws, policies, and procedures. <i>(Describe the relevant provisions in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted the use of registered apprenticeships in the overall delivery and implementation of the Project. <i>(Describe the use of registered apprenticeship in the supporting narrative below.)</i>
	The Recipient or a project partner will provide training and placement programs for underrepresented workers in the overall delivery and implementation of the Project. <i>(Describe the training programs in the supporting narrative below.)</i>
X	The Recipient or a project partner will support free and fair choice to join a union in the overall delivery and implementation of the Project by investing in workforce development services offered by labor-management training partnerships or setting expectations for contractors to develop labor-management training programs. <i>(Describe the workforce development services offered by labor-management training partnerships in the supporting narrative below.)</i>
	The Recipient or a project partner will provide supportive services and cash assistance to address systemic barriers to employment to be able to participate and thrive in training and employment, including childcare, emergency cash assistance for items such as tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups like mentoring, support groups, and peer networking. <i>(Describe the supportive services and/or cash assistance provided to trainees and employees in the supporting narrative below.)</i>
	The Recipient or a project partner has documented agreements or ordinances in place to hire from certain workforce programs that serve underrepresented groups. <i>(Identify the relevant agreements and describe the scope of activities they cover in the supporting narrative below.)</i>

	The Recipient or a project partner participates in a State/Regional/Local comprehensive plan to promote equal opportunity, including removing barriers to hire and preventing harassment on work sites, and that plan demonstrates action to create an inclusive environment with a commitment to equal opportunity, including: a. affirmative efforts to remove barriers to equal employment opportunity above and beyond complying with Federal law; b. proactive partnerships with the U.S. Department of Labor's Office of Federal Contract Compliance Programs to promote compliance with EO 11246 Equal Employment Opportunity requirements; c. no discriminatory use of criminal background screens and affirmative steps to recruit and include those with former justice involvement, in accordance with the Fair Chance Act and equal opportunity requirements; d. efforts to prevent harassment based on race, color, religion, sex, sexual orientation, gender identity, and national origin; e. training on anti-harassment and third-party reporting procedures covering employees and contractors; and f. maintaining robust anti-retaliation measures covering employees and contractors. <i>(Describe the equal opportunity plan in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards. <i>(Describe those actions in the supporting narrative below.)</i>
	The Recipient has not yet taken actions related to the Project to create good-paying jobs with the free and fair choice to join a union and incorporate strong labor standards but, before beginning construction of the Project, will take relevant actions described in schedule B. <i>(Identify the relevant actions from schedule B in the supporting narrative below.)</i>
	The Recipient has not taken actions related to the Project to improving good-paying jobs and strong labor standards and will not take those actions under this award.

2. Supporting Narrative.

The project includes a variety of planning, design, and construction activities that will be undertaken by professionals and tradespeople. The work will create good-paying jobs, with the free and fair choice to join a union which advocates for strong labor standards for its members.

The City will require selected contractors to participate in relevant workforce development and labor-management partnership training opportunities using resources

available through the U.S. Small Business Administration, U.S. Department of Labor, the Colorado Workforce Development Center, and other entities.

U.S. DEPARTMENT OF TRANSPORTATION

**GENERAL TERMS AND CONDITIONS UNDER THE
FISCAL YEAR 2022 REBUILDING AMERICAN INFRASTRUCTURE WITH
SUSTAINABILITY AND EQUITY (RAISE) GRANT PROGRAM:
FHWA PROJECTS**

Revision date: October 18, 2022

Table of Contents

Article 1 Purpose.....	6
1.1 Purpose.....	6
Article 2 USDOT Role.....	6
2.1 Division of USDOT Responsibilities.....	6
2.2 USDOT Program Contacts.....	7
Article 3 Recipient Role.....	7
3.1 Statements on the Project.....	7
3.2 Statements on Authority and Capacity.....	7
3.3 USDOT Reliance.....	8
3.4 Project Delivery.....	8
3.5 Rights and Powers Affecting the Project.....	8
3.6 Notification of Changes to Key Personnel.....	8
3.7 Subaward to Designated Subrecipient.....	9
3.8 Designated Subrecipient Statements and Responsibilities.....	9
3.9 Title 23 Oversight Responsibilities for Subawards.....	9
Article 4 Award Amount, Obligation, and Time Periods.....	9
4.1 Federal Award Amount.....	9
4.2 Federal Funding Source.....	9
4.3 Federal Obligations.....	10
4.4 Budget Period.....	11
4.5 Period of Performance.....	11
Article 5 Statement of Work, Schedule, and Budget Changes.....	12
5.1 Notification Requirement.....	12
5.2 Scope and Statement of Work Changes.....	12
5.3 Schedule Changes.....	12
5.4 Budget Changes.....	12
5.5 USDOT Acceptance of Changes.....	13
Article 6 General Reporting Terms.....	14
6.1 Report Submission.....	14
6.2 Alternative Reporting Methods.....	14
6.3 Paperwork Reduction Act Notice.....	14
Article 7 Progress and Financial Reporting.....	14
7.1 Quarterly Project Progress Reports and Recertifications.....	14
7.2 Final Progress Reports and Financial Information.....	14
Article 8 Performance Reporting.....	15
8.1 Baseline Performance Measurement.....	15
8.2 Post-construction Performance Measurement.....	15
8.3 Project Outcomes Report.....	15
8.4 Performance Reporting Survival.....	16
Article 9 Noncompliance and Remedies.....	16
9.1 Noncompliance Determinations.....	16
9.2 Remedies.....	17
9.3 Other Oversight Entities.....	17
Article 10 Agreement Termination.....	18
10.1 USDOT Termination.....	18

10.2	Closeout Termination.....	18
10.3	Post-Termination Adjustments.....	18
10.4	Non-Terminating Events.....	19
10.5	Other Remedies.....	19
Article 11	Monitoring, Financial Management, Controls, and Records.....	19
11.1	Recipient Monitoring and Record Retention.....	19
11.2	Financial Records and Audits.....	19
11.3	Internal Controls.....	20
11.4	USDOT Record Access.....	20
Article 12	Contracting and Subawards.....	20
12.1	Minimum Wage Rates.....	20
12.2	Buy America.....	20
12.3	Small and Disadvantaged Business Requirements.....	21
12.4	Engineering and Design Services.....	21
12.5	Foreign Market Restrictions.....	21
12.6	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.....	21
12.7	Pass-through Entity Responsibilities.....	21
12.8	Subaward and Contract Authorization.....	21
Article 13	Costs, Payments, and Unexpended Funds.....	22
13.1	Limitation of Federal Award Amount.....	22
13.2	Projects Costs.....	22
13.3	Timing of Project Costs.....	22
13.4	Recipient Recovery of Federal Funds.....	22
13.5	Unexpended Federal Funds.....	22
13.6	Timing of Payments to the Recipient.....	22
13.7	Payment Method.....	23
13.8	Information Supporting Expenditures.....	23
13.9	Reimbursement Frequency.....	23
Article 14	Liquidation, Adjustments, and Funds Availability.....	23
14.1	Liquidation of Recipient Obligations.....	23
14.2	Funds Cancellation.....	24
Article 15	Agreement Modifications.....	24
15.1	Bilateral Modifications.....	24
15.2	Unilateral Contract Modifications.....	24
15.3	USDOT Unilateral Modifications.....	24
15.4	Other Modifications.....	24
Article 16	Climate Change and Environmental Justice.....	25
16.1	Climate Change and Environmental Justice.....	25
Article 17	Racial Equity and Barriers to Opportunity.....	25
17.1	Racial Equity and Barriers to Opportunity.....	25
Article 18	Labor and Work.....	25
18.1	Labor and Work.....	25
Article 19	Federal Financial Assistance, Administrative, and National Policy Requirements	25
19.1	Uniform Administrative Requirements for Federal Awards.....	25
19.2	Federal Law and Public Policy Requirements.....	25

19.3	Federal Freedom of Information Act.	26
19.4	History of Performance.	26
19.5	Whistleblower Protection.	26
19.6	External Award Terms and Obligations.	26
19.7	Incorporated Certifications.	27
Article 20	Assignment	27
20.1	Assignment Prohibited.	27
Article 21	Waiver.	27
21.1	Waivers.	27
Article 22	Additional Terms and Conditions.	27
22.1	Effect of Urban or Rural Designation.	27
22.2	Effect of Historically Disadvantaged Community or Area of Persistent Poverty Designation.	27
22.3	Disclaimer of Federal Liability.	28
22.4	Relocation and Real Property Acquisition.	28
22.5	Equipment Disposition.	28
22.6	Environmental Review.	28
22.7	Railroad Coordination.	30
Article 23	Mandatory Award Information.	30
23.1	Information Contained in a Federal Award.	30
23.2	Federal Award Identification Number.	30
23.3	Recipient's Unique Entity Identifier.	30
Article 24	Construction and Definitions	31
24.1	Schedules.	31
24.2	Exhibits.	31
24.3	Construction.	31
24.4	Integration.	32
24.5	Definitions.	32
Article 25	Agreement Execution and Effective Date	32
25.1	Counterparts.	32
25.2	Effective Date.	32

Index of Definitions

Administering Operating Administration	7
Designated Subrecipient	Schedule A, Section 9
Environmental Review Entity.....	28
Federal Share	13
FHWA.....	7
General Terms and Conditions	32
NOFO.....	6
OMB	14
Program Statute.....	32
Project	32
Project Closeout.....	18
Project Cost Savings	13
RAISE Grant.....	32
Recipient	Project-Specific Recitals
Technical Application.....	32
USDOT	6

GENERAL TERMS AND CONDITIONS

The Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022) appropriated funds to the United States Department of Transportation (the “USDOT”) for fiscal year 2022 under the heading “National Infrastructure Investments.” The funds are available to carry out 49 U.S.C. 6702 by providing Federal financial assistance for surface transportation infrastructure projects that will have a significant local or regional impact. The USDOT program administering those funds is the RAISE grant program.

On January 14, 2022, the USDOT posted a funding opportunity at Grants.gov with funding opportunity title “FY 2022 National Infrastructure Investments” and funding opportunity number DTOS59-22-RA-RAISE. The notice of funding opportunity posted at Grants.gov, as amended on March 22, 2022, (the “NOFO”) solicited applications for Federal financial assistance under the fiscal year 2022 RAISE grant program. On August 11, 2022, the USDOT announced application selections under the NOFO.

These general terms and conditions are incorporated by reference in a project-specific agreement under the fiscal year 2022 RAISE grant program. The term “Recipient” is defined in the project-specific portion of the agreement. The project-specific portion of the agreement includes schedules A through J. The project-specific portion of the agreement may include special terms and conditions in project-specific articles.

ARTICLE 1 PURPOSE

1.1 Purpose. The purpose of this award is to fund an eligible project that will have a significant local or regional impact and improve transportation infrastructure. The parties will accomplish that purpose by achieving the following objectives:

- (1) timely completing the Project; and
- (2) ensuring that this award does not substitute for non-Federal investment in the Project, except as proposed in the Technical Application, as modified by schedule D.

ARTICLE 2 USDOT ROLE

2.1 Division of USDOT Responsibilities.

- (a) The Office of the Secretary of Transportation is responsible for the USDOT’s overall administration of the RAISE grant program, the approval of this agreement, and any modifications to this agreement under section 15.1.

- (b) The Federal Highway Administration (the “**FHWA**”) will administer this agreement on behalf of the USDOT. In this agreement, the “**Administering Operating Administration**” means the FHWA.

2.2 USDOT Program Contacts.

FHWA RAISE Program Manager
Federal Highway Administration
Office of Freight Management and Operations
1200 New Jersey Avenue SE
Room E84-429
Washington, DC 20590
(202) 366-2639 or (202) 366-1200
FHWA-TIGER.Reports@dot.gov

and

OST RAISE Grants Coordinator
United States Department of Transportation
Office of the Secretary
1200 New Jersey Avenue SE
Room W84-227
Washington, DC 20590
(202) 366-8914
RAISEGrants@dot.gov

ARTICLE 3 RECIPIENT ROLE

3.1 Statements on the Project. The Recipient states that:

- (1) all material statements of fact in the Technical Application were accurate when that application was submitted; and
- (2) schedule E documents all material changes in the information contained in that application.

3.2 Statements on Authority and Capacity. The Recipient states that:

- (1) it has the authority to receive Federal financial assistance under this agreement;
- (2) it has the legal authority to complete the Project;
- (3) it has the capacity, including institutional, managerial, and financial capacity, to comply with its obligations under this agreement;

- (4) not less than the difference between the total eligible project costs listed in section 3 of schedule D and the RAISE Grant Amount listed in section 1 of schedule D is committed to fund the Project;
- (5) it has sufficient funds available to ensure that infrastructure completed or improved under this agreement will be operated and maintained in compliance with this agreement and applicable Federal law; and
- (6) the individual executing this agreement on behalf of the Recipient has authority to enter this agreement and make the statements in this article 3 and in section 19.7 on behalf of the Recipient.

3.3 USDOT Reliance. The Recipient acknowledges that:

- (1) the USDOT relied on statements of fact in the Technical Application to select the Project to receive this award;
- (2) the USDOT relied on statements of fact in both the Technical Application and this agreement to determine that the Recipient and the Project are eligible under the terms of the NOFO;
- (3) the USDOT relied on statements of fact in both the Technical Application and this agreement to establish the terms of this agreement; and
- (4) the USDOT's selection of the Project to receive this award prevented awards under the NOFO to other eligible applicants.

3.4 Project Delivery.

- (a) The Recipient shall complete the Project under the terms of this agreement.
- (b) The Recipient shall ensure that the Project is financed, constructed, operated, and maintained in accordance with all Federal laws, regulations, and policies that are applicable to projects of the Administering Operating Administration.

3.5 Rights and Powers Affecting the Project.

- (a) The Recipient shall not take or permit any action that deprive it of any rights or powers necessary to the Recipient's performance under this agreement without written approval of the USDOT.
- (b) The Recipient shall act promptly, in a manner acceptable to the USDOT, to acquire, extinguish, or modify any outstanding rights or claims of right of others that would interfere with the Recipient's performance under this agreement.

3.6 Notification of Changes to Key Personnel. The Recipient shall notify all USDOT representatives who are identified in section 5 of schedule A in writing within 30

calendar days of any change in key personnel who are identified in section 4 of schedule A.

3.7 Subaward to Designated Subrecipient. If section 9 of schedule A identifies a Designated Subrecipient:

- (1) the Recipient hereby awards a subaward to the Designated Subrecipient for the purpose described in section 1.1;
- (2) the Recipient and the Designated Subrecipient may enter into a separate agreement, to which the USDOT is not a party, assigning responsibilities, including administrative and oversight responsibilities, among the Recipient and the Designated Subrecipient; and
- (3) for the purpose of 2 C.F.R. parts 200 and 1201, the Recipient is a pass-through entity.

3.8 Designated Subrecipient Statements and Responsibilities. If section 9 of schedule A identifies a Designated Subrecipient:

- (1) the Designated Subrecipient affirms all statements and acknowledgments that are attributed to the Recipient under sections 3.1 and 3.2; and
- (2) the Designated Subrecipient assumes the Recipient's reporting obligations under articles 7 and 8.

3.9 Title 23 Oversight Responsibilities for Subawards. If section 9 of schedule A identifies a Designated Subrecipient, then for the purpose of 23 U.S.C. 106(g), the Recipient shall act as if funds under this award are Federal funds under title 23, United States Code.

ARTICLE 4 AWARD AMOUNT, OBLIGATION, AND TIME PERIODS

4.1 Federal Award Amount. The USDOT hereby awards a RAISE Grant to the Recipient in the amount listed in section 1 of schedule D as the RAISE Grant Amount.

4.2 Federal Funding Source.

- (a) If section 4 of schedule F identifies the Funding Act as "IIJA," then the RAISE Grant is from RAISE grant program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021).
- (b) If section 4 of schedule F identifies the Funding Act as "FY2022," then the RAISE Grant is from RAISE grant program funding that was appropriated in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022).

- (c) If section 4 of schedule F contains a table that lists separate amounts for “IIJA” and “FY2022,” then the amount listed for “IIJA” is from RAISE grant program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021) and the amount listed for “FY2022” is from RAISE grant program funding that was appropriated in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022).

4.3 Federal Obligations.

- (a) If the Federal Obligation Type identified in section 2 of schedule D is “Single,” then this agreement obligates for the budget period the amount listed in section 1 of schedule D as the RAISE Grant Amount and sections 4.3(c)–4.3(h) do not apply to this agreement.
- (b) If the Federal Obligation Type identified in section 2 of schedule D is “Multiple,” then an amount up to the RAISE Grant Amount listed in section 1 of schedule D will be obligated with one initial obligation and one or more subsequent, optional obligations, as described in sections 4.3(c)–4.3(h).
- (c) The Obligation Condition Table in section 2 of schedule D allocates the RAISE Grant among separate portions of the Project for the purpose of the Federal obligation of funds. The scope of each portion of the Project that is identified in that table is described in section 2 of schedule B.
- (d) This agreement obligates for the budget period only the amounts allocated in the Obligation Condition Table in section 2 of schedule D to portions of the Project for which that table does not list an obligation condition.
- (e) This agreement does not obligate amounts allocated in the Obligation Condition Table in section 2 of schedule D to portions of the Project for which that table lists an obligation condition. The parties may obligate the amounts allocated to those portions of the Project only as described in section 4.3(f) or by modifying this agreement under article 15.
- (f) For each portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, the amount allocated in that table to that portion of the Project is obligated if, not later than the statutory lapse date identified in section 4.3(h) for that portion of the Project, the parties execute an instrument, in the form provided in Exhibit D, documenting that:
 - (1) the USDOT determines that the obligation condition listed in that table for that portion of the Project is satisfied;
 - (2) the USDOT determines that all applicable Federal requirements for obligating the amount are satisfied; and
 - (3) the Recipient states that it is not required to request a modification of this agreement under article 5.

- (g) The Recipient shall not request reimbursement of costs for a portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 4.3(f).
- (h) RAISE grant program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), lapses and is unavailable for obligation, by statute, after September 30, 2026. RAISE grant program funding that was appropriated in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022) will not lapse and remains available for obligation until expended. Section 4.2 identifies the specific source or sources of funding for this award.
- (i) The Recipient acknowledges that:
 - (1) the USDOT is not liable for payments for a portion of the Project for which the Obligation Condition Table in section 2 of schedule D lists an obligation condition, unless the amount allocated in that table to that portion of the Project is obligated under section 4.3(f);
 - (2) any portion of the RAISE Grant that is not obligated under this section 4.3 by the statutory lapse date identified in section 4.3(h) for those funds lapses on the day after that date and becomes unavailable for the Project; and
 - (3) the USDOT may consider the failure to obligate funds by the statutory lapse date identified in section 4.3(h) for those funds to be a basis for terminating this agreement under section 10.1.

4.4 Budget Period. The budget period for this award begins on the date of this agreement and ends on the budget period end date that is listed in section 1 of schedule C. In this agreement, “budget period” is used as defined at 2 C.F.R. 200.1.

4.5 Period of Performance.

- (a) If the USDOT Payment System identified in section 6 of schedule A is “FMIS,” then the period of performance for this award begins on the date of this agreement and ends on project end date in FMIS.
- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the period of performance for this award is listed on page 1, line 6 of the project-specific agreement.
- (c) In this agreement, “period of performance” is used as defined at 2 C.F.R. 200.1.

ARTICLE 5
STATEMENT OF WORK, SCHEDULE, AND BUDGET CHANGES

- 5.1 Notification Requirement.** The Recipient shall notify all USDOT representatives who are identified in section 5 of schedule A in writing within 30 calendar days of any change in circumstances or commitments that adversely affect the Recipient's plan to complete the Project. In that notification, the Recipient shall describe the change and what actions the Recipient has taken or plans to take to ensure completion of the Project. This notification requirement under this section 5.1 is separate from any requirements under this article 5 that the Recipient request modification of this agreement.
- 5.2 Scope and Statement of Work Changes.** If the Project's activities differ from the activities described in schedule B, then the Recipient shall request a modification of this agreement to update schedule B.
- 5.3 Schedule Changes.** If one or more of the following conditions are satisfied, then the Recipient shall request a modification of this agreement to update schedule C:
- (1) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient's estimate for that milestone changes to a date that is more than six months after the date listed in section 2 of schedule C;
 - (2) a schedule change would require the budget period to continue after the budget period end date listed in section 1 of schedule C; or
 - (3) the USDOT Payment System identified in section 6 of schedule A is "DELPHI eInvoicing" and a schedule change would require the period of performance to continue after the period of performance listed on page 1, line 6 of the project-specific agreement.

For other schedule changes, the Recipient shall follow the applicable procedures of the Administering Operating Administration and document the changes in writing.

5.4 Budget Changes.

- (a) The Recipient acknowledges that if the cost of completing the Project increases:
 - (1) that increase does not affect the Recipient's obligation under this agreement to complete the Project; and
 - (2) the USDOT will not increase the amount of this award to address any funding shortfall.
- (b) The Recipient shall request a modification of this agreement to update schedule D if, in comparing the Project's budget to the amounts listed in section 3 of schedule D:
 - (1) the total "Non-Federal Funds" amount decreases; or

- (2) the total eligible project costs amount decreases.
- (c) For budget changes that are not identified in section 5.4(b), the Recipient shall follow the applicable procedures of the Administering Operating Administration and document the changes in writing.
- (d) If there are Project Cost Savings, then the Recipient may propose to the USDOT, in writing consistent with the Administering Operating Administration's requirements, to include in the Project specific additional activities that are within the scope of this award, as defined in section 1.1 and schedule B, and that the Recipient could complete with the Project Cost Savings.

In this agreement, "**Project Cost Savings**" means the difference between the actual eligible project costs and the total eligible project costs that are listed in section 3 of schedule D, but only if the actual eligible project costs are less than the total eligible project costs that are listed in section 3 of schedule D. There are no Project Cost Savings if the actual eligible project costs are equal to or greater than the total eligible project costs that are listed in section 3 of schedule D.

- (e) If there are Project Cost Savings and either the Recipient does not make a proposal under section 5.4(d) or the USDOT does not accept the Recipient's proposal under section 5.4(d), then:
 - (1) in a request under section 5.4(b), the Recipient shall reduce the Federal Share by the Project Cost Savings; and
 - (2) if that modification reduces this award and the USDOT had reimbursed costs exceeding the revised award, the Recipient shall refund to the USDOT the difference between the reimbursed costs and the revised award.

In this agreement, "**Federal Share**" means the sum of the total "RAISE Funds" and "Other Federal Funds" amounts that are listed in section 3 of schedule D.

- (f) The Recipient acknowledges that amounts that are required to be refunded under section 5.4(e)(2) constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

5.5 USDOT Acceptance of Changes. The USDOT may accept or reject modifications requested under this article 5, and in doing so may elect to consider only the interests of the RAISE grant program and the USDOT. The Recipient acknowledges that requesting a modification under this article 5 does not amend, modify, or supplement this agreement unless the USDOT accepts that modification request and the parties modify this agreement under section 15.1.

ARTICLE 6 GENERAL REPORTING TERMS

- 6.1 Report Submission.** The Recipient shall send all reports required by this agreement to all USDOT contacts who are listed in section 5 of schedule A and all USDOT contacts who are listed in section 2.2.
- 6.2 Alternative Reporting Methods.** The Administering Operating Administration may establish processes for the Recipient to submit reports required by this agreement, including electronic submission processes. If the Recipient is notified of those processes in writing, the Recipient shall use the processes required by the Administering Operating Administration.
- 6.3 Paperwork Reduction Act Notice.** Under 5 C.F.R. 1320.6, the Recipient is not required to respond to a collection of information that does not display a currently valid control number issued by the Office of Management and Budget (the “OMB”). Collections of information conducted under this agreement are approved under OMB Control No. 2105-0563.

ARTICLE 7 PROGRESS AND FINANCIAL REPORTING

- 7.1 Quarterly Project Progress Reports and Recertifications.** On or before the 20th day of the first month of each calendar year quarter and until the end of the period of performance, the Recipient shall submit to the USDOT a Quarterly Project Progress Report and Recertification in the format and with the content described in exhibit C. If the date of this agreement is in the final month of a calendar year quarter, then the Recipient shall submit the first Quarterly Project Progress Report and Recertification in the second calendar year quarter that begins after the date of this agreement.
- 7.2 Final Progress Reports and Financial Information.** No later than 120 days after the end of the period of performance, the Recipient shall submit
- (1) a Final Project Progress Report and Recertification in the format and with the content described in exhibit C for each Quarterly Project Progress Report and Recertification, including a final Federal Financial Report (SF-425); and
 - (2) any other information required under the Administering Operating Administration’s award closeout procedures.

ARTICLE 8 PERFORMANCE REPORTING

8.1 Baseline Performance Measurement. If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then:

- (1) the Recipient shall collect data for each performance measure that is identified in the Performance Measure Table in schedule G, accurate as of the Baseline Measurement Date that is identified in schedule G; and
- (2) on or before the Baseline Report Date that is stated in schedule G, the Recipient shall submit a Baseline Performance Measurement Report that contains the data collected under this section 8.1 and a detailed description of the data sources, assumptions, variability, and estimated levels of precision for each performance measure that is identified in the Performance Measure Table in schedule G.

8.2 Post-construction Performance Measurement. If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then

- (1) for each performance measure that is identified in the Performance Measure Table in schedule G with quarterly measurement frequency, for each of 12 consecutive calendar quarters, beginning with the first calendar quarter that begins after the Project substantial completion date, at least once during the quarter, the Recipient shall collect data for that performance measure;
- (2) for each performance measure that is identified in the Performance Measure Table in schedule G with annual measurement frequency, the Recipient shall collect data for that performance measure on at least three separate occasions: (i) once during the four consecutive calendar quarters that begin after the Project substantial completion date; (ii) once during the fourth calendar quarter after the first collection; and (iii) once during the eighth calendar quarter after the first collection; and
- (3) not later than January 31 of each year that follows a calendar year during which data was collected under this section 8.2, the Recipient shall submit to the USDOT a Post-construction Performance Measurement Report containing the data collected under this section 8.2 in the previous calendar year and stating the dates when the data was collected.

If an external factor significantly affects the value of a performance measure collected under this section 8.2, then the Recipient shall identify that external factor in the Post-construction Performance Measurement Report and discuss its influence on the performance measure.

8.3 Project Outcomes Report. If the Capital-Planning Designation in section 2 of schedule F is “Capital,” then the Recipient shall submit to the USDOT, not later than January 31 of

the year that follows the final calendar year during which data was collected under section 8.2, a Project Outcomes Report that contains:

- (1) a narrative discussion detailing project successes and the influence of external factors on project expectations;
- (2) all baseline and post-construction performance measurement data that the Recipient reported in the Baseline Performance Measurement Report and the Post-construction Performance Measurement Reports; and
- (3) an *ex post* examination of project effectiveness relative to the baseline data that the Recipient reported in the Baseline Performance Measurement Report.

8.4 Performance Reporting Survival. The data collection and reporting requirements in this article 8 survive the termination of this agreement.

ARTICLE 9 NONCOMPLIANCE AND REMEDIES

9.1 Noncompliance Determinations.

- (a) If the USDOT determines that the Recipient may have failed to comply with the United States Constitution, Federal law, or the terms and conditions of this agreement, the USDOT may notify the Recipient of a proposed determination of noncompliance. For the notice to be effective, it must be written and the USDOT must include an explanation of the nature of the noncompliance, describe a remedy, state whether that remedy is proposed or effective at an already determined date, and describe the process through and form in which the Recipient may respond to the notice.
- (b) If the USDOT notifies the Recipient of a proposed determination of noncompliance under section 9.1(a), the Recipient may, not later than 7 calendar days after the notice, respond to that notice in the form and through the process described in that notice. In its response, the Recipient may:
 - (1) accept the remedy;
 - (2) acknowledge the noncompliance, but propose an alternative remedy; or
 - (3) dispute the noncompliance.

To dispute the noncompliance, the Recipient must include in its response documentation or other information supporting the Recipient's compliance.

- (c) The USDOT may make a final determination of noncompliance only:
 - (1) after considering the Recipient's response under section 9.1(b); or

- (2) if the Recipient fails to respond under section 9.1(b), after the time for that response has passed.
- (d) To make a final determination of noncompliance, the USDOT must provide a notice to the Recipient that states the bases for that determination.

9.2 Remedies.

- (a) If the USDOT makes a final determination of noncompliance under section 9.1, the USDOT may impose a remedy, including:
 - (1) additional conditions on the award;
 - (2) any remedy permitted under 2 C.F.R. 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs, requiring refunds from the Recipient to the USDOT; suspension or termination of the award; or suspension and disbarment under 2 C.F.R. part 180; or
 - (3) any other remedy legally available.
- (b) To impose a remedy, the USDOT must provide a written notice to the Recipient that describes the remedy, but the USDOT may make the remedy effective before the Recipient receives that notice.
- (c) If the USDOT determines that it is in the public interest, the USDOT may impose a remedy, including all remedies described in section 9.2(a), before making a final determination of noncompliance under section 9.1. If it does so, then the notice provided under section 9.1(d) must also state whether the remedy imposed will continue, be rescinded, or modified.
- (d) In imposing a remedy under this section 9.2 or making a public interest determination under section 9.2(c), the USDOT may elect to consider the interests of only the USDOT.
- (e) The Recipient acknowledges that amounts that the USDOT requires the Recipient to refund to the USDOT due to a remedy under this section 9.2 constitute a debt to the Federal Government that the USDOT may collect under 2 C.F.R. 200.346 and the Federal Claims Collection Standards (31 C.F.R. parts 900–999).

9.3 Other Oversight Entities. Nothing in this article 9 limits any party’s authority to report activity under this agreement to the United States Department of Transportation Inspector General or other appropriate oversight entities.

ARTICLE 10 AGREEMENT TERMINATION

10.1 USDOT Termination.

- (a) The USDOT may terminate this agreement and all of its obligations under this agreement if any of the following occurs:
 - (1) the Recipient fails to obtain or provide any non-RAISE Grant contribution or alternatives approved by the USDOT as provided in this agreement and consistent with schedule D;
 - (2) a completion date for the Project or a component of the Project is listed in section 2 of schedule C and the Recipient fails to meet that milestone by six months after the date listed in section 2 of schedule C;
 - (3) the Recipient fails to meet a milestone listed in section 3 of schedule C by the deadline date listed in that section for that milestone;
 - (4) the Recipient fails to comply with the terms and conditions of this agreement, including a material failure to comply with the project schedule in schedule C even if it is beyond the reasonable control of the Recipient;
 - (5) circumstances cause changes to the Project that the USDOT determines are inconsistent with the USDOT's basis for selecting the Project to receive a RAISE Grant; or
 - (6) the USDOT determines that termination of this agreement is in the public interest.
- (b) In terminating this agreement under this section, the USDOT may elect to consider only the interests of the USDOT.
- (c) This section 10.1 does not limit the USDOT's ability to terminate this agreement as a remedy under section 9.2.
- (d) The Recipient may request that the USDOT terminate the agreement under this section 10.1.

10.2 Closeout Termination.

- (a) This agreement terminates on Project Closeout.
- (b) In this agreement, "**Project Closeout**" means the date that the USDOT notifies the Recipient that the award is closed out. Under 2 C.F.R. 200.344, Project Closeout should occur no later than one year after the end of the period of performance.

10.3 Post-Termination Adjustments. The Recipient acknowledges that under 2 C.F.R. 200.345–200.346, termination of the agreement does not extinguish the USDOT's

authority to disallow costs, including costs that the USDOT reimbursed before termination, and recover funds from the Recipient.

10.4 Non-Terminating Events.

- (a) The end of the budget period described under section 4.4 does not terminate this agreement or the Recipient's obligations under this agreement.
- (b) The end of the period of performance described under section 4.5 does not terminate this agreement or the Recipient's obligations under this agreement.
- (c) The cancellation of funds under section 14.2 does not terminate this agreement or the Recipient's obligations under this agreement.

10.5 Other Remedies. The termination authority under this article 10 supplements and does not limit the USDOT's remedial authority under article 9 or 2 C.F.R. part 200, including 2 C.F.R. 200.339–200.340.

ARTICLE 11 MONITORING, FINANCIAL MANAGEMENT, CONTROLS, AND RECORDS

11.1 Recipient Monitoring and Record Retention.

- (a) The Recipient shall monitor activities under this award, including activities under subawards and contracts, to ensure:
 - (1) that those activities comply with this agreement; and
 - (2) that funds provided under this award are not expended on costs that are not allowable under this award or not allocable to this award.
- (b) If the Recipient makes a subaward under this award, the Recipient shall monitor the activities of the subrecipient in compliance with 2 C.F.R. 200.332(d).
- (c) The Recipient shall retain records relevant to the award as required under 2 C.F.R. 200.334.

11.2 Financial Records and Audits.

- (a) The Recipient shall keep all project accounts and records that fully disclose the amount and disposition by the Recipient of the award funds, the total cost of the Project, and the amount or nature of that portion of the cost of the Project supplied by other sources, and any other financial records related to the project.
- (b) The Recipient shall keep accounts and records described under section 11.2(a) in accordance with a financial management system that meets the requirements of 2 C.F.R.

200.301–200.303, 2 C.F.R. 200 subpart F, and title 23, United States Code, and will facilitate an effective audit in accordance with 31 U.S.C. 7501–7506.

- (c) The Recipient shall separately identify expenditures under the fiscal year 2022 RAISE grants program in financial records required for audits under 31 U.S.C. 7501–7506. Specifically, the Recipient shall:

- (1) list expenditures under that program separately on the schedule of expenditures of Federal awards required under 2 C.F.R. 200 subpart F, including “FY 2022” in the program name; and
- (2) list expenditures under that program on a separate row under Part II, Item 1 (“Federal Awards Expended During Fiscal Period”) of Form SF-SAC, including “FY 2022” in column c (“Additional Award Identification”).

11.3 Internal Controls. The Recipient shall establish and maintain internal controls as required under 2 C.F.R. 200.303.

11.4 USDOT Record Access. The USDOT may access Recipient records related to this award under 2 C.F.R. 200.337.

ARTICLE 12 CONTRACTING AND SUBAWARDS

12.1 Minimum Wage Rates. The Recipient shall include, in all contracts in excess of \$2,000 for work on the Project that involves labor, provisions establishing minimum rates of wages, to be predetermined by the United States Secretary of Labor, in accordance with the Davis-Bacon Act, 40 U.S.C. 3141–3148, or 23 U.S.C. 113, as applicable, that contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

12.2 Buy America.

- (a) Steel, iron, and manufactured products used in the Project are subject to 23 U.S.C. 313, as implemented by the Federal Highway Administration. The Recipient acknowledges that this agreement is neither a waiver of 23 U.S.C. 313(a) nor a finding under 23 U.S.C. 313(b).
- (b) Construction materials used in the Project are subject to the domestic preference requirement at § 70914 of the Build America, Buy America Act, Pub. L. No. 117-58, div. G, tit. IX, subtit. A, 135 Stat. 429, 1298 (2021), as implemented by OMB, USDOT, and FHWA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).
- (c) Under 2 C.F.R. 200.322, as appropriate and to the extent consistent with law, the Recipient should, to the greatest extent practicable under this award, provide a preference

for the purchase, acquisition, or use of goods, products, or materials produced in the United States. The Recipient shall include the requirements of 2 C.F.R. 200.322 in all subawards including all contracts and purchase orders for work or products under this award.

12.3 Small and Disadvantaged Business Requirements.

- (a) If any funds under this award are administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 49 C.F.R. part 26 (“Participation by disadvantaged business enterprises in Department of Transportation financial assistance programs”).
- (b) If any funds under this award are not administered by or through a State Department of Transportation, the Recipient shall expend those funds in compliance with the requirements at 2 C.F.R. 200.321 (“Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms”).

12.4 Engineering and Design Services. The Recipient shall award each contract or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project in the same manner that a contract for architectural and engineering services is negotiated under the Brooks Act, 40 U.S.C. 1101-1104 as implemented in 23 U.S.C. 112(b)(2), or an equivalent qualifications-based requirement prescribed for or by the Recipient and approved in writing by the USDOT.

12.5 Foreign Market Restrictions. The Recipient shall not allow funds provided under this award to be used to fund the use of any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

12.6 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. The Recipient acknowledges that Section 889 of Pub. L. No. 115-232 and 2 C.F.R. 200.216 prohibit the Recipient and all subrecipients from procuring or obtaining certain telecommunications and video surveillance services or equipment under this award.

12.7 Pass-through Entity Responsibilities. If the Recipient makes a subaward under this award, the Recipient shall comply with the requirements on pass-through entities under 2 C.F.R. parts 200 and 1201, including 2 C.F.R. 200.331–200.333.

12.8 Subaward and Contract Authorization.

- (a) If the USDOT Office for Subaward and Contract Authorization identified in section 7 of schedule A is “FHWA Division,” then the Recipient shall comply with subaward and contract authorization requirements under 23 C.F.R chapter I, subchapter G.

- (b) If the USDOT Office for Subaward and Contract Authorization identified in section 7 of schedule A is “FHWA Office of Acquisition and Grants Management,” then the Recipient shall obtain prior written approval from the USDOT agreement officer for the subaward or contracting out of any work under this agreement. That approval will be contingent upon a fair and reasonable price determination on the part of the Recipient and the agreement officer’s concurrence on that determination.

ARTICLE 13

COSTS, PAYMENTS, AND UNEXPENDED FUNDS

- 13.1 Limitation of Federal Award Amount.** Under this award, the USDOT shall not provide funding greater than the amount obligated under section 4.3. The Recipient acknowledges that the USDOT is not liable for payments exceeding that amount, and the Recipient shall not request reimbursement of costs exceeding that amount.
- 13.2 Projects Costs.** This award is subject to the cost principles at 2 C.F.R. 200 subpart E, including provisions on determining allocable costs and determining allowable costs.
- 13.3 Timing of Project Costs.**
- (a) The Recipient shall not charge to this award costs that are incurred after the budget period.
- (b) The Recipient shall not charge to this award costs that were incurred before the date of this agreement unless those costs are identified in section 5 of schedule D and would have been allowable if incurred during the budget period. This limitation applies to costs incurred under an advance construction authorization (23 U.S.C. 115), costs incurred prior to authorization (23 C.F.R. 1.9(b)), and pre-award costs under 2 C.F.R. 200.458. This agreement hereby terminates and supersedes any previous USDOT approval for the Recipient to incur costs under this award for the Project. Section 5 of schedule D is the exclusive USDOT approval of costs incurred before the date of this agreement.
- 13.4 Recipient Recovery of Federal Funds.** The Recipient shall make all reasonable efforts, including initiating litigation, if necessary, to recover Federal funds if the USDOT determines, after consultation with the Recipient, that those funds have been spent fraudulently, wastefully, or in violation of Federal laws, or misused in any manner under this award. The Recipient shall not enter a settlement or other final position, in court or otherwise, involving the recovery of funds under the award unless approved in advance in writing by the USDOT.
- 13.5 Unexpended Federal Funds.** Any Federal funds that are awarded at section 4.1 but not expended on allocable, allowable costs remain the property of the United States.
- 13.6 Timing of Payments to the Recipient.**
- (a) Reimbursement is the payment method for the RAISE grant program.

- (b) The Recipient shall not request reimbursement of a cost before the Recipient has entered into an obligation for that cost.

13.7 Payment Method.

- (a) If the USDOT Payment System identified in section 6 of schedule A is “FMIS,” then the Recipient shall follow FMIS procedures to request and receive reimbursement payments under this award.
- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Recipient shall use the DELPHI eInvoicing System to request reimbursement under this award unless the USDOT agreement officer provides written approval for the Recipient to use a different request and payment method.
- (c) The USDOT may deny a payment request that is not submitted using the method identified in this section 13.7.

13.8 Information Supporting Expenditures.

- (a) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then when requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit the SF 271 (Outlay Report and Request for Reimbursement for Construction Programs), shall identify the Federal share and the Recipient’s share of costs, and shall submit supporting cost detail to clearly document all costs incurred. As supporting cost detail, the Recipient shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, and travel.
- (b) If the Recipient submits a request for reimbursement that the USDOT determines does not include or is not supported by sufficient detail, the USDOT may deny the request or withhold processing the request until the Recipient provides sufficient detail.

13.9 Reimbursement Frequency. If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Recipient shall not request reimbursement more frequently than monthly.

ARTICLE 14 LIQUIDATION, ADJUSTMENTS, AND FUNDS AVAILABILITY

14.1 Liquidation of Recipient Obligations.

- (a) The Recipient shall liquidate all obligations of award funds under this agreement not later than the earlier of (1) 120 days after the end of the period of performance or (2) the statutory funds cancellation date identified in section 14.2.

- (b) Liquidation of obligations and adjustment of costs under this agreement follow the requirements of 2 C.F.R. 200.344–200.346.

14.2 Funds Cancellation.

- (a) RAISE grant program funding that was appropriated in division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), is canceled by statute after September 30, 2031, and then unavailable for any purpose, including adjustments.
- (b) RAISE grant program funding that was appropriated in the Consolidated Appropriations Act, 2022, Pub. L. No. 117-103 (Mar. 15, 2022) remains available until expended.
- (c) Section 4.2 identifies the specific source or sources of funding for this award.

ARTICLE 15 AGREEMENT MODIFICATIONS

15.1 Bilateral Modifications. The parties may amend, modify, or supplement this agreement by mutual agreement in writing signed by the USDOT and the Recipient. Either party may request to amend, modify, or supplement this agreement by written notice to the other party.

15.2 Unilateral Contact Modifications.

- (a) The Recipient may update the contacts who are listed in section 3 of schedule A by written notice to all of the USDOT contacts who are listed in section 5 of schedule A and section 2.2.
- (b) The USDOT may update the contacts who are listed in section 5 of schedule A and section 2.2 by written notice to all of the Recipient contacts who are listed in section 3 of schedule A.

15.3 USDOT Unilateral Modifications.

- (a) The USDOT may unilaterally modify this agreement to comply with Federal law, including the Program Statute.
- (b) To unilaterally modify this agreement under this section 15.3, the USDOT must provide a notice to the Recipient that includes a description of the modification and state the date that the modification is effective.

15.4 Other Modifications. The parties shall not amend, modify, or supplement this agreement except as permitted under sections 15.1, 15.2, or 15.3. If an amendment, modification, or supplement is not permitted under section 15.1, not permitted under section 15.2, and not permitted under section 15.3, it is void.

ARTICLE 16
CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE

- 16.1 Climate Change and Environmental Justice.** Consistent with Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021), schedule H documents the consideration of climate change and environmental justice impacts of the Project.

ARTICLE 17
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

- 17.1 Racial Equity and Barriers to Opportunity.** Consistent with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021), schedule I documents activities related to the Project to improve racial equity and reduce barriers to opportunity.

ARTICLE 18
LABOR AND WORK

- 18.1 Labor and Work.** Consistent with Executive Order 14025, “Worker Organizing and Empowerment” (Apr. 26, 2021), and Executive Order 14052, “Implementation of the Infrastructure Investment and Jobs Act” (Nov. 15, 2021), schedule J documents the consideration of job quality and labor rights, standards, and protections related to the Project.

ARTICLE 19
**FEDERAL FINANCIAL ASSISTANCE, ADMINISTRATIVE, AND NATIONAL
POLICY REQUIREMENTS**

- 19.1 Uniform Administrative Requirements for Federal Awards.** The Recipient shall comply with the obligations on non-Federal entities under 2 C.F.R. parts 200 and 1201.
- 19.2 Federal Law and Public Policy Requirements.**
- (a) The Recipient shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.
 - (b) The failure of this agreement to expressly identify Federal law applicable to the Recipient or activities under this agreement does not make that law inapplicable.

19.3 Federal Freedom of Information Act.

- (a) The USDOT is subject to the Freedom of Information Act, 5 U.S.C. 552.
- (b) The Recipient acknowledges that the Technical Application and materials submitted to the USDOT by the Recipient related to this agreement may become USDOT records subject to public release under 5 U.S.C. 552.

19.4 History of Performance. Under 2 C.F.R 200.206, any Federal awarding agency may consider the Recipient's performance under this agreement, when evaluating the risks of making a future Federal financial assistance award to the Recipient.

19.5 Whistleblower Protection.

- (a) The Recipient acknowledges that it is a "grantee" within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of this award, gross waste of Federal funds, or a violation of Federal law related this this award.
- (b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.

19.6 External Award Terms and Obligations.

- (a) In addition to this document and the contents described in article 24, this agreement includes the following additional terms as integral parts:
 - (1) Appendix A to 2 C.F.R. part 25: System for Award Management and Universal Identifier Requirements;
 - (2) Appendix A to 2 C.F.R. part 170: Reporting Subawards and Executive Compensation;
 - (3) 2 C.F.R 175.15(b): Trafficking in Persons; and
 - (4) Appendix XII to 2 C.F.R. part 200: Award Term and Condition for Recipient Integrity and Performance Matters.
- (b) The Recipient shall comply with:
 - (1) 49 C.F.R. part 20: New Restrictions on Lobbying;
 - (2) 49 C.F.R. part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964;
 - (3) 49 C.F.R. part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance; and

- (4) Subpart B of 49 C.F.R. part 32: Governmentwide Requirements for Drug-free Workplace (Financial Assistance).

19.7 Incorporated Certifications. The Recipient makes the statements in the following certifications, which are incorporated by reference:

- (1) Appendix A to 49 CFR part 20 (Certification Regarding Lobbying).

ARTICLE 20 ASSIGNMENT

20.1 Assignment Prohibited. The Recipient shall not transfer to any other entity any discretion granted under this agreement, any right to satisfy a condition under this agreement, any remedy under this agreement, or any obligation imposed under this agreement.

ARTICLE 21 WAIVER

21.1 Waivers.

- (a) A waiver of a term of this agreement granted by the USDOT will not be effective unless it is in writing and signed by an authorized representative of the USDOT.
- (b) A waiver of a term of this agreement granted by the USDOT on one occasion will not operate as a waiver on other occasions.
- (c) If the USDOT fails to require strict performance of a term of this agreement, fails to exercise a remedy for a breach of this agreement, or fails to reject a payment during a breach of this agreement, that failure does not constitute a waiver of that term or breach.

ARTICLE 22 ADDITIONAL TERMS AND CONDITIONS

22.1 Effect of Urban or Rural Designation. Based on information that the Recipient provided to the USDOT, including the Technical Application, section 1 of schedule F designates this award as an urban award or a rural award, as defined in the NOFO. The Recipient shall comply with the requirements that accompany that designation on minimum award size, geographic location, and cost sharing.

22.2 Effect of Historically Disadvantaged Community or Area of Persistent Poverty Designation. If section 3 of schedule F lists “Yes” for the “HDC or APP Designation,” then based on information that the Recipient provided to the USDOT, including the

Technical Application, the USDOT determined that the Project will be carried out in a historically disadvantaged community or an area of persistent poverty, as defined in the NOFO. The Recipient shall incur a majority of the costs under this award in historically disadvantaged communities or areas of persistent poverty.

22.3 Disclaimer of Federal Liability. The USDOT shall not be responsible or liable for any damage to property or any injury to persons that may arise from, or be incident to, performance or compliance with this agreement.

22.4 Relocation and Real Property Acquisition.

- (a) To the greatest extent practicable under State law, the Recipient shall comply with the land acquisition policies in 49 C.F.R. 24 subpart B and shall pay or reimburse property owners for necessary expenses as specified in that subpart.
- (b) The Recipient shall provide a relocation assistance program offering the services described in 49 C.F.R. 24 subpart C and shall provide reasonable relocation payments and assistance to displaced persons as required in 49 C.F.R. 24 subparts D–E.
- (c) The Recipient shall make available to displaced persons, within a reasonable period of time prior to displacement, comparable replacement dwellings in accordance with 49 C.F.R. 24 subpart E.

22.5 Equipment Disposition.

- (a) In accordance with 2 C.F.R. 200.313 and 1201.313, if the Recipient or a subrecipient acquires equipment under this award, then when that equipment is no longer needed for the Project:
 - (1) if the entity that acquired the equipment is a State or a subrecipient of a State, that entity shall dispose of that equipment in accordance with State laws and procedures; and
 - (2) if the entity that acquired the equipment is neither a State nor a subrecipient of a State, that entity shall request disposition instructions from the Administering Operating Administration.
- (b) In accordance with 2 C.F.R. 200.443(d), the distribution of the proceeds from the disposition of equipment must be made in accordance with 2 C.F.R. 200.313–200.316 and 2 C.F.R. 1201.313.
- (c) The Recipient shall ensure compliance with this section 22.5 for all tiers of subawards under this award.

22.6 Environmental Review.

- (a) In this section, “**Environmental Review Entity**” means:

- (1) if the Project is located in a State that has assumed responsibilities for environmental review activities under 23 U.S.C. 326 or 23 U.S.C. 327 and the Project is within the scope of the assumed responsibilities, the State; and
 - (2) for all other cases, the FHWA.
- (b) Except as authorized under section 22.6(c), the Recipient shall not begin final design; acquire real property, construction materials, or equipment; begin construction; or take other actions that represent an irretrievable commitment of resources for the Project unless and until:
- (1) the Environmental Review Entity complies with the National Environmental Policy Act, 42 U.S.C. 4321 to 4370m-12, and any other applicable environmental laws and regulations; and
 - (2) if the Environmental Review Entity is not the Recipient, the Environmental Review Entity provides the Recipient with written notice that the environmental review process is complete.
- (c) If the Recipient is using procedures for early acquisition of real property under 23 C.F.R. 710.501 or hardship and protective acquisitions of real property 23 C.F.R. 710.503, the Recipient shall comply with 23 C.F.R. 771.113(d)(1).
- (d) The Recipient acknowledges that:
- (1) the Environmental Review Entity's actions under section 22.6(a) depend on the Recipient conducting necessary environmental analyses and submitting necessary documents to the Environmental Review Entity; and
 - (2) applicable environmental statutes and regulation may require the Recipient to prepare and submit documents to other Federal, State, and local agencies.
- (e) Consistent with 23 C.F.R. 771.105(a), to the extent practicable and consistent with Federal law, the Recipient shall coordinate all environmental investigations, reviews, and consultations as a single process.
- (f) The activities described in schedule B and other information described in this agreement may inform environmental decision-making processes, but the parties do not intend this agreement to document the alternatives under consideration under those processes. If a build alternative is selected that does not align with schedule B or other information in this agreement, then:
- (1) the parties may amend this agreement under section 15.1 for consistency with the selected build alternative; or
 - (2) if the USDOT determines that the condition at section 10.1(a)(5) is satisfied, the USDOT may terminate this agreement under section 10.1(a)(5).

- (g) The Recipient shall complete any mitigation activities described in the environmental document or documents for the Project, including the terms and conditions contained in the required permits and authorizations for the Project.

22.7 Railroad Coordination. If section 3 of schedule C includes one or more milestones identified as a “Railroad Coordination Agreement,” then for each of those milestones, the Recipient shall enter a standard written railroad coordination agreement, consistent with 23 C.F.R. 646.216(d), no later than the deadline date identified for that milestone, with the identified railroad for work and operation within that railroad’s right-of-way.

ARTICLE 23

MANDATORY AWARD INFORMATION

23.1 Information Contained in a Federal Award. For 2 C.F.R. 200.211:

- (1) the “Federal Award Date” is the date of this agreement, as defined under section 25.2;
- (2) the “Assistance Listings Number” is 20.933 and the “Assistance Listings Title” is “National Infrastructure Investments”; and
- (3) this award is not for research and development.

23.2 Federal Award Identification Number.

- (a) If the USDOT Payment System identified in section 6 of schedule A is “FMIS,” then the Federal Award Identification Number will be generated when the FHWA Division authorizes the project in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the FAIN from FMIS.
- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Federal Award Identification Number is listed on page 1, line 1 of the project-specific agreement.

23.3 Recipient’s Unique Entity Identifier.

- (a) If the USDOT Payment System identified in section 6 of schedule A is “FMIS,” then the Recipient’s Unique Entity Identifier, as defined at 2 C.F.R. 25.415, is available in FMIS. The Recipient acknowledges that it has access to FMIS and can retrieve the unique entity identifier from FMIS.
- (b) If the USDOT Payment System identified in section 6 of schedule A is “DELPHI eInvoicing,” then the Recipient’s Unique Entity Identifier, as defined at 2 C.F.R. 25.415, is listed on page 1, line 4 of the project-specific agreement.

ARTICLE 24

CONSTRUCTION AND DEFINITIONS

24.1 Schedules. This agreement includes the following schedules as integral parts:

Schedule A	Administrative Information
Schedule B	Project Activities
Schedule C	Award Dates and Project Schedule
Schedule D	Award and Project Financial Information
Schedule E	Changes from Application
Schedule F	RAISE Program Designations
Schedule G	RAISE Performance Measurement Information
Schedule H	Climate Change and Environmental Justice Impacts
Schedule I	Racial Equity and Barriers to Opportunity
Schedule J	Labor and Work

24.2 Exhibits. The following exhibits, which are located in the document titled “Exhibits to FHWA Grant Agreements Under the Fiscal Year 2022 RAISE Grant Program,” dated October 18, 2022, and available at <https://www.transportation.gov/policy-initiatives/raise/raise-grant-agreements>, are part of this agreement.

Exhibit A	Applicable Federal Laws and Regulations
Exhibit B	Additional Standard Terms
Exhibit C	Quarterly Project Progress Reports and Recertifications: Format and Content
Exhibit D	Form for Subsequent Obligation of Funds

24.3 Construction.

(a) In these General Terms and Conditions:

- (1) unless expressly specified, a reference to a section or article refers to that section or article in these General Terms and Conditions;
- (2) a reference to a section or other subdivision of a schedule listed in section 24.1 will expressly identify the relevant schedule; and
- (3) there are no references to articles or sections in project-specific portions of the agreement that are not contained in schedules listed in section 24.1.

(b) If a provision in these General Terms and Conditions or the exhibits conflicts with a provision in the project-specific portion of the agreement, then the project-specific portion of the agreement prevails. If a provision in the exhibits conflicts with a provision in these General Terms and Conditions, then the provision in these General Terms and Conditions prevails.

24.4 Integration. This agreement constitutes the entire agreement of the parties relating to the RAISE grant program and awards under that program and supersedes any previous agreements, oral or written, relating to the RAISE grant program and awards under that program.

24.5 Definitions. In this agreement, the following definitions apply:

“**General Terms and Conditions**” means this document, including articles 1–25.

“**Program Statute**” means the collective statutory text:

- (1) at 49 U.S.C. 6702;
- (2) under the heading “Department of Transportation—Office of the Secretary—National Infrastructure Investments” in title VIII of division J of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (Nov. 15, 2021), and all other provisions of that act that apply to amounts appropriated under that heading; and
- (3) under the heading “Department of Transportation—Office of the Secretary—National Infrastructure Investments” in title I of division L of the Consolidated Appropriations Act, 2022 Pub. L. No. 117-103 (Mar. 15, 2022), and all other provisions of that act that apply to amounts appropriated under that heading.

“**Project**” means the project proposed in the Technical Application, as modified by the negotiated provisions of this agreement, including schedules A–J.

“**RAISE Grant**” means an award of funds that were made available under the NOFO.

“**Technical Application**” means the application identified in section 1 of schedule A, including Standard Form 424 and all information and attachments submitted with that form through Grants.gov.

ARTICLE 25

AGREEMENT EXECUTION AND EFFECTIVE DATE

25.1 Counterparts. This agreement may be executed in counterparts, which constitute one document. The parties intend each countersigned original to have identical legal effect.

25.2 Effective Date. The agreement will become effective when all parties have signed it. The date of this agreement will be the date this agreement is signed by the last party to sign it. This instrument constitutes a RAISE Grant when the USDOT’s authorized representative signs it.

GRANT CERTIFICATION

From: Andrew E. Hayes, P.E., Director of Public Works

To: Mark Aliff, President of the City Council
Heather Graham, Mayor

Re: FY 2022 RAISE Grant – West Side Connector Project

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

A handwritten signature in black ink, appearing to read 'AEH', is written over a horizontal line.

8/15/2024



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Harley Gifford

SUBJECT: AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CITIZEN ENERGY, LLC, A DISTRICT OF COLUMBIA LIMITED LIABILITY COMPANY, REGARDING MEMBER AGENCY MATCH FUNDING FOR THE U.S. DEPARTMENT OF TRANSPORTATION' CHARGING AND FUELING INFRASTRUCTURE DISCRETIONARY GRANT OPPORTUNITY

SUMMARY:

Attached is a pre-award memorandum of understanding between the City of Pueblo and Citizen Energy, LLC, a District of Columbia, LLC, regarding a member agency match funding for the U.S. Department of Transportation's Charging and Fueling Infrastructure Discretionary Grant Opportunity.

PREVIOUS COUNCIL ACTION:

Not applicable.

BACKGROUND:

Pursuant to Notice of Funding Opportunity Number 693JJ324NF00017 ("NOFO Project"), the City intends to apply for the Charging and Fueling Infrastructure Discretionary Grant Program ("CFI Program") established under the Infrastructure Investment and Jobs Act. The CFI Program seeks to award grant funding to address environmental justice, particularly for economically disadvantaged and other communities (prioritizing rural areas and low and moderate-income neighborhoods) that may disproportionately experience the consequences of either climate change or other pollutants. The Federal share of the cost of a project carried out with CFI Program Grant Funds shall not exceed 80 percent of the total project cost. If the City is awarded the CFI Program Grant Funds, the City must provide at least 20 percent of the total project cost as a matching share. Further, the City is required to contract with a private entity (a corporation, partnership, company, or nonprofit organization) for the

acquisition and installation of EV charging infrastructure and for the construction, maintenance, or operation of EV charging infrastructure. The CFI Program requires the private entity to contractually agree to pay the 20% match amount of the project cost carried out with CFI Program Funds. In order to receive CFI Program Funds, the City must demonstrate it has taken best efforts to require the private entity to contractually pay for the non-federal share. As such, the City and Citizen Energy, LLC desire to enter into the attached MOU to set forth the terms of the Agreement should city be awarded CFI Program Funds and Citizen Energy, LLC be required to pay the non-Federal match share of the project cost.

FINANCIAL IMPLICATIONS:

There is no financial implication associated with the approval of this MOU. Should the City be awarded CFI Program Funds, there will be costs associated with the completion of the project.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

Do not approve the Ordinance.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2024 DOT CFI NOFO Project Grant Application
2. Citizen Energy Preaward MOU Signed

ORDINANCE NO.

AN ORDINANCE APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CITIZEN ENERGY, LLC, A DISTRICT OF COLUMBIA LIMITED LIABILITY COMPANY, REGARDING MEMBER AGENCY MATCH FUNDING FOR THE U.S. DEPARTMENT OF TRANSPORTATION' CHARGING AND FUELING INFRASTRUCTURE DISCRETIONARY GRANT OPPORTUNITY

WHEREAS, pursuant to Notice of Funding Opportunity Number 693JJ324NF00017 ("NOFO Project"), City intends to apply for the Charging and Fueling Infrastructure Discretionary Grant Program ("CFI Program") established under the Infrastructure Investment and Jobs Act; and

WHEREAS, the CFI Program seeks to award grant funding for economically disadvantaged communities for the installation of EV charging stations; and

WHEREAS, the Federal share of the cost of a project carried out with CFI Program grant funds shall not exceed 80 percent of the total project cost, requiring awardees to provide at least 20 percent of the total project cost as a matching share; and

WHEREAS, the CFI Program requires the City contract with a private entity (a corporation, partnership, company, or nonprofit organization) for the acquisition and installation of EV charging infrastructure and for the construction, maintenance, or operation of EV Charging infrastructure; and

WHEREAS, the CFI Program requires the private entity to contractually agree to pay the 20% non-Federal share of the project cost carried out with CFI Program funds; and

WHEREAS, City and Citizen Energy, LLC, a District of Columbia Limited Liability Company desire to enter into a Memorandum of Understanding, attached hereto and incorporated herein, to set for the terms of agreement should City be awarded CFI Program funds and Citizen Energy, LLC, be required to pay the non-Federal share of the project cost; and

WHEREAS, approval of the Memorandum of Understanding is in the best interest of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Memorandum of Understanding between the City and Citizen Energy, LLC, regarding member agency match funding for the U.S. Department of Transportation's Charging and Fueling Infrastructure Discretionary Grant Opportunity, true copies of which are attached hereto, having been approved as to form by the City Attorney, are hereby approved and accepted.

SECTION 2.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with intent of this Ordinance and the attached contract to effectuate the transactions described therein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

U.S. DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Funding Opportunity for the U.S. Department of Transportation’s Charging and Fueling Infrastructure Discretionary Grant Opportunity

AGENCY: U.S. Department of Transportation (DOT), Federal Highway Administration (FHWA).

ACTION: Notice of Funding Opportunity (NOFO) Number 693JJ324NF00017

Charging and Fueling Infrastructure Discretionary Grant Opportunity (Round 2)

SUMMARY: The purpose of this NOFO is to solicit applications for the Charging and Fueling Infrastructure Discretionary Grant Program (CFI Program) established under the Infrastructure Investment and Jobs Act (“Bipartisan Infrastructure Law” or “BIL”). In addition, funds under the National Electric Vehicle Infrastructure (NEVI) Formula Program 10 percent set-aside (NEVI 10), also established by BIL, will also be awarded under this NOFO. Funding program sources, Fiscal Years (FY), and amounts available for award under this NOFO can be found in the table below. This NOFO also announces FHWA’s intention to make additional awards for applications submitted under FY 2022/2023 CFI Round 1 NOFO (693JJ323NF00004) issued March 14, 2023.

KEY DATES: Key dates are summarized below and described in the NOFO.

Action	Date
NOFO Release Date	May 30, 2024
Due Date for non-awarded Round 1 Applicants to Request Reconsideration for Award under Reserved Funding	July 1, 2024
Due Date for Applicant Questions to CFIGrants@dot.gov	July 29, 2024
Due Date for Round 2 New Applications - by 11:59 PM EST in Grants.gov	August 28, 2024

Summary of Funding Available Under this CFI NOFO Round 2

Fiscal Year and Program of Funding in this NOFO	Total Funding (approximately)	Funding for Applications Submitted under this NOFO Round 2	Funding for Applications Previously Submitted under FY 2022/2023 CFI NOFO Round 1
CFI FY 2024	\$500,000,000	\$100,000,000	\$400,000,000
CFI FY 2025	\$600,000,000	\$600,000,000	
NEVI 10 FY 2023	\$21,200,000		\$21,200,000
NEVI 10 FY 2024	\$100,000,000		\$100,000,000
NEVI 10 FY 2025	\$100,000,000	\$100,000,000	
Total Available (approximately)	\$1,321,200,000	\$800,000,000	\$521,200,000

The CFI Program is divided into two separate grant categories: (1) the Community Charging and Fueling Program Grants (Community Program), to strategically deploy electric vehicle (EV) charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure located on public roads or in other publicly accessible¹ locations; and (2) the Alternative Fuel Corridor Grants (Corridor Program)², to strategically deploy charging and alternative fueling infrastructure located along designated alternative fuel corridors.³ The actual amount of funding available for award each fiscal year will be based on the reduction of authorized funding due to the imposition of the annual obligation limitation. While applicants can choose to apply for only one grant program, they may also submit separate applications under each program. If one eligible applicant is interested in applying for both Community and Corridor funding categories in a single application, they

¹ Publicly accessible means the equipment is available to the public without restriction. A station that is not maintained or restricts access only to customers, tenants, employees, or other consumers is not publicly accessible. Publicly accessible locations may include public parking facilities, parking at public buildings, public transportation stations, Park-and-Rides, public schools, public parks, private parking facilities available for public use, visitor centers, and other public locations on Federal Lands.
https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf

² For more information, see: https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/

³ Overall, the CFI Program is authorized funding for 5 fiscal years, totaling up to \$2.5 billion (FY 2022 \$300 million, FY 2023 \$400 million, FY 2024 \$500 million, FY 2025 \$600 million, and FY 2026 \$700 million.)

must clearly separate the proposed work, selection criteria, and budget requested for each category.

The CFI Program will accelerate an electrified and alternative fuel transportation system that is convenient, affordable, reliable, equitable, accessible, and safe. The CFI Program will also help put the United States on a path to a nationwide network of at least 500,000 EV chargers by 2030 and improve networks for vehicles using hydrogen, propane, and natural gas. The CFI Program builds on FHWA Alternative Fuel Corridor (AFC) program and complements the NEVI Formula program, which is initially focused on enabling long distance trips along the National Highway System (NHS) through a convenient, reliable, affordable, and equitable electric vehicle charging network. The goals of the CFI Program are to 1) supplement, not supplant, necessary private sector investment; 2) complement existing Federal programs; 3) facilitate broad public access to a national charging and alternative fuel infrastructure network to accelerate the adoption of zero emissions vehicles; 4) implement Justice40⁴ objectives, lower transportation costs, and increase economic opportunity; 5) advance job quality, workforce development, and workforce equity; and 6) reduce greenhouse gas and vehicle-related emissions.

Funds available under this notice will provide crucial support for the full buildout of the Nation's electrified and alternative fuel corridors (supplementing funds from the NEVI Formula Program) and can fill in critical infrastructure gaps to help meet current or anticipated demand for corridor charging or alternative fueling infrastructure. By encouraging the adoption and

⁴ The Justice40 Initiative sets the goal that 40 percent of the overall benefits of climate and other Federal investments flow to disadvantaged communities that have been marginalized by underinvestment and overburdened by pollution. Pursuant to Executive Order (E.O.) 14008, "Tackling the Climate Crisis at Home and Abroad," January 27, 2021, and the Office of Management and Budget's Interim Justice40 Implementation Guidance M-21-28 and Addendum M-23-09, FHWA recognizes disadvantaged communities as the census tracts identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST), located at <https://screeningtool.geoplatform.gov/>, as well as all Federally Recognized Tribes (whether or not they have land). Disadvantaged communities may be referred to as "Justice40 communities."

expansion in use of alternative fuels, CFI Program investments have the potential to significantly address the transportation sector's outsized contributions to climate change. Currently, the transportation sector is both the largest source of U.S. carbon dioxide emissions, and is increasingly vulnerable because of the higher temperatures, more frequent and intense precipitation, and sea level rise associated with the changing climate.⁵

FHWA seeks to award funding under this NOFO to projects that address environmental justice,⁶ particularly for disadvantaged and other communities (prioritizing rural areas and low- and moderate-income neighborhoods) that may disproportionately experience the consequences of either climate change or other pollutants. Also, FHWA seeks to fund projects that help achieve the Justice40 Initiative goal as described in footnote 4. In addition, FHWA intends to use this funding opportunity to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and diverse workforce programs, in particular registered apprenticeships, labor management partnerships and Local Hire agreements,⁷ in project planning stages and program delivery.

This NOFO describes the application requirements, selection and evaluation criteria, Federal requirements, and available technical assistance during the grant solicitation period. To ensure a fair and unbiased evaluation of applications submitted under this NOFO, applications must be complete and address all statutory requirements; however, FHWA may request supplementary information, as needed, or to determine with which category of grant the

⁵ See EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, available at <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks>.

⁶ See definition of environmental justice in Executive Order 14906 at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/>.

⁷ Contracts awarded with geographic hiring preferences are eligible for assistance under most FHWA financial assistance programs.

application best aligns, or if applicants could be eligible to receive an award from both categories of funding. Recipients of an award under this program related to EV infrastructure are required to comply fully with applicable sections of the National Electric Vehicle Infrastructure Minimum Standards and Requirements Rule (23 CFR Part 680).⁸ These Standards specify technical aspects of charging infrastructure including connector types, power levels, minimum number of charging ports per station, minimum uptime (reliability standards), payment methods, and more; data submittal requirements; workforce requirements for installation, operation, or maintenance by qualified technicians; interoperability of EV charging infrastructure; traffic control devices and signage; network connectivity; and publicly available information. Questions related to this solicitation can be sent to the program inbox at CFIgrants@dot.gov until July 29, 2024. FHWA will deliver informational webinars to interested parties regarding this solicitation, as specified in the Grants.gov notice/synopsis. Please check the CFI Website (<https://www.fhwa.dot.gov/environment/cfi/>) and the Joint Office of Energy and Transportation (Joint Office) Website (<https://driveelectric.gov/>) for more information.

SPECIAL NOTE: Additional funding to be made available under the 10 percent set-aside of the National Electric Vehicle Infrastructure Program:

Paragraph (2) under the Highway Infrastructure Program heading in Title VIII of Division J of BIL provides funding for establishing the National Electric Vehicle Infrastructure (NEVI) Formula Program. This paragraph provides that the Secretary shall set aside 10 percent of the NEVI Formula Program each fiscal year for the Secretary of Transportation “to make grants to States and localities that require additional assistance to strategically deploy electric vehicle charging infrastructure.” For purposes of this NOFO, these funds are referred to as

⁸ [Final Rule for National Electric Vehicle Charging Minimum Standards and Requirements](#)

NEVI 10 funds. The Secretary finds that applications submitted under this NOFO by State and local governments for EV charging infrastructure projects would provide additional assistance to strategically deploy EV charging infrastructure. In response to the CFI Round 1 NOFO (693JJ323NF00004), FHWA received significantly more requests for funding than was available. These applications represent EV charging infrastructure projects that State and local governments could strategically deploy. In addition, by combining the NEVI 10 funds with the CFI funds, FHWA is reducing the burden on State and local applicants who would otherwise have to submit multiple applications to different programs. FHWA will not use separate criteria in selecting applications for NEVI 10 funding nor does FHWA require the applicant to specify that the project should be considered for such funding. Rather, FHWA will select applications for NEVI 10 funding using the same criteria as the CFI community and corridor programs, provided the application is for electric vehicle infrastructure.⁹

⁹ NEVI 10 funds awarded for projects under this NOFO will be administered pursuant to the same requirements as CFI except where a CFI requirement is determined to be inconsistent with a statutory requirement of the NEVI program under Title VIII of Division J.

Funding Opportunity Summary:	Funding available under this NOFO consists of two components: (1) Up to \$800 million to fund CFI Round 2 applications to provide grants to eligible entities to strategically deploy publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure in certain locations or along designated AFCs that will be accessible to all drivers of EVs, hydrogen vehicles, propane vehicles, and natural gas vehicles. (2) Up to \$521.2 million to fund applications previously submitted but not selected for award under the FY2022/2023 CFI Round 1 NOFO (693JJ323NF00004) published on March 14, 2023¹⁰.
Federal Agency Name:	U.S. Department of Transportation FHWA, Office of Planning, Environment and Realty (HEP) 1200 New Jersey Avenue, SE Washington, DC 20590
Funding Opportunity Title:	Charging and Fueling Infrastructure Discretionary Grant Opportunity (Round 2)
Announcement Type:	This is the CFI NOFO Round 2. Section 11401 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58, Nov. 15, 2021), established the Charging and Fueling Infrastructure Discretionary Grant Program which is codified at 23 U.S.C. § 151(f)(2). There are two funding categories under the Charging and Fueling Infrastructure Discretionary Grant Program: (1) Community Charging and Fueling Program Grants and (2) Alternative Fuel Corridor Grants.

¹⁰ <https://grants.gov/search-results-detail/346798>

		Division J of BIL established the NEVI 10 percent set-aside.
Community Grants:		• Located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity. • Must be publicly accessible. • May use funds to contract with a private entity. • Minimum award amount of \$500,000¹¹, maximum award amount of \$15 million. • Must demonstrate benefits¹² will flow to Justice40 communities. • Expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible infrastructure. • Must be accessible to and usable by individuals with disabilities.
Corridor Grants:		• Located along a designated AFC; EV charging and other alternative fuels within 5 miles of the AFC.¹³ • Must be publicly accessible. • Minimum award amount of \$1 million¹⁴, no maximum award amount. • Must use funds to contract with a private entity. • Must demonstrate benefits¹⁵ will flow to Justice40 communities Must be accessible to and usable by individuals with disabilities.
Funding Opportunity Number:		693JJ324NF00017

¹¹ DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities and consideration.

¹² See footnote 4 for a description of the Justice40 Initiative

¹³ In order to be designated as an AFC for EV charging, FHWA criteria provides that the EV charger be located within 1 travel mile of the highway. For purposes of this NOFO, with respect to the Corridor Program, FHWA will consider applications along designated AFCs for EV chargers up to 5 miles off the highway.

¹⁴ DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities and consideration.

¹⁵ See footnote 4 for a description of the Justice40 Initiative.

Type of Award:	Cost Reimbursement Grant
Funding Categories:	The FHWA Administrator may advise the Secretary of Transportation (Secretary) on options for reduced awards. ¹⁶ Each application must clearly indicate if the application will be evaluated under the Community or the Corridor grant funds. An eligible applicant may submit separate applications under both programs. If one eligible applicant is interested in applying for both Community and Corridor funding categories in a single application, they must clearly separate the proposed work, selection criteria and budget requested for each category.
Assistance Listing Number (formerly Catalog of Federal Domestic Assistance (CFDA)):	20.205 – Highway Planning and Construction
Application Due Date:	Submission Deadline: Applications are due no later than 11:59 PM EST on AUGUST 28, 2024 , through Grants.gov. Applicants are encouraged to submit applications in advance of the application deadline; however, new applications will not be evaluated, and awards for newly submitted applications will not be made, until after the application submission deadline.
Submit Applications To:	FHWA uses Grants.gov for receipt of all applications. Applicants must register and use the system to submit applications electronically. <u>Approval of new user registrations for Grants.gov may take multiple weeks.</u> Applicants are encouraged to register for Grants.gov in advance of the submission deadline. Applicants are also encouraged to subscribe in Grants.gov under this NOFO number to receive notices of any updates, amendments, changes, or supplemental information related to this grant opportunity. <u>It is the Applicant's responsibility to monitor Grants.gov for any updates/amendments to this NOFO.</u> Complete instructions on how to register and apply can be found at Grants.gov. If interested parties experience difficulties at any point during registration or application process, please use the help available on Grants.gov such as the Ask Grant/Chat Now with Grant

¹⁶ Per section B.2. Scalable Project Options, applicants to both Community and Corridor programs are encouraged to propose projects that are scalable and identify scaled funding options in case insufficient funding is available to fund an applicant's project at the full requested amount.

	service; or the Grants.gov 24/7 Customer Support Hotline at 1-800-518-4726; or email support@grants.gov. USDOT staff <u>cannot</u> assist with technical Grants.gov system and user questions.
Questions:	Submit CFI NOFO Questions to Email: CFIgrants@dot.gov Applications will not be reviewed in advance, but FHWA staff are available to answer questions regarding the program. In addition, FHWA will post answers to questions and requests for clarifications at Grants.gov under this funding opportunity number. Due to the competitive nature of the program, during the application submittal phase, FHWA is unable to accommodate individual meeting requests to discuss the opportunity or specific project ideas, and unable to provide individualized guidance or render opinions about the merit of a specific project. The CFIgrants@dot.gov inbox will close after July 29, 2024. Applicants are encouraged to submit their questions to the inbox in advance of this date. Based on the volume of questions, we will attempt to answer as many questions as possible.

SUPPLEMENTARY INFORMATION: The organization of this NOFO is based on an outline set forth in Appendix I to Title 2 of the Code of Federal Regulations (CFR) Part 200 to ensure consistency across Federal financial assistance programs.

RESERVATION OF FUNDS FOR FY 2022/2023 CFI ROUND 1 APPLICATIONS THAT WERE NOT SELECTED FOR CFI FUNDING: In January 2024, DOT announced award selections resulting from the FY 2022/2023 CFI Round 1 NOFO (693JJ323NF00004). Under this CFI Round 2 NOFO (693JJ324NF00017), FHWA is making up to \$400 million in FY 2024

CFI funding and up to \$121.2 million of NEVI 10 funding (\$21.2 million in FY 2023 funding and \$100 million in FY 2024 funding) available to certain applications that were submitted but not selected under the CFI Round 1 FY 2022/2023 NOFO. For purposes of selecting projects under this reservation of funds, FHWA will follow the criteria and process set forth in the FY 2022/2023 CFI Round 1 NOFO. No amendments are being made to either the selection criteria or process, so no previous application modifications will be needed or accepted. Instead, FHWA will forward all applications that were not selected for funding but rated by the technical review team as either “Highly Recommended,” or “Recommended,” and also found to meet one or more DOT priority considerations as provided in Section E.2 of the FY 2022/2023 CFI Round 1 NOFO. For purposes of this reservation of funds, FHWA incorporates the FY 2022/2023 NOFO by reference and will follow that NOFO criteria for all selections. Note that in following the NOFO process to determine which Recommended and Highly Recommended applications are to be funded, the Senior Review Team, FHWA Administrator, and the Secretary may apply the Statutory Selection Priorities and Additional Considerations independently from the original award process.

If an applicant submitted an application for funding under the FY 2022/2023 CFI Round 1 NOFO and was not selected, such applicant must notify FHWA by email to CFIGrants@dot.gov by July 1, 2024, if the applicant wishes for that application to be reconsidered for award using this reservation of funding. The applicant does not need to resubmit the Round 1 application, but needs only to notify the FHWA that the applicant wishes for the application to be reconsidered for award using this reservation of funding. Round 1 applicants seeking such reconsideration of their unawarded Round 1 application will not be permitted to modify, amend or supplement their Round 1 applications. To maximize chances of

obtaining an award, CFI FY2022/2023 unawarded applicants may request consideration under the reserved funds, and they may also submit a new application following the criteria outlined in this Round 2 NOFO. FHWA will not award more funding to any one project above the allowable Federal share.

Table of Contents

A. Program Description	13
1. Overview	13
2. Additional Information.....	15
3. Administration Priorities and Departmental Strategic Plan Priority Statements	16
B. Federal Award Information	17
1. Amount Available	17
2. Scalable Project Options	18
C. Eligibility Information.....	19
1. Eligible Applicants	19
2. Cost Sharing or Matching.....	21
3. Eligible Projects and Project Costs	22
4. Community Program - Eligibility Information	22
5. Corridor Program - Eligibility Information.....	24
D. Application and Submission Information.....	26
1. Address to Request Application Package.....	26
2. Content and Form of Application.....	27
3. Unique Entity Identifier and System for Award Management (SAM)	42
4. Submission Dates and Timelines	43
5. Intergovernmental Review	43
6. Funding Restrictions.....	43
7. Other Submission Considerations	45
E. Application Review Information	46
1. Selection Criteria	46
2. Review and Selection Process.....	61
3. Additional Information.....	63
F. Federal Award Administration Information	64
1. Award Notices	64
2. Administrative and National Policy Requirements	65
3. Reporting	73
G. Federal Awarding Agency Contacts	74
H. Other Information	74
1. Protection of Confidential Business Information.....	74
2. Publication/Sharing of Application Information.....	75
3. DOT Feedback on Applications	75

A. Program Description

1. Overview

The CFI Program was established by the Bipartisan Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act, Section 11401, Pub. L. 117–58, Nov. 15, 2021, codified at 23 U.S.C. § 151) with two grant categories, one for the Community Program and one for the Corridor Program. For a summary of funding available amounts, by source and fiscal year, please see the Summary section above.

The CFI Community Program and the CFI Corridor Program each have their own respective evaluation criteria and program requirements.

i. Community Program

Community Program grants are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to charging or alternative fueling infrastructure.

Under 23 U.S.C. § 151(f)(8), FHWA seeks to award Community Program Grants to eligible entities (listed in Section C.1.) for projects on any public road or in other publicly accessible locations that are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible EV charging infrastructure, or hydrogen, propane, or natural gas fueling infrastructure. Projects expanding access to charging and fueling infrastructure in rural areas,¹⁷ low- and-moderate income neighborhoods, and communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes shall be prioritized (23 U.S.C. § 151(f)(8)(F)).

¹⁷ For the purposes of the CFI Program, Urbanized Areas (UZA) with populations of less than 50,000 will be considered rural. For purpose of this notice, in defining urban and rural communities, DOT will rely on the Census Bureau 2020 definition of UA as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Website at: http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/

Infrastructure may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks,¹⁸ or in publicly accessible parking facilities owned or managed by a private entity (23 U.S.C. § 151(f)(8)(E)). If selected for an award, grant recipients may use funds to contract with a private entity¹⁹ that owns or manages parking facilities. Grant recipients may place charging and fueling infrastructure in parking garages, on-street parking locations, and other parking facilities that charge a parking fee. In addition, the grant recipient must ensure that all electric vehicle charging infrastructure funded as part of their grant includes any parking fee in their price structure and comply with 23 CFR 680.116(a)(3) and 23 CFR 680.116(c)(9).

ii. Corridor Program

Corridor Program grants are expected to support buildout of charging or alternative fueling infrastructure along designated AFCs.

Under 23 U.S.C. § 151(f)(6), FHWA seeks to award Corridor Program Grants to eligible entities (listed in Section C.1.) to contract with a private entity²⁰ for acquisition and installation of publicly accessible EV charging infrastructure, or hydrogen, propane, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle along designated AFCs. As of 2023, designated AFCs cover nearly 205,000 miles of the NHS and traverse rural and urban areas, Tribal lands, national parks, and underserved and disadvantaged communities. The CFI Program will assist State and local agencies, private industry, and other interested stakeholders to build an alternative fuels transportation network to better meet drivers' needs and

¹⁸ Use of parks must comply with DOT 4(f) requirements 23 U.S.C. 138, 49 U.S.C. 303, and 23 CFR part 774.

¹⁹ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

²⁰ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel cell, propane, and natural gas fueling technologies across the nation. The Corridor Program envisions a national AFC network that allows for inter-city, regional, and interstate travel using cleaner fuels, addresses driver range anxiety, integrates with existing transportation planning processes, and accelerates public interest and awareness of alternative fuel availability. This includes both light-duty passenger vehicles and medium/heavy-duty vehicles. Through this NOFO, FHWA seeks to solicit applications that enable these objectives while contributing to the broader objectives outlined below.

FHWA seeks to award projects in both urban and rural areas along designated AFCs to create a balance of publicly accessible electric charging and alternative fuel infrastructure. The EV charging infrastructure should be conveniently and safely located as close to the AFC as possible, and, in general, no greater than five miles from Interstate exits or highway intersections along designated corridors. Hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure is allowable no more than five miles from Interstate exits or highway intersections along the corridor. Infrastructure shall be located along a designated AFC under this section, on the condition that any affected Indian Tribes are consulted before the designation (23 U.S.C. § 151(f)(6)).

2. Additional Information

DOT is committed to considering project funding decisions holistically among the various discretionary grant programs available in BIL. DOT also recognizes that applicants may be seeking funding from multiple discretionary grant programs and opportunities. An applicant may seek the same award amounts from multiple DOT discretionary opportunities or seek a combination of funding from multiple DOT opportunities. The applicant should identify any

other DOT programs and opportunities they have applied for and intend to apply for beyond the CFI Program (or if the Federal funding is already available to the applicant including NEVI formula and NEVI 10 funds), and what award amounts they will be seeking, within their application. The CFI Community Program seeks to layer in a “dig once,” future-proofing approach to this substantial investment in charging and alternative fuel infrastructure. This “dig once” philosophy equates to maximizing the overall societal and economic benefits of a project while minimizing the cost and disruption of construction by considering and installing for current needs and as many of the reasonably foreseeable future needs as practicable. Examples may include, but are not limited to, communications and broadband conduits, duct banks, and adequate power distribution for multimodal vehicular charging.

In addition to personally owned electric and alternative fuel vehicles, this NOFO can enable electrified and alternative fueled shared mobility, active mobility, and other affordable transportation options by combining funding from the Community Grant Program with other public and private investments.

Applicants for the Corridor Program should ensure their applications, as they relate to EV infrastructure, align with their State’s NEVI Deployment Plan.

3. Administration Priorities and Departmental Strategic Plan Priority Statements

The DOT will consider funding projects that advance the Departmental priorities of safety, equity, climate and sustainability, and workforce development, job quality, and wealth

creation as described in the [USDOT Strategic Plan](#)²¹, the [USDOT Research, Development and Technology Strategic Plan](#)²², and in executive orders.²³

B. Federal Award Information

1. Amount Available

A total of up to \$800 million is available for awards for new applications solicited under this NOFO, which includes up to \$700 million in CFI Program funds, and up to \$100 million in NEVI 10 funds. For a summary of funding available amounts, by source and fiscal year, please see the Summary section above. The CFI grant awards will identify which fiscal year(s) funding is provided for the award.

All awards of FY 2024 and FY 2025 CFI Program funding are available for obligation through September 30, 2027, and September 30, 2028, respectively. Fiscal Year 2025 funds cannot be obligated before October 1, 2024. Once funds are obligated, CFI Program funds are available until expended. NEVI 10 funds are available until expended.

i. Community Program Award Information

A total of up to \$350 million in CFI Program funds appropriated for FY 2024 and 2025 are available through this NOFO for the Community Program. Additional awards may be made using FY 2025 NEVI 10 funds. The anticipated minimum award size is \$500,000 and the statutory maximum award amount is \$15 million (23 U.S.C § 151(f)(8)(I)). DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold above

²¹ <https://www.transportation.gov/mission/us-dot-strategic-plan-fy-2022-2026>

²² https://www.transportation.gov/sites/dot.gov/files/2023-01/USDOT%20RDT%20Strategic%20Plan%20FY22-26_010523_508.pdf

²³ E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). E.O. 14025, Worker Organizing and Empowerment (86 FR 22829), and E.O. 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335).

upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities.

ii. Corridor Program Award Information

A total of up to \$350 million in CFI Program funds appropriated for FY 2024 and 2025 are available through this NOFO for the Corridor Program. Additional awards may be made using FY 2025 NEVI 10 funds. The anticipated minimum award size is \$1 million and there is no statutory maximum award size under this NOFO. The DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold above upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities.

iii. Reserved Funding Award Information - Additional Awards of Applications

Previously Submitted under FY2022/2023 CFI Round 1 NOFO

A total of up to \$400 million in FY 2024 CFI funding and up to \$21.2 million in FY 2023 and up to \$100 million in FY 2024 NEVI 10 funds is available to fund applications previously submitted under the FY 2022/2023 CFI Round 1 NOFO, that were not selected for awards. For more information, see the opening Summary section of this NOFO. Any funding not needed under this reserve will be made available for awards to CFI Round 2 new applications.

2. Scalable Project Options

Applicants to both Community and Corridor programs are encouraged to propose projects that are scalable and identify scaled funding options in case insufficient funding is available to fund an applicant's project at the full requested amount. For example, if a portion of the total project could be constructed and opened for functional public use, with the remainder of the total project constructed at a later time, please state such in the application, including the

cost, brief scope, and scheduling needs for initial/scaled project. If an applicant advises that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. DOT may award a lesser amount whether or not a scalable option is provided.

C. Eligibility Information

1. Eligible Applicants

To be selected for a grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project that meets the minimum project amount listed above in Section B.1.i. for the Community Program and Section B.1.ii. for the Corridor Program. Ownership structures of potential applicants vary significantly across the country. Therefore, an entity must evaluate the list of eligible applicants and demonstrate in their application that they are eligible for an award. If awards are made using NEVI 10 funds, then eligible applicants will be limited to State and local governments, per statute.

Eligible Applicants	Community Program 23 U.S.C. § 151(f)(8)(C)	Corridor Program 23 U.S.C. § 151(f)(3)	NEVI 10 (Community or Corridor)
A State ²⁴ or political subdivision of a State	x	x	x
A metropolitan planning organization	x	x	
A unit of local government	x	x	x
A special purpose district or public authority with a transportation function, including a port authority	x	x	
An Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education	x	x	

²⁴ The term “State” means any of the 50 States, the District of Columbia, or Puerto Rico 23 U.S.C. § 101(a)(28).

Assistance Act (25 U.S.C. § 5304)) ²⁵			
A territory of the United States	x	x	
An authority, agency, or instrumentality of, or an entity owned by, 1 or more entities as listed above	x	x	
A group of entities as listed above	x	x	
A State or local authority with ownership of publicly accessible transportation facilities	x		x

The application must be submitted by one lead eligible applicant. If a group (two or more) of eligible entities above submits a joint application, the group must identify a lead applicant to serve as prime awardee in the event an award is made. The prime awardee will serve as the primary point of contact and be responsible for financial administration of the project. Joint applications should include a description of the roles and responsibilities of each eligible applicant and should be signed or include a letter of support by each eligible applicant.

The lead applicant may propose other organizations (such as a private entity²⁶) as part of their application. Generally, such other organizations would fall into a sub-recipient or contractor role as defined in 2 CFR 200.331. If possible, the applicant should identify anticipated sub-recipients or contractors in the application. The 2 CFR 200 Procurement Standards apply to contractor awards but not to sub-recipient awards.²⁷ If the relationship reflects a sub-recipient relationship under 2 CFR 200.331, then the requirements for pass-through entities in 2 CFR 200.332 apply.

²⁵ The term “Indian” means a person who is a member of an Indian Tribe 25 U.S.C. § 5304(d). The term “Indian Tribe” means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians 25 U.S.C. § 5304(e).

²⁶ “Private entity” means a corporation, partnership, company, or nonprofit organization (23 U.S.C. § 151(f)(1)).

²⁷ See the Contracting and Subgrants section of the CFI Q and A at https://www.fhwa.dot.gov/environment/cfi/cfi_faqs.pdf

Applications with a lead applicant that is not one of these statutory eligible applicants will be deemed ineligible and will not be evaluated to determine if the application contains a statutorily eligible project.

2. Cost Sharing or Matching

The Federal share of the cost of a project carried out with CFI Program funds under both programs shall not exceed 80 percent of the total project cost (23 U.S.C. § 151(f)(10)). Cost sharing or matching is required, with the maximum Federal share being 80 percent of the total cost of the project. Awardees must provide at least 20 percent of the total project cost (not 20 percent of the Federal share) as a matching share. Additional information on cost share can be found at 2 CFR 200.306 -- Cost sharing or matching and FHWA's guidance on Non-Federal Matching Requirements.²⁸²⁹ DOT will not consider previously incurred costs, previously expended or encumbered funds, or any CFI Program funds received towards the matching requirement for any project.

Eligible entities are required to contract with a private entity under the Corridor Program and are permitted to contract with a private entity under the Community Program.³⁰

Under the CFI Program, a "private entity" means a corporation, partnership, company, or nonprofit organization. (23 U.S.C. § 151(f)(1)). As per 23 U.S.C. 151(f)(10), the Federal share for the cost of a project carried out with these grants shall not exceed 80 percent.³¹ Where a recipient contacts a private entity for the services specified in the statute (for Corridor, the

²⁸ https://www.fhwa.dot.gov/legisregs/directives/policy/fedaid_guidance_nfmnr.pdf

²⁹ <https://www.transportation.gov/grants/dot-navigator/understanding-non-federal-match-requirements>

³⁰ For NEVI 10, BIL Title VIII of Division J provides that recipients "may" use funds to contract with private entities and that private entities "may" pay the non-Federal share of the cost of a project.

³¹ Note: The cost share requirement may be met with other Federal funding only if authorized in the statute of the other Federal funding. If there is no express language stating that the funding can be used as a match on other Federal awards, then the Federal funding cannot be used for the non-Federal cost share. Under this NOFO, Tribes are allowed to satisfy the non-Federal match requirements using Tribal Transportation Program funds.

recipient must contract with a private entity for the acquisition and installation of EV charging infrastructure and for Community, the recipient may contract with a private entity for the acquisition, construction, installation, maintenance, or operation of EV Charging infrastructure), the statute requires that the private entity shall contractually agree to pay the non-Federal share of the project cost carried out with CFI Program funds that is not paid by the Federal Government. Accordingly, the recipient must demonstrate it has taken best efforts to require the private entity to contractually pay for the non-Federal share. If a recipient is able to demonstrate that, despite its best efforts, a contract is unable to be executed with the private entity to pay the non-Federal share, FHWA will not consider the recipient to be in violation of the grant agreement pursuant to 23 CFR 1.36. However, the CFI Grant Recipient remains ultimately responsible for ensuring the non-Federal cost share is met for the project.³²

3. Eligible Projects and Project Costs

Each of the two funding opportunities has different statutory rules for what kinds of projects are eligible for funding. More information about Eligible Projects and Project Costs for each program is listed below in Section C.4 and C.5. Applications will be considered for the funding program indicated and supported in the application. Applicants that do not include statutorily eligible projects will not be evaluated for the selection criteria.

4. Community Program - Eligibility Information

Community Program grants are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to charging or alternative fueling infrastructure.

³² Note: The cost share requirement may be met with other Federal funding only if authorized in the statute of the other Federal funding. If there is no express language stating that the funding can be used as match on other Federal awards, then the Federal funding cannot be used for the non-Federal cost share. Under this NOFO, Tribes are allowed to satisfy the non-Federal match requirements using Tribal Transportation Program funds.

Community Program – Eligible Projects

- Community Program grants may be awarded to any project that is expected to reduce greenhouse gas emissions and to expand or fill gaps in access to eligible infrastructure.
- Eligible infrastructure is a publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.³³ Propane fueling infrastructure is limited to infrastructure for medium- and heavy-duty vehicles.³⁴
- Projects may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.³⁵
- Both Direct Current Fast Charging and Alternating Current Level 2 chargers are eligible under the CFI Community Program.

Community Program – Eligible Project Costs

- Acquisition and installation of eligible infrastructure (as defined above). An applicant that receives a CFI grant for installation of eligible infrastructure may also use grant funds for:
 - Any related construction or reconstruction and the acquisition of real property directly related to the project.³⁶
 - Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.³⁷

³³ 23 U.S.C. § 151(f)(8)

³⁴ 23 U.S.C. § 151(f)(7)

³⁵ 23 U.S.C. § 151(f)(8)(E)

³⁶ 23 U.S.C. § 151(f)(8)(D)(ii)

³⁷ 23 U.S.C. § 151(f)(8)(D)(i)

- Contracting with a private entity for the acquisition, construction, installation, maintenance, or operation of eligible infrastructure included in the project.³⁸

Operating assistance shall be limited to costs allocable to operate and maintain the eligible infrastructure and service, and may not exceed the amount of a contract to acquire and install eligible infrastructure.³⁹

- Educational and community engagement activities to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure (may not exceed more than 5 percent of the grant amount awarded).⁴⁰

5. Corridor Program - Eligibility Information

Corridor Program grants are expected to support buildout of charging or alternative fueling infrastructure along designated AFCs.⁴¹

Corridor Program – Eligible Projects

- Corridor Program grants must be awarded to any project that contracts with a private entity for acquisition and installation, or operation, of eligible infrastructure.
- Eligible infrastructure is publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.⁴² Propane fueling infrastructure is limited to infrastructure for medium- and heavy-duty vehicles.⁴³

³⁸ 23 U.S.C. § 151(f)(8)(H)

³⁹ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

⁴⁰ 23 U.S.C. § 151(f)(8)(K)

⁴¹ For more information on AFC's https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/

⁴² 23 U.S.C. § 151(f)(6)(A)

⁴³ 23 U.S.C. § 151(f)(7)

- Projects must be located along an alternative fuel corridor designated under this section, on the condition that any affected Indian Tribes are consulted before the designation.⁴⁴
- EV charging infrastructure should be conveniently and safely located as close to the AFC as possible, and, in general, no greater than five miles from Interstate exits or highway intersections along designated corridors.⁴⁵
- Hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure should be conveniently and safely located as close to the AFC as possible, and, in general, no greater than five miles from Interstate exits or highway intersections along designated corridors.

Corridor Program – Eligible Project Costs

- Contracting with a private entity for acquisition and installation of eligible infrastructure (as defined above).⁴⁶
- Providing a private entity with operating assistance for the first 5 years of operations after the installation of eligible infrastructure while the facility transitions to independent system operations.⁴⁷ Operating assistance shall be limited to costs allocable to operate and maintain the eligible infrastructure and service, and may not exceed the amount of a contract to acquire and install eligible infrastructure.⁴⁸
- An applicant that receives a CFI grant for acquisition and installation, or operations, of eligible infrastructure may also use grant funds for acquisition and installation of traffic

⁴⁴ 23 U.S.C. § 151(f)(6)(B)

⁴⁵ In order to be designated as an AFC for EV charging, FHWA criteria provides that the EV charger be located within 1 travel mile of the highway. For purposes of this NOFO, with respect to the Corridor Program, FHWA will consider applications along designated AFCs for EV chargers up to 5 miles off the highway.

⁴⁶ 23 U.S.C. § 151(f)(6)(A)

⁴⁷ 23 U.S.C. § 151(f)(6)(C)(i)

⁴⁸ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

control devices located in the right-of-way to provide directional information to eligible infrastructure included in the project.⁴⁹

- Preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection.⁵⁰

D. Application and Submission Information

1. Address to Request Application Package

All application materials may be found on Grants.gov. Once at Grants.gov, select the Search Grants tab. Then enter one of the following:

- Opportunity Number: 693JJ324NF00017
- Opportunity Name: Charging and Fueling Infrastructure Discretionary Grant Program
- Assistance Listing Number: 20.205

When at one of these pages, select the CFI Opportunity, which will open to a page with several tabs. The first tab is a synopsis of the opportunity. The Related Documents tab is the Full Announcement (the NOFO document), NOFO Amendments, and supporting documents added by DOT such as FAQs. The Package tab allows you to preview the forms needed to submit an application. The red Subscribe button allows applicants to register to receive notice by email when DOT updates or adds to the opportunity page. The red Apply button allows applicants to apply using Grants.gov. Applicants should use the Grants.gov Workspace to create and submit the application. See Grants.gov for training on using Grants.gov Workspace.

⁴⁹ 23 U.S.C. § 151(f)(6)(D)(ii)

⁵⁰ 23 U.S.C. §101(a)(4)

For a Telephone Device for the Deaf (TDD), please call (202) 366-3993. If potential applicants are unable to download the application package from the internet, they may send a written request for a paper copy to the below address. Requests should be sent to:

CFIGrants@dot.gov

2. *Content and Form of Application*

All applications must be submitted electronically through [Grants.gov](https://www.grants.gov). The application must include: (1) STANDARD FORMS; and (2) APPLICATION SUPPORT. See instructions below.

(1) STANDARD FORMS: The following are mandatory:

- Standard Form 424 (Application for Federal Assistance)
- Standard Form 424C (Budget Information for Construction Programs)
- Standard Form 424D (Assurances for Construction Programs)
- Standard Form LLL (Disclosure of Lobbying Activities)
- Project Abstract Summary
- Attachments (Use this form to add APPLICATION SUPPORT file(s))

(2) APPLICATION SUPPORT: A narrative document no more than 25 pages that addresses the following items i.-iv. which are detailed below. In Grants.gov, please submit the APPLICATION SUPPORT as one PDF file if possible.

- i. Project Narrative
- ii. Budget Information
- iii. Project Merit Criteria
- iv. Project Readiness and Environmental Risk

i. Project Narrative

FHWA recommends that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). If possible, Website links to supporting documentation should be

provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each document supports. FHWA recommends using appropriately descriptive final names (e.g., Project Narrative, Maps, Geospatial Data, Project Budget) for all attachments.

Also, in the project narrative, applicants should describe how the project addresses the following areas as well as the additional project narrative information that is specified below. DOT specifies that the project narrative follow the outline below. Following the outline will also assist evaluators in locating the relevant information.

Community Program

I. Description of project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, geospatial data describing the project location(s) (e.g., ESRI shapefiles, latitude/longitude coordinates, intersections, specific addressees, etc.), the number of EV charging ports/alternative fueling dispensers expected at each project site, and how traffic safety considerations will be addressed for vehicles entering and leaving the site. Applicants should provide as much information as possible for the location of the project site(s) and the number of the number of EV charging ports/alternative fueling dispensers, keeping in mind the award is limited to the project and location as described in the application. If there is some uncertainty regarding the location or number of EV charging ports/alternative fueling dispensers, this should be described in detail in the application and the potential sites and the number of EV charging ports/alternative fueling dispensers discussed.

Applicants must address how their project appropriately mitigates any safety risks introduced by the project. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should include how their project will not negatively impact the overall safety of the traveling public. Applicants should also consider the National Roadway Safety Strategy (NRSS)⁵¹ when addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach. This description should also detail how the access is in compliance with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.).

II. Description of how the project expands community-based infrastructure or fills gaps in access by equitably expanding the deployment of publicly available EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in community locations, located on any public road or in any other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.

III. Additional Project Narrative Information. FHWA is interested in community charging and fueling deployment projects in several focus areas. As applicable, applicants are encouraged to indicate which focus area(s) their proposed project address(es) and how the project benefits the community and improves access to EV and alternative fueling infrastructure. In addition, in association with the focus areas specified, applicants are encouraged to note whether the project would expand alternative fueling/charging access to rural areas, low- and

⁵¹ <https://www.transportation.gov/NRSS>

moderate- income neighborhoods, and/or underserved or hard to reach communities where the private sector may not invest absent Federal funding.

More than one category can be identified.

- Neighborhood and Multi-Family Charging: Provide convenient, affordable access to charging infrastructure in public or shared private locations within walking distance of where future EV owners live, potentially including multi-family properties and curbside installations in urban neighborhoods. Projects should seek to advance low-cost solutions with light construction when possible (e.g., pole-based charging) and take advantage of charge management technology to minimize site power requirements. Charging projects in this category are likely to be Level 2 installations (alternating current charging no more than 19.2 kW per port) given proximity to homes with long duration charging potential and challenges associated with upgrading electric service in dense neighborhoods. However, applicants are allowed to propose direct current fast charging solutions when appropriate. Projects should address innovative ways to navigate challenges such as curbside access, reservation/convenient availability, reliability, and management of limited spaces. The DOT encourages collaboration between applicants, right-of-way (ROW)/property owners, and electric utilities during the application, installation, and maintenance of charging infrastructure.
- Multi-Modal Hubs and Shared-Use Fleets and Services: Seek to connect or promote rental vehicle, taxi, carshare, ride-share, ride-hail, bicycle, micromobility, microtransit, and other electrified or alternative fuel multi-

passenger or active mobility options that provide alternatives to individual vehicle ownership.

Projects may also seek to connect national freight corridors with local delivery providers and fleets, such as urban depots charging for light- and medium-duty vehicles.

- **Multi-Purpose Workplace and Destination Charging:** Destination charging that corresponds to locations where vehicles are likely to be parked for an extended period of time facilitates convenience and often allows for lower-power, low-cost charging. Many of these locations, when publicly accessible, can serve multiple purposes allowing employees, customers, or visitors to use a location to both park and charge their vehicle and creating additional utility to these locations in both rural and urban communities. Projects should seek to identify these commonly used popular locations to increase access to charging and facilitate low-cost, lower power charging. Charging speeds should be aligned with typical parking times for a given location, allowing drivers to depart with a meaningful increase in driving range.
- **Community Fleets and Freight:** Enable local medium- and heavy-duty electrification and alternative fuel use for Class 3 through Class 8 Vehicle fleets for use cases including, but not limited to municipal services, first-mile/last-mile, and hybrid deployments that combine dedicated infrastructure for medium- and heavy-duty vehicles with co-deployed charging for light-duty passenger vehicles. The deployment of these projects should align with Phases

1, 2, or 3 of the National [Zero Emission Freight \(ZEF\) Corridor Strategy](#), as specified in the Appendix for each Phase.

Corridor Program

I. Description of project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, geospatial data describing the project location(s) (e.g., ESRI shapefiles, latitude/longitude coordinates, intersections, specific addresses, etc.), the number of EV charging ports/alternative fueling dispensers expected at each project site, and how traffic and pedestrian safety considerations will be addressed for users accessing the site and nearby destinations. Applicants should provide as much information as possible about the location of the project site(s) and the number of EV charging ports/alternative fueling dispensers, keeping in mind the award is limited to the project and location as described in the application. If there is some uncertainty regarding the location or number of EV charging ports/alternative fueling dispensers, this should be described in detail in the application and the potential sites and EV charging ports/alternative fueling dispensers discussed. As described in section V below, Corridor program applicants should identify availability of on-site amenities.

Applicants must address how their project appropriately mitigates any safety risks introduced by the project for all users, including pedestrians accessing nearby destinations. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should include how their project will ensure safety of all users and not negatively impact the overall safety of the traveling public. Applicants should also consider the NRSS⁵² when

⁵² <https://www.transportation.gov/NRSS>

addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach.

II. Description of how public accessibility of charging or fueling infrastructure proposed to be funded with a grant under this subsection has been considered, including charging or fueling connector types and publicly available information on real-time availability and payment methods to ensure secure, convenient, fair, and equal access.⁵³

III. Description of outcomes from collaborative engagement with stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers, electric charging, hydrogen, propane, and natural gas fuel providers, metropolitan planning organizations, States, Indian Tribes, and units of local governments, fleet owners, shared mobility operators, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multi-State and regional entities) that address the following for EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure:

- Foster enhanced, coordinated, public-private or private investment;
- Expand deployment;
- Protect personal privacy and ensure cybersecurity; and
- Ensure that a properly trained workforce is available to construct and install infrastructure (23 U.S.C. § 151 (f)(4)(A)(ii)).

⁵³ (23 U.S.C. § 151 (f)(4)(A)(i))

IV. Identify whether the location of the station or fueling site considered the following:

- The availability of onsite amenities for vehicle operators, such as restrooms or food facilities. Applicants are encouraged to identify other onsite and nearby amenities such as WiFi availability and protection from the weather;
- Access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- Height and fueling capacity requirements for facilities that charge or refuel large vehicles, such as semi-trailer trucks; and
- Appropriate distribution to avoid redundancy and fill charging or fueling gaps (23 U.S.C. § 151 (f)(4)(A)(iii)).

V. Details to ensure infrastructure installation that can be responsive to technology advancements, such as accommodating autonomous vehicles, vehicle-to-grid technology, and future charging methods (23 U.S.C. § 151 (f)(4)(A)(iv)).

VI. Discussion about the long-term operation and maintenance of the EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, to avoid stranded assets and protect the investment of public funds in that infrastructure (23 U.S.C. § 151 (f)(4)(A)(v)).⁵⁴ For example, applicants could include data such as fuel supply availability (e.g., the specific electric utility tariff(s) under which the applicant intends to take service), expected average use levels over time, and long-term operation and maintenance agreements.

⁵⁴ Also see 23 CFR § 680.106(i)

VII. Assessment of the estimated emissions that will be reduced through the use of EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, which shall be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) CFI Emissions tool⁵⁵ developed by Argonne National Laboratory (or a successor tool) (23 U.S.C. § 151 (f)(4)(B)).

VIII. Description of how the project improves the AFCs by expanding the deployment of public EV charging infrastructure, particularly DC fast charging infrastructure or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs. The application should indicate how the project: (1) will contribute to the conversion of corridor-pending corridors to corridor-ready corridors by filling infrastructure gaps; (2) will help meet current or anticipated excess demand for corridor charging or alternative fueling infrastructure; and (3) will provide infrastructure to support greater adoption of light- or medium- and heavy-duty alternative fuel vehicles.

IX. Additional Project Narrative Information. Applicants should specify the reasons for which CFI Corridor Program funding is being requested and demonstrate that the proposed project is not duplicative with the NEVI Formula Program or previous FHWA CFI awards. FHWA is interested in corridor charging and fueling deployment projects in several focus areas. As applicable, applicants are encouraged to indicate which focus area(s) their proposed project address(es) and how the project contributes to the build-out of a national corridor network. More than one category can be identified.

- Demonstrate Build-Out of AFCs: Expand deployment of EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along

⁵⁵ [AFLEET CFI Tool \(anl.gov\)](https://anl.gov/afleet)

designated AFCs. Infrastructure projects of interest can expand existing or add new charging and fueling infrastructure for light-duty, medium-duty, and heavy-duty vehicles.

- Zero Emission Corridors for Medium- and Heavy-Duty Vehicles: Enable zero emission movement of goods, connect distribution hubs, and connect population centers. Projects may also seek to connect national freight corridors with local delivery providers and fleets, such as urban depot charging for light- and medium-duty vehicles. Projects may also leverage other funding for alternative fuel infrastructure at ports or depots along corridors. The deployment of these projects should align with Phases 1 or 2 of the National [Zero Emission Freight \(ZEF\) Corridor Strategy](#) ⁵⁶ Medium- and heavy-duty infrastructure applications should include explicit fleet commitments to use the infrastructure.
- Long Dwell Time Locations Along AFCs: Charging and fueling infrastructure that correlates to locations where vehicles are parked for extended periods of time can enhance driver convenience and, in some cases, significantly reduce costs. In the case of EV charging, long dwell time locations can meet driver demands and reduce the potential electric demand of EVs through lower power charging. Many long dwell time locations, such as small downtowns, hotels/motels, park and ride facilities, parks, and campgrounds are located along corridors and can facilitate convenient, affordable travel.

⁵⁶ driveelectric.gov/files/zef-corridor-strategy.pdf

FOR BOTH PROGRAMS

For both the Community Program and Corridor Program the project narrative should provide information as to how innovative payment approaches (such as contactless technology, mobile wallets, bundling with transit discounts and other benefits programs, etc.) will be used to ensure that low- and zero-emission transportation options are accessible to diverse populations, including the unbanked and underbanked. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by FHWA. FHWA may, but is not required to, request supplementary information, including additional data, to clarify supporting data and documentation submitted in an application, but FHWA encourages applicants to submit the most relevant and complete information they can provide. Supplementary information may be requested to determine with which category of grant the application best aligns. To ensure a fair and unbiased evaluation of applications submitted under this NOFO, FHWA will not request additional information to perfect incomplete applications.

FOR BOTH PROGRAMS

ii. Budget Information: Grant Funds, Sources and Uses of All Project Funding

Describe your overall budget and how funds will be spent on various portions of the project(s). Provide a budget narrative explaining each element of cost contained in the Standard Form 424C. Categorize your budget into uses such as project planning and development (such as costs for meaningful public involvement), ROW/acquisition costs, installation costs, operation costs, maintenance costs, educational activity costs, etc. The estimated amount of funds or percentages of funds to be spent in each category should be indicated as well as which entity is responsible for each cost. This section should also include any operating subsidies that will be

sought or have been obtained for EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure. However, identified operating subsidies are not subject to program limitations for operating assistance (i.e., operating assistance may not exceed the amount of a contract to acquire and install eligible infrastructure⁵⁷) unless the funding source for the operating subsidy is through Title 23.

Describe your cost share and how you will satisfy the cost share requirements of the NOFO Section C.2.

Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds, the applicant is applying for, has been awarded, or intends to use. Funding sources should be grouped into three categories: non-Federal, CFI Program, and other Federal with specific amounts from each funding source. The applicant should identify any named or planned sub-recipients or contractors in the application and describe compliance with or intention to comply with 2 CFR 200.

Provide a table showing the following as applicable: (1) the Federal funding requested for activities that are pre-NEPA and/or do not require NEPA approval; and (2) the Federal funding requested for activities that are post-NEPA approval (i.e., final design, ROW, construction).

For purposes of this NOFO and consistent with Title 23, the term construction is defined at 23 U.S.C. §101(a)(4), in part, as the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by

⁵⁷ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.⁵⁸

The Standard Form 424C should be supported by a budget narrative explaining each element of cost.⁵⁹

FHWA reserves the right after an application is selected for award, to request additional supporting information and or documentation for purposes of confirming that costs proposed are allowable (2 CFR 200.403), reasonable (2 CFR 200.404) and allocable (2 CFR.405).

Except for the information properly marked as described in Section H., the Department may share application information within the Department or with other Federal Agencies if the Department determines that sharing is relevant to the respective program's objectives.

iii. Project Merit Criteria

The applicant should describe how the proposal meets the Project Merit Criteria list in Section E.1.iv.

⁵⁸ The 23 U.S.C. §101(a)(4) definition of construction continues to provide the following examples of what is included in the term: (A) assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services; assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services; (B) reconstruction, resurfacing, restoration, rehabilitation, and preservation; (C) acquisition of ROW; (D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing; (E) elimination of hazards of railway-highway grade crossings; (F) elimination of roadside hazards; (G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; (H) improvements that reduce the number of wildlife-vehicle collisions, such as wildlife crossing structures; and (I) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

⁵⁹ After applications are selected for award, the Government reserves the right to request from the applicant/selectee supporting information and/or documentation for the purpose of confirming that the elements of cost contained in the proposed budget are Allowable (2 CFR 200.403), Reasonable (2 CFR 200.404), and Allocable (2 CFR 200.405).

iv. Project Readiness and Environmental Risk

The application should include information that, when considered with the project budget information, is sufficient for FHWA to evaluate whether the project is reasonably expected to begin in a timely manner, and obligate awards before the deadline. To assist FHWA's determination of project readiness, application information should include:

- A detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed;
- Discussion of energy source and storage needs, such as (1) a description of engagement or plans to engage with relevant utility providers to date, (2) whether utility upgrades will be needed to complete the project, and if other types of upgrades are needed, (3) whether utility designs have begun, been submitted, or are final;
- An assessment of real property and ROW acquisition necessary for the project or a statement that no acquisition is necessary;
- Information about the inclusion of this project (or a plan to having this project included) in the relevant State, metropolitan, and local planning documents⁶⁰;
- Any project approvals already obtained, including whether site assessments have taken place and whether permits have been issued or applied for;
- Identification of known or anticipated project risks and how they will be addressed;

⁶⁰ The planning requirements applicable to the Federal-aid highway program apply to all CFI Program Grant projects. In accordance with 23 U.S.C. §§ 134 and 135, all projects requiring an action by FHWA must be in the applicable plan and programming documents (e.g., metropolitan transportation plan, transportation improvement program (TIP), and statewide transportation improvement program (STIP)). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. Inclusion in the STIP is required under certain circumstances. To the extent a project is required to be on a metropolitan transportation plan, TIP, or STIP, it will not receive a grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans to receive a grant.

- Discussion about any coordination or public engagement that has been completed or is on-going regarding this project;
- Discussion about intentions for Disadvantaged Business Enterprise (DBE) participation or engagement;
- Discussion of how equity and accessibility requirements will be met;
- An anticipated project timeline or anticipated project milestone dates;
- Information about how 23 CFR Part 680 requirements, published on February 28, 2023, will be included; and
- Any other information that will demonstrate project readiness.

The application should also include information about the expected or anticipated environmental impacts of the project. To assist FHWA's environmental risk assessment, application information should include any National Environmental Policy Act (NEPA) reviews or approvals and permits that have already been completed or an anticipated timeline to obtain the necessary approvals and permits for the project. For more information on NEPA, see Section F.2.: Administrative and National Policy Requirements.

3. Unique Entity Identifier and System for Award Management (SAM)

Effective April 4, 2022, the Data Universal Numbering System (DUNS) number is no longer required for entities doing business with the Federal Government and has been replaced by the SAM UEI. As of that date, applicants are required to use a UEI issued during the SAM.gov registration process. Active registrants in SAM.gov have had their SAM UEI automatically assigned and it is currently viewable within SAM.gov. There is no additional action necessary for registered entities to take to obtain their SAM UEI. Each applicant is required to:

- Be registered in SAM before submitting their application;
- Provide a valid UEI in their application; and
- Continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by a Federal awarding Agency.

Please see <https://www.grants.gov/web/grants/applicants/applicant-faqs.html#UEI> for more information on the transition from DUNS to SAM UEI, including what UEI to enter into the UEI field on Grants.gov and on application package forms.

The FHWA may not make a Federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding Agency is ready to make a Federal award, the Federal awarding Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

NOTE TO APPLICANTS: The SAM.gov requires the registrant to provide a UEI number to complete the registration. These processes can take several weeks to complete so should be started well before the application deadline.

4. Submission Dates and Timelines

Applications must be submitted electronically through Grants.gov no later than 11:59 p.m., Eastern Time on **AUGUST 28, 2024.**

5. Intergovernmental Review

The CFI Program is not subject to the Intergovernmental Review of Federal Programs under EO 12372.

6. Funding Restrictions

Pre-CFI Program Grant award costs (costs incurred prior to execution of a grant agreement or authorization in Financial Management Information Systems) will not be reimbursed.

Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

i. Community Program

Under 23 U.S.C. § 151(f)(8)(K), grant funds may be used for educational and community engagement activities (e.g., projects to educate consumers on the availability of new charging and fueling to address range anxiety; projects that work with communities to identify their needs for new charging and fueling infrastructure) to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure; however, this cost is capped at no more than 5 percent of the grant amount the recipient is awarded. As in the Corridor Program, under 23 U.S.C. § 151(f)(7), projects for propane fueling are limited to infrastructure for medium- and heavy-duty vehicles.

ii. Corridor Program

Under 23 U.S.C. § 151(f)(6)(A), grant funds shall only be used to contract with a private entity⁶¹ for acquisition and installation of publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle. As per 23 U.S.C. § 151(f)(6)(C)(i-iii), operating assistance costs allocable to operating and maintaining publicly

⁶¹ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

available EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for the first 5 years of operations after the installation are allowable while the facility transitions to independent system operations and those costs may not exceed the amount of the contract to acquire and install publicly accessible charging or fueling infrastructure. Under 23 U.S.C. § 151(f)(6)(D)(i)-(iii), costs for the acquisition and installation of traffic control devices located in the ROW to provide directional information to publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated is limited to applicants that receive a grant and are using that grant for the traffic control devices and that cost may not exceed the amount of the contract to acquire and install publicly accessible charging or fueling infrastructure. Per 23 U.S.C. § 151(f)(7), projects for propane fueling are limited to infrastructure for medium- and heavy-duty vehicles.

7. Other Submission Considerations

i. Consideration of Applications

Only applicants who comply with all submission deadlines described in this NOFO and electronically submit valid applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

ii. Late Applications

Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties outlined below. Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must provide email notification to CFIgrants@dot.gov prior to the application deadline with the username of the registrant and details of the technical issue experienced. The applicant must provide:

- Details of the technical issue experienced;
- Screen capture(s) of the technical issues experienced along with corresponding Grants.gov “Grant tracking number”;
- The “Legal Business Name” for the applicant that was provided in the SF-424;
- The Point of Contact name submitted in the SF-424;
- The UEI associated with the application; and
- The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the Grants.gov and UEI registration processes before the deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant’s computer or information technology environment.

After FHWA reviews all information submitted and contacts the Grants.gov Help Desk to validate reported technical issues, FHWA staff will contact late applicants to approve or deny a request to submit a late application through Grants.gov. The FHWA will not accept appeals of FHWA’s decision to approve or deny a request for a late application. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

iii. Compliance with Section 508 of the Rehabilitation Act of 1973

The DOT encourages applicants to submit documents that are compliant with Section 508 of the Rehabilitation Act of 1973. Section 508 guidelines are available at <https://www.access-board.gov/ict/>.

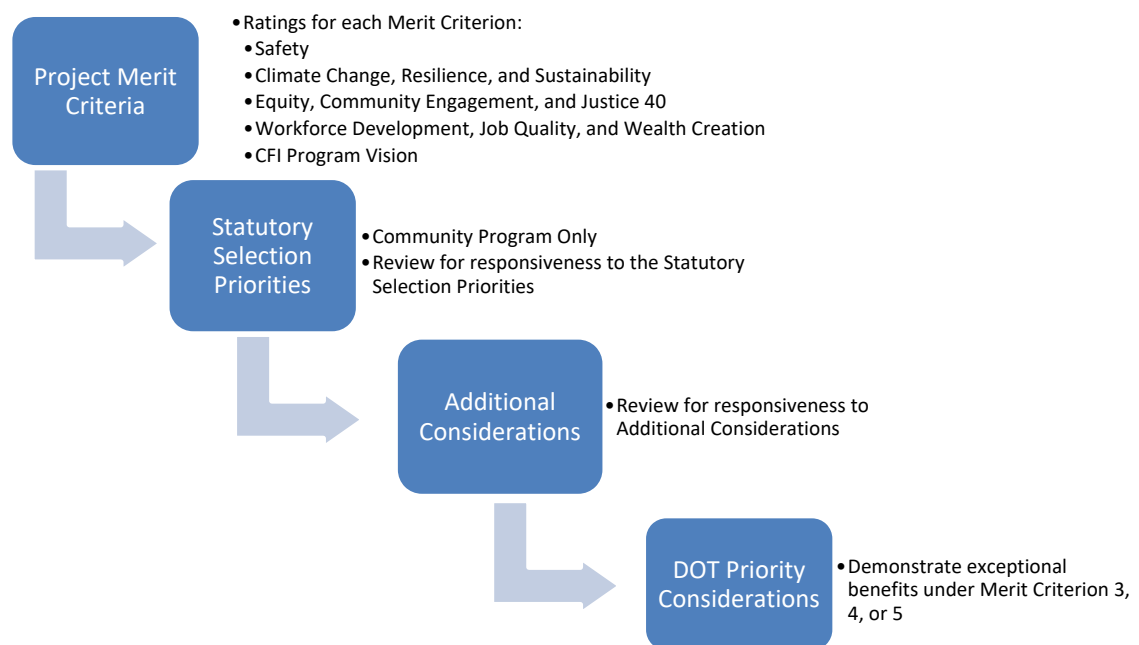
E. Application Review Information

1. Selection Criteria

i. Community Program

The FHWA will award CFI Community Program Grants based on screening of applicable eligibility requirements followed by evaluation of the Project Merit Criteria (Section E.1.iv.), Statutory Selection Priorities (Section E.1.v.), Additional Considerations (Section E.1.vi.), and DOT Priority Considerations (Section E.1.vii.) as shown in Figure 1, below and described in this Section.

Figure 1: Community Program Selection Criteria for Eligible Projects

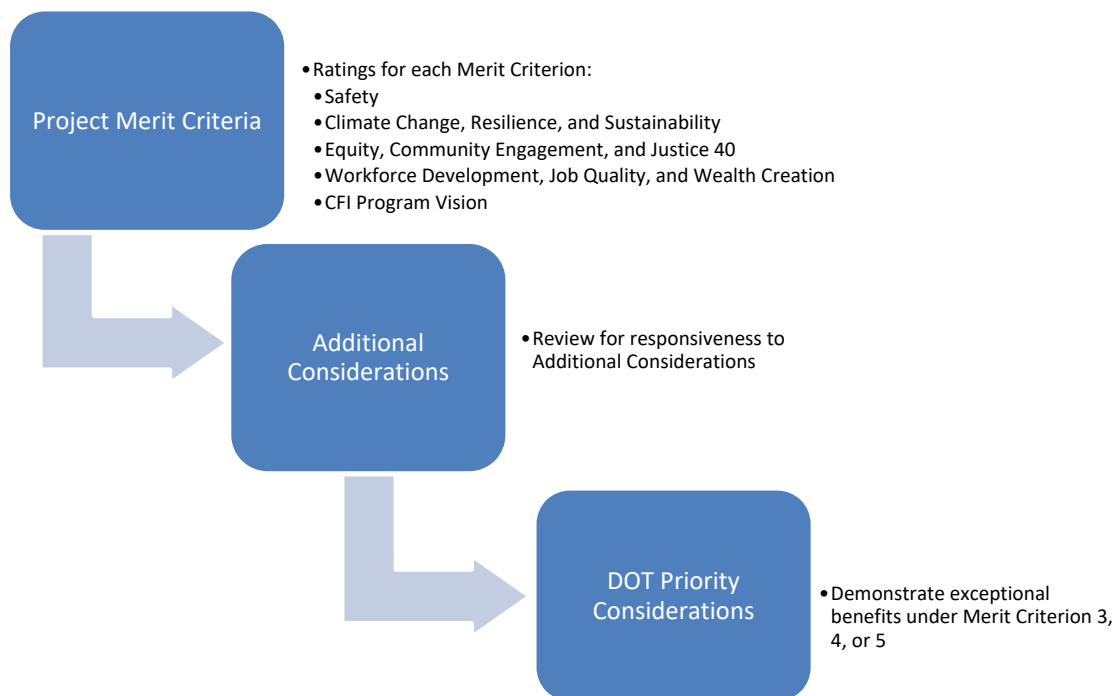


ii. Corridor Program

The FHWA will award CFI Corridor Program Grants based on screening of applicable eligibility requirements, followed by evaluation of the Project Merit Criteria (Section E.1.iv.),

Additional Considerations (Section E.1.vi.), and DOT Priority Considerations (Section E.1.vii.) as shown in Figure 2, below and described in this Section.

Figure 2: Corridor Program Evaluation for Eligible Projects



iii. Overall Application Rating

If a project does not meet the applicable eligibility requirements (Section C.), the application will not be further evaluated. Based on evaluation of the Project Merit Criteria listed below, DOT will assign each eligible project an overall rating of highly recommended, recommended, or not recommended for each of the grant programs for which the applicant is applying. A **Highly Recommended** project is one that meets all statutory eligibility criteria, receives a rating of Highly Qualified in at least 3 of the 5 Project Merit Criteria described below, receives at least a rating of Qualified for each of the Project Merit Criteria described below. A **Recommended** project is one that meets all statutory eligibility criteria and receives at least a

rating of Qualified for each of the Project Merit Criteria described below. A **Not Recommended** project is one that does not meet one or more of the statutory eligibility criteria or receives a rating of Not Qualified for any of the Project Merit Criteria described below. When a project is determined to be Not Recommended at any time during the review, DOT will discontinue further evaluation under remaining criteria.

iv. Project Merit Criteria

The DOT has designated five project criteria which will be used to evaluate and rate the merit of an application, as follows.

a. Criterion 1 Safety

Applicants must address how their project appropriately mitigates any safety risks introduced by the project. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should address how their project will not negatively impact the overall safety of the traveling public. Applicants should also consider the NRSS⁶² when addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all):	The application demonstrates that the project will (must demonstrate at least one):	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items:

⁶² <https://www.transportation.gov/NRSS>

(1) Provide positive safety benefits for all users; <u>AND</u> (2) Does not negatively impact safety for all users; <u>AND</u> (3) Promote safety through design.	(1) Provide positive safety benefits for all users; <u>OR</u> (2) Does not negatively impact safety for all users; <u>OR</u> (3) Promote safety through design.	(1) Provide positive safety benefits for all users; (2) Does not negatively impact safety for all users; <u>OR</u> (3) Promote safety through design.
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b. Criterion #2 Climate Change, Resilience, and Sustainability

Applicants must address how the project will consider climate change, resilience, and environmental justice in the planning stage and in project delivery. Applicants are encouraged to use the [DOT Navigator Climate checklist](#) in responding to this criteria. In particular, applicants must address the extent to which the project reduces greenhouse gas emissions in the transportation sector, incorporates evidence-based climate resilience measures and features, advances objectives in the [National Climate Resilience Framework](#), and reduces the lifecycle greenhouse gas emissions from the project materials. Applicants also must address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, endangered species, and resiliency to natural disasters, with a focus on prevention, response, and recovery.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all):	The application demonstrates that the project will (must demonstrate at least one):	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items:

(1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET⁶³ to estimate emission reductions required; <u>AND</u> (2) Incorporate evidence-based climate resilience measures or features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; <u>AND</u> (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>AND</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.	(1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET to estimate emission reductions required; <u>OR</u> (2) Incorporate evidence-based climate resilience measures or features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; <u>OR</u> (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>OR</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.	(1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET to estimate emission reductions required; (2) Incorporate evidence-based climate resilience measures or features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>OR</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.
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⁶³ Corridor Program emissions estimates must be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) CFI Emissions tool developed by Argonne National Laboratory (or a successor tool) (23 U.S.C. § 151 (f)(4)(B)). [AFLEET CFI Tool \(anl.gov\)](https://www.anl.gov/afleet)

c. Criterion #3 Equity, Community Engagement, and Justice⁴⁰

Applicants must address how their project will include an equity assessment which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations in a project area. To be highly qualified, applicants should demonstrate that 40 percent of funds received under this program will benefit disadvantaged communities using the Climate and Economic Justice Screening Tool (CEJST),⁶⁴ considering the following parameters based on community type. Projects will be considered to benefit disadvantaged communities if they are 1) within Tribal lands owned by Federally Recognized Tribes, 2) within a rural community (outside of a census defined urbanized area), 3) within a disadvantaged community in a census defined urbanized area, or 4) within a ½-mile buffer of a disadvantaged community in a census defined urbanized area. Applicants should demonstrate how meaningful public involvement⁶⁵, inclusive of disadvantaged communities, will occur throughout a project's life cycle. Projects should demonstrate, to the extent possible, that outcomes should target benefits towards disadvantaged communities. Applicants should address how project benefits will increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, and improve access to resources and quality of life.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all): (1) include an equity analysis which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations	The application demonstrates that the project will (must demonstrate at least one): (1) include an equity analysis which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items: (1) include an equity analysis which evaluates whether a project will create

⁶⁴ <https://screeningtool.geoplatform.gov/>

⁶⁵ <https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making>

in a project area. Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; <u>AND</u> (2) include meaningful public engagement throughout a project's life cycle <u>AND</u> (3) increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, or improve access to resources and quality of life; <u>AND</u> (4) enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; <u>AND</u> (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project OR indicate that this is not relevant; <u>AND</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates greater public and private investments and strategies in land-use productivity, including rural	in a project area. Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; <u>OR</u> (2) include meaningful public engagement throughout a project's life cycle <u>OR</u> (3) increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, or improve access to resources and quality of life; <u>OR</u> (4) enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; <u>OR</u> (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project OR indicate that this is not relevant; <u>OR</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates greater public and private investments and strategies in land-use productivity,	proportional impacts and remove transportation related disparities to all populations in a project area Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; (2) include meaningful public engagement throughout a project's life cycle; (3) increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, or improve access to resources and quality of life; (4) enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project OR indicate that this is not relevant; <u>OR</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates
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main street revitalization or increase in the production or preservation of location-efficient housing.	including rural main street revitalization or increase in the production or preservation of location-efficient housing.	greater public and private investments and strategies in land-use productivity, including rural main street revitalization or increase in the production or preservation of location-efficient housing.
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d. Criterion #4 Workforce Development, Job Quality, and Wealth Creation

Applicants must address how their project will create good-paying jobs with free and fair choice to join a union, including through the use of project labor agreements, promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); and adopt local and economic hiring preferences for the project workforce or include other changes to hiring policies and workplace cultures to promote the entry and retention of underrepresented populations.⁶⁶ Applicants should address how the project promotes local inclusive economic development and entrepreneurship, including prioritizing the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.⁶⁷

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all): (1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards including, but	The application demonstrates that the project will (must demonstrate at least one): (1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items:

⁶⁶ <https://www.fhwa.dot.gov/construction/hiringpreferences/qanda060822/>

⁶⁷ Nothing in this criterion is intended to conflict with DOT's DBE Program regulations at 49 CFR part 26. The use of DBE or firms that may be certified for participation in other applicable Federal, State, or local programs must be consistent with DOT DBE.

not limited to the use of project labor agreements; <u>AND</u> (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); <u>AND</u> (3) use hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>AND</u> (4) promote local inclusive economic development and entrepreneurship such as the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.	including, but not limited to the use of project labor agreements; <u>OR</u> (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); <u>OR</u> (3) utilize hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>OR</u> (4) promote local inclusive economic development and entrepreneurship such as the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.	(1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards including, but not limited to the use of project labor agreements; (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); (3) use hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>OR</u> (4) promote local inclusive economic development and entrepreneurship such as the utilization of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.
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e. Criterion #5 CFI Program Vision

Applicants must describe how their project will fulfill the CFI Program Vision by expanding the deployment of EV charging and alternative fuels through community-based infrastructure in the Community Program and Alternative Fueling Corridor Networks in the Corridor Program.

Highly Qualified	Qualified	Not Qualified
For Community Programs, A. The application demonstrates the project <u>WILL</u> :	For Community Programs, A. The application demonstrates the project <u>MAY</u> : (1) equitably expand the	For Community Programs, A. The application contains insufficient information to allow reviewers to assess

(1) equitably expand the deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities, parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial districts, tourism destinations and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; <u>AND</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application demonstrates that the project <u>will address one of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-purpose workplace and destination charging; <u>OR</u> (4) community fleets and freight. <u>OR</u>	deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities, parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial districts, tourism destinations and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; <u>OR</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application demonstrates that the project <u>may address one of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-purpose workplace and destination charging; <u>OR</u> (4) community fleets and freight. <u>OR</u>	whether the project <u>WILL</u> or <u>MAY</u> demonstrate any of the following items: (1) equitably expand the deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities, parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial districts, tourism destinations and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; <u>OR</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application <u>contains insufficient information to allow reviewers to assess whether the project WILL or MAY demonstrate any of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-
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For Corridor Programs, A. The application demonstrates the project <u>WILL</u>: (1) expand deployment of public DC fast charge EV charging port infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance; <u>AND</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application demonstrates that the project <u>WILL address one of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; <u>OR</u> (2) zero emission corridors for medium- and heavy-duty vehicles; <u>OR</u> (3) long dwell time locations along AFCs.	For Corridor Programs, A. The application demonstrates the project <u>WILL</u>: (1) expand deployment of public DC fast charge EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance; <u>OR</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application demonstrates that the project <u>MAY address one of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; <u>OR</u> (2) zero emission corridors for medium- and heavy-duty vehicles; <u>OR</u> (3) long dwell time locations along AFCs.	purpose workplace and destination charging; <u>OR</u> (4) community fleets and freight. <u>OR</u> For Corridor Programs, A. The application contains insufficient information to allow reviewers to assess whether the project <u>WILL</u> or <u>MAY</u> demonstrate any of the following items: (1) expand deployment of public DC fast charge EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance; <u>OR</u> (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application <u>contains insufficient information to allow reviewers to assess whether the project WILL or MAY demonstrate any of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; <u>OR</u> (2) zero emission corridors for medium- and heavy-duty vehicles; <u>OR</u> (3)
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		long dwell time locations along AFCs.
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v. Statutory Selection Priorities – Community Program Only

The Statutory Selection Priorities only apply to projects for the CFI Community Program:

- (1) Priority goes to projects that expand access to EV vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within rural areas (23 U.S.C. § 151(f)(8)(F)(i));
- (2) Priority goes to projects that expand access to EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within low- and moderate-income neighborhoods (23 U.S.C. § 151(f)(8)(F)(ii)); and
- (3) Priority goes to projects that expand access to EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes, as determined by the Secretary (23 U.S.C. § 151(f)(8)(F)(iii)).

vi. Additional Considerations

Community Program Considerations

For the Community Program, DOT will then consider the extent to which the project complements and does not duplicate existing Federal investments such as those in the NEVI Formula Program, contribute to geographic diversity among eligible entities, including achieving a balance between urban and rural communities⁶⁸ and the extent to which the project meets

⁶⁸ 23 U.S.C. § 151(f)(8)(G)(i)

current or anticipated market demands for charging or fueling infrastructure, including faster charging speeds with high-powered capabilities necessary to minimize the time to charge or refuel current and anticipated vehicles.⁶⁹ DOT will also consider, based on the application, whether the project is reasonably expected to begin in a timely manner, obligate awards before the deadline, and how quickly they are planned to be completed and made available for use by the traveling public.

Corridor Program Considerations

After completing the merit review, for the Corridor Program, DOT will consider the extent to which the projects complement and do not duplicate existing Federal investments such as those in the NEVI Formula Program and improve alternative fueling corridor networks by converting corridor-pending corridors to corridor-ready corridors or in the case of corridor-ready corridors, providing redundancy (aa) to meet excess demand for charging or fueling infrastructure; or (bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations⁷⁰ through identification of existing⁷¹ and planned⁷² locations. The DOT will consider the extent to which a project would meet current or anticipated market demands for corridor charging or alternative fueling infrastructure,⁷³ would support a long-term competitive market for charging or alternative fueling and does not significantly impair existing charging and infrastructure providers⁷⁴ through an analysis of the estimated charging or alternative fueling demand at the proposed infrastructure locations coordinated to avoid infrastructure overlap. The DOT will consider the extent to which the project would enable or accelerate the construction of

⁶⁹ 23 U.S.C. § 151(f)(8)(G)(ii)

⁷⁰ 23 U.S.C. § 151(f)(5)(A)(i)(I) and (II) (aa) and (bb)

⁷¹ <https://afdc.energy.gov/station>

⁷² https://www.fhwa.dot.gov/environment/nevi/ev_deployment_plans/

⁷³ 23 U.S.C. § 151(f)(5)(A)(ii)

⁷⁴ 23 U.S.C. § 151(f)(5)(A)(iv)

charging or fueling infrastructure that would be unlikely to be completed without Federal assistance⁷⁵ as a result of meaningful public engagement with communities that have lacked private investment in vehicle charging or alternative fuel infrastructure. The DOT will consider the extent to which the project would deploy EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for medium- and heavy-duty vehicles (including along the [National Highway Freight Network](#) established under section 167(c) and in proximity to intermodal transfer stations⁷⁶ by identifying if the proposed infrastructure would be located at, near, or enroute to an intermodal coastal or inland port facility, and if yes, describe whether and how the proposed charging or alternative fuel infrastructure will be designed and scaled to accommodate medium- and heavy-duty alternative fuel vehicles. The DOT will consider the extent to which projects support the National Zero-Emission Freight Corridor Strategy⁷⁷ and the FHWA Freight Electric Vehicle Corridor designations⁷⁸. The DOT will consider the extent to which the project would ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure is available throughout the United States.⁷⁹ The DOT will also consider the extent to which the private entity that the eligible entity contracts for an eligible project (i) submits to the Secretary the most recent year of audited financial statements and (ii) has experience in installing and operating EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure⁸⁰ as evidenced

⁷⁵ 23 U.S.C. § 151(f)(5)(A)(iii)

⁷⁶ 23 U.S.C. § 151(f)(5)(A)(vi)

⁷⁷ driveelectric.gov/files/zef-corridor-strategy.pdf

⁷⁸ https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/freight_ev_corridors/

⁷⁹ 23 U.S.C. § 151(f)(5)(B)

⁸⁰ 23 U.S.C. § 151(f)(5)(C)(i) and (ii)

by discussion in the narrative and provided resumes (not to exceed 2 pages per resume) for key participating team members. The DOT will also consider the extent to which, to the maximum extent practicable, the eligible entity and the private entity that the eligible entity contracts for an eligible project enter into an agreement (i) to operate and maintain publicly available EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas infrastructure and (ii) that provides a remedy and an opportunity to cure if the requirements described in clause (i) are not met.⁸¹ DOT will also consider, based on the application, whether the project is reasonably expected to begin in a timely manner, obligate awards before the deadline, and how quickly they are planned to be completed and made available for use by the traveling public.

vii. DOT Priority Considerations

The following are DOT Priority Considerations for the CFI Program, which apply to BOTH the Community and Corridor Programs. After completing the project merit review, DOT will prioritize Highly Recommended projects and Recommended projects that are responsive to the applicable Statutory Selection Priorities (Community Program only) and Additional Considerations, and that demonstrate exceptional benefits under Merit Criterion #3 Equity, Community Engagement, and Justice⁴⁰, Merit Criterion #4 Workforce Development, Job Quality, and Wealth Creation, and/or Merit Criterion #5 CFI Program Vision.

2. Review and Selection Process

The FHWA will evaluate applicants for the CFI Program Grants in accordance with the evaluation process described below. The FHWA CFI Program Manager will conduct an application intake and eligibility review by providing an initial eligibility screening based on the

⁸¹ 23 U.S.C. § 151(f)(5)(D)(i) and (ii)

respective statutory eligibility criteria under Section C of the NOFO. Only eligible projects will be evaluated against the selection criteria described above.

i. Review Process

The FHWA will establish a Technical Review Team to review each eligible application for Community and Corridor funding categories. The Technical Review Team may be composed of individuals from FHWA Office of Planning, Environment and Real Estate, other FHWA Offices, Office of the Secretary, other DOT Administrations, the Joint Office of Energy and Transportation, and the U.S. Department of Energy. They will review each application against the Project Merit Criteria to assign an overall rating of “Highly Recommended,” “Recommended,” or “Not Recommended,” as defined under Section E.1.iv. to each application.

After assignment of the overall rating, the Technical Review Team will prioritize the Highly Recommended and Recommended applications for responsiveness to the Statutory Selection Priorities (Community Program only), Additional Considerations, and DOT Priority Considerations as described under Section E.1.v-vii.

ii. Selection Process

The Technical Review Team will send to the FHWA Senior Review Team (SRT) the overall project rating for each grant application and the evaluation of responsiveness to the Statutory Selection Priorities (Community Program only), Additional Considerations, and DOT Priority Considerations for Highly Recommended and Recommend projects.

The FHWA SRT will determine which projects to advance to the FHWA Administrator as recommended for funding. The FHWA Administrator will determine which projects to advance to the Secretary, through the Under Secretary for Transportation Policy, as

recommended for funding. The FHWA SRT will be the same for CFI and NEVI-10 Programs described in this NOFO.

The FHWA SRT will determine which Highly Recommended projects to advance to the FHWA Administrator. The FHWA SRT may also recommend for selection Recommended projects that are responsive to the Statutory Selection Priorities (Community Program only), Additional Considerations, and one or more of the DOT Priority Considerations. When recommending a Recommended project over a Highly Recommended project, the FHWA SRT will select Recommended projects by considering how well the project addressed the Statutory Selection Priorities (Community only), Additional Considerations and Project Merit Criteria. The FHWA SRT will also consider the number of merit criteria rated Highly Qualified and endeavor to ensure a geographically diverse award of projects when recommending a Recommended project over a Highly Recommended project. The FHWA Administrator will determine which Highly Recommended projects, and any Recommended projects, to advance to the Secretary after considering the FHWA SRT recommendations including the responsiveness to the DOT Priority Considerations. The FHWA Administrator may advise the Secretary on options for reduced awards under either the Community or the Corridor Program.

The Secretary makes final project selections and will select among the projects advanced by the FHWA Administrator. The Secretary's selections identify the applications that best address the CFI Program Vision for Community and Corridor Grants, Project Merit Criteria, Statutory Selection Priorities (for Community Program), Additional Considerations, and DOT Priority Considerations.

3. Additional Information

The FHWA may, during the selection process, enter into discussions with an applicant that may include mutually agreeing upon a lesser amount of a potential award than originally

requested in the application if necessary due to the quantity, size, and scope of the applications received in response to this NOFO and the results of the application review process. Discussions may include scalable project options as described under Section B.2. of this NOFO.

Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.206. The DOT must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM. An applicant may review information in SAM.gov and comment on any information about itself that a Federal awarding Agency previously entered. The FHWA will consider comments by the applicant, in addition to the other information in SAM.gov, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Award Notices

Following the evaluation outlined in Section E., the Secretary will announce awarded projects by posting a list of selected projects at [CFI - Environment - FHWA \(dot.gov\)](https://www.fhwa.dot.gov/cfi/).

Notice of selection is not authorization to begin performance or to incur costs for the proposed project. Following that announcement, FHWA will contact the point of contact listed in the SF 424 to initiate negotiation of the project agreement for authorization. Recipients of CFI Program Grant awards will not receive lump-sum cash disbursements at the time of award announcement or obligation of funds. Instead, FHWA will reimburse CFI Program Grant funds to recipients only after a project agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted. Unless authorized by FHWA in writing after FHWA's announcement of FY 2022 and FY 2023 CFI Program awards, any costs that a

recipient incurs before FHWA executes a project agreement for that recipient's project are ineligible for reimbursement and are ineligible match for cost share requirements.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by DOT at 2 CFR Part 1201. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR, shall apply to awards provided under this program. Awards are subject to all applicable Federal laws, rules, and regulations, including the Uniform Relocation and Real Property Acquisition Act (42 U.S.C. §§ 4601 et seq.; 49 CFR part 24) and National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 et seq.; 40 CFR parts 1500 – 1508; 23 CFR part 771). Applicants should consider the appropriate level of review under NEPA. Eligible CFI projects are generally the type of actions that would not be expected to result in significant environmental impacts. Several NEPA Categorical Exclusions (CE) may be applicable including those found at 23 CFR 771.117(c) and (d), depending on the scope of the action and the CEs conditions. One example of a CE that may apply to projects under this grant is the CE 23 CFR 771.117 (c)(23), however other CEs or other NEPA requirements may apply. In addition, DOT has adopted the Department of Energy's (DOE's) Electric Vehicle Charging Stations CE and it also may apply to projects under this NOFO.⁸² Before a CE determination can be applied, the action must be analyzed to determine whether there are project impacts to natural, community, or historical resources (i.e., unusual circumstances that would require further analysis to determine whether the CE classification is appropriate (see 23 CFR 771.117(a-b)).

⁸² <https://www.federalregister.gov/documents/2023/09/20/2023-20238/notice-of-adoption-of-electric-vehicle-charging-stations-categorical-exclusion-under-the-national>

In connection with any program or activity conducted with or benefiting from funds awarded under this NOFO, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget (OMB). In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FHWA determines that a recipient has failed to comply with applicable Federal requirements, FHWA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

EO 14005 directs the Executive Branch Departments and Agencies to maximize the use of goods, products, and materials produced in, and services offered in, the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grant recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. Any grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carriers Safety Regulations (FMCSR), or vehicles that are exempt from FMVSS or FMCSR in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

Critical Infrastructure Security, Cybersecurity, and Resilience: It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both

physical and cyber threats, consistent with the National Security Memorandum on Critical Infrastructure Security and Resilience (NSM-22) and the National Security Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (NSM-5). Each applicant selected for Federal funding under this NOFO must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by the Department and the U.S. Department of Homeland Security, will be required to do so before receiving funds for construction. Information on cybersecurity performance goals can be found at <https://www.cisa.gov/cpg>. These performance goals provide a baseline set of cybersecurity practices broadly applicable across critical infrastructure with known risk-reduction value, a benchmark for critical infrastructure operators to measure and improve their cybersecurity maturity, and a combination of recommended practices for IT and OT owners, including a prioritized set of security practices. Additionally, funding recipients must be in compliance with 2 CFR § 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.

Domestic Preference Requirements: As expressed in EO 14005, ‘Ensuring the Future Is Made in All of America by All of America’s Workers’ (86 FR 7475), the executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Funds made available under this NOFO are subject to the domestic preference requirement at Build America, Buy America Act (Pub. L. No 117-58, div. G §§ 70901–70927). The Department expects all applicants to comply with that requirement.

However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

Civil Rights and Title VI: As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR part 21), the ADA, and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. The DOT's and the applicable Operating Administrations' Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

Federal Contract Compliance: As a condition of grant award and consistent with EO 11246, EEO (30 FR 12319, and as amended), all federally-assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing EO 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to

help promote compliance with non-discrimination and affirmative action obligations. The OFCCP will identify projects that receive an award under this NOFO and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally-assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on the DOL Website:

[Construction Compliance Frequently Asked Questions | U.S. Department of Labor \(dol.gov\)](#).

The applicability of Federal requirements to a project may be affected by the scope of the NEPA reviews for that project. For example, under 23 U.S.C. § 313(g), Buy America requirements apply to all contracts that are eligible for assistance under title 23, United States Code, and are carried out within the scope of the NEPA finding, determination, or decision regardless of the funding source of such contracts if at least one contract is funded with Title 23 funds. As another example, ADA regulations and Section 504 of the Rehabilitation Act of 1973 regulations apply to all projects funded under this NOFO.

Performance and Program Evaluation: As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT or another Agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The DOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate

the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an Agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges Federal awarding Agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” 5 U.S.C. § 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation (2 CFR Part 200).

Project Signage and Public Acknowledgements: Recipients are encouraged for construction and non-construction projects to post project signage and to include public acknowledgments in published and other collateral materials (e.g., press releases, marketing materials, website, etc.) satisfactory in form and substance to DOT, that identifies the nature of the project and indicates that “the project is funded by the Bipartisan Infrastructure Law.” In

addition, recipients employing project signage are required to use the official Investing in America emblem in accordance with the Official Investing in America Emblem Style Guide. Costs associated with signage and public acknowledgments must be reasonable and limited. Signs or public acknowledgments should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or recipient burden. The Recipient is encouraged to use recycled or recovered materials when procuring signs.

Climate Change and Environmental Justice Impact Consideration: Each applicant selected for CFI Program funding must demonstrate effort to consider climate change and environmental justice impacts as described in Section E.1.b. Projects that have not sufficiently considered climate change and environmental justice in their planning, as determined by the DOT, will be required to do so before receiving funds for construction, consistent with EO 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619).⁸³

Equity and Barriers to Opportunity: Each applicant selected for CFI Program Grant funding must demonstrate effort to improve equity and reduce barriers to opportunity. Projects that have not sufficiently considered equity and barriers to opportunity in their planning, as determined by DOT, will be required to do so before receiving funds for construction, consistent with EO 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009).⁸⁴

Davis-Bacon Act: Recipients of an award under this program are also required to comply fully with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148; 23 U.S.C. § 109(s)(2); 23 U.S.C. § 113(a)), which requires all laborers and mechanics employed by contractors or

⁸³ An illustrative example of how these requirements are applied to recipients can be found here: <https://cms.buildamerica.dot.gov/buildamerica/financing/infra-grants/infra-fy21-fhwa-general-terms-and-conditions>

⁸⁴ An illustrative example of how these requirements are applied to recipients can be found here: <https://cms.buildamerica.dot.gov/buildamerica/financing/infra-grants/infra-fy21-fhwa-general-terms-and-conditions>

subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by an award made available under this program, be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor.

DBE Program: Recipients of an award under this program are also required to comply fully with the DBE Program, which is a legislatively mandated DOT program that applies to Federal-aid highway dollars expended on federally-assisted contracts issued by DOT recipients in order to ensure nondiscrimination in the award and administration of DOT-assisted contracts, help remove barriers to the participation of DBEs in DOT-assisted contracts, and assist in the development of firms that can compete successfully in the marketplace outside of the DBE Program. The DBE Program was most recently reauthorized by the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141). Note that the DBE program requirements do not apply to projects funded with NEVI 10 funds.

Compliance with 23 CFR Part 680: Recipients of an award under this program are also required to comply fully with applicable sections of the National Electric Vehicle Infrastructure Standards and Requirements (23 CFR Part 680), which has certain requirements for EV charging infrastructure, including installation, operation, and maintenance requirements, interoperability and connectivity standards, minimum uptime requirements, data submission requirements, as well as certain data fields that must be made available, free of charge, to third-party software developers, via application programming interface.⁸⁵ This regulation also has certain requirements for the workforce installing, maintaining, and operating EV chargers to have appropriate licenses, certifications, and training to ensure that the installation and maintenance of

⁸⁵ [EV Charging Minimum Standards Rule as Submitted to Federal Register for Publication \(Unofficial\) \(dot.gov\)](#)

EV chargers is performed safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers.⁸⁶ Installation, maintenance and operations of infrastructure for other fuel types is encouraged to follow a similar approach and utilize a skilled workforce with appropriate licenses, certifications, and training.

3. Reporting

i. Progress Reporting on Grant Activities

Each applicant selected for CFI Program Grant funding must submit quarterly progress reports and Federal Financial Reports (SF-425) to monitor project progress and ensure accountability and financial transparency in the CFI Program grant process. Each applicant selected for CFI Program Grant funding will also be subject to applicable reporting and data submission requirements in 23 CFR 680.112(a)-(c) and 23 CFR 680.116(c).

ii. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding Agencies exceeds \$10 million for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Pub. L. No. 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Pub. L. No. 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

⁸⁶ 23 CFR 680.106(j)

iii. Other

FHWA reserves the right to request additional information, if deemed needed, to better understand the status of the project. The successful applicant will provide additional financial reporting beyond the semi-annual reporting, if such statements are necessary to address FHWA's Stewardship and Oversight responsibility of the funds. The successful applicant also agrees to allow periodic project inspections and FHWA will provide NOFO for such inspections.

G. Federal Awarding Agency Contacts

For questions concerning this NOFO and the CFI Program, please Email CFIGrants@dot.gov.

A TDD is available for individuals who are deaf or hard of hearing at (202) 366-3993.

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it "Contains Confidential Business Information (CBI)"; (2) mark each page that contains confidential information with "CBI"; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how

disclosure of the confidential information would cause substantial competitive harm. DOT will protect confidential information complying with these requirements to the extent required under applicable law. If FHWA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FHWA will follow the procedures described in its FOIA regulations at 49 CFR 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

2. Publication/Sharing of Application Information

Following the completion of the selection process and announcement of awards, FHWA may publish a list of all applications received along with the names of the applicant organizations and funding amounts requested. Except for the information properly marked as described in Section H., FHWA may make application narratives publicly available or share application information within DOT or with other Federal Agencies if FHWA determines that sharing is relevant to the respective program's objectives.

3. DOT Feedback on Applications

Feedback by FHWA is available as a courtesy to applicants not selected for award to receive information about the evaluation of their application.

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CITIZEN ENERGY, LLC, A DISTRICT OF COLUMBIA LIMITED LIABILITY COMPANY, REGARDING MEMBER AGENCY MATCH FUNDING FOR THE U.S. DEPARTMENT OF TRANSPORTATION' CHARGING AND FUELING INFRASTRUCTURE DISCRETIONARY GRANT OPPORTUNITY

This Memorandum of Understanding ("**MOU**") is made and entered into on this day August _____, 2024, by and between the City of Pueblo, a Colorado Municipal Corporation, ("**City**") and Citizen Energy, LLC, a District of Columbia Limited Liability Company ("**Citizen**"), referred to hereinafter collectively as the "**Parties**" or singularly as "**Party**".

RECITALS

WHEREAS, pursuant to Notice of Funding Opportunity Number 693JJ324NF00017 ("**NOFO Project**"), City intends to apply for the Charging and Fueling Infrastructure Discretionary Grant Program ("**CFI Program**") established under the Infrastructure Investment and Jobs Act ("**Jobs Act**"); and

WHEREAS, the CFI Program seeks to award grant funding to address environmental justice, particularly for disadvantaged and other communities (prioritizing rural areas and low- and moderate-income neighborhoods) that may disproportionately experience the consequences of either climate change or other pollutants; and

WHEREAS, the Federal share of the cost of a project carried out with CFI Program grant funds shall not exceed 80 percent of the total project cost. Awardees must provide at least 20 percent of the total project cost as a matching share; and

WHEREAS, City is required to contract with a private entity (a corporation, partnership, company, or nonprofit organization) for the acquisition and installation of EV charging infrastructure and for the construction, maintenance, or operation of EV Charging infrastructure; and

WHEREAS, the CFI Program requires the private entity to contractually agree to pay the 20% non-Federal share of the project cost carried out with CFI Program funds; and

WHEREAS, in order to receive CFI Program funds, City must demonstrate it has taken best efforts to require the private entity to contractually pay for the non-Federal share; and

WHEREAS, City and Citizen desire to enter into this MOU to set for the terms of agreement should City be awarded CFI Program funds and Citizen be required to pay the non-Federal share of the project cost.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties hereto agree as follows:

1. Match Funds. In the event City is awarded CFI Program funds as described in the

NOFO Project, attached hereto as Exhibit A and incorporated herein, Citizen agrees to provide match funds of at least twenty percent (20%) of the Non-Federal share of the project and partner with City on CFI program funds implementation.

2. Cooperation. The Parties agree to cooperate, to the fullest extent allowed by law, in the submission of City's application as contemplated in the NOFO Project. The Parties shall comply with the Grant Agreement, including the terms and conditions and special conditions included in Exhibit A attached thereto and incorporated by reference as though fully set forth herein.

3. Dispute Resolution. If a dispute arises between the Parties concerning the interpretation or operation of this MOU, any party may request mediation by providing the other parties with written notice of such request. No party is obligated to enter mediation. Nevertheless, if the Parties mutually agree to enter mediation, the parties shall attempt to agree upon a single mediator, and the costs of mediation shall be borne equally by the Parties. Any efforts at mediation shall conclude within ninety (90) days after the written notice, unless the Parties mutually agree to extend the time period for the mediation.

4. No Waiver of Governmental Immunity: Nothing in this MOU shall be construed to waive, limit, or otherwise modify any governmental immunity that may be available by law to the City of Pueblo, its officials, employees, contractors, or agents, or any other person acting on behalf of the City of Pueblo and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10 of the Colorado Revised States.

5. Execution and Termination. This agreement is effective on the date it is signed by both parties. Unless sooner terminated, the initial term of this Agreement shall be until 365 days. This Agreement may be terminated at any time by a party upon ninety (90) days advance written notice.

6. Assignment. No Party may assign this MOU to any third-party, either in whole or in part, without the written consent of the other Party.

7. No Third-Party Beneficiaries: It is expressly understood and agreed that enforcement of the terms and conditions of this MOU and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this MOU shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the MOU shall be deemed an incidental beneficiary only.

8. Litigation, Venue and Waiver of Trial by Jury: In the event of any litigation arising under this MOU, the court shall award to the prevailing Party its costs and reasonable attorney fees. Exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado, and each Party submits to the personal and subject matter jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

9. Severability: If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this MOU shall nonetheless remain in full force and effect.

10. Rules of Construction: The Parties acknowledge that the Parties and their counsel have reviewed and revised this MOU and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this MOU or any exhibits or amendments hereto.

11. Waiver: The waiver or failure to enforce any provision of this MOU shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

12. Counterparts: This MOU may be executed in two (2) or more counterparts and each such counterpart shall be deemed for all purposes to be an original and all such counterparts shall together constitute but one and the same original.

13. Signatures: The persons signing this MOU on behalf of Citizen represent and warrant that such persons have the requisite power and authority to enter, execute and deliver this MOU and that this MOU is a valid and legally binding obligation of Citizen enforceable against Citizen in accordance with its terms.

14. Notices: Notices concerning this MOU shall be given to Citizen in writing as follows:

Citizen Energy, LLC
1200 18th Street, NW
Suite 700
Washington, DC 20036

Notices concerning this MOU shall be given to City as follows:

Luann Martinez
Grant and Resource Development Administrator
1 City Hall Pl
Pueblo, CO 81003

With a copy to:

City Attorney
City of Pueblo
1 City Hall Place
Pueblo, CO 81003

15. Entirety of Agreement. This MOU incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this MOU that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

IN WITNESS WHEREOF, the Parties hereto have made and executed this MOU under each signature:

IN WITNESS WHEREOF, THIS MEMORANDUM OF UNDERSTANDING HAS BEEN
ENTERED INTO AS FOLLOWS:

CITY OF PUEBLO

By _____

Title: Mayor

Date: _____

CITIZEN ENERGY, LLC

By  _____

Title: CEO

Date: 8/12/2024

EXHIBIT A

U.S. DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Funding Opportunity for the U.S. Department of Transportation’s Charging and Fueling Infrastructure Discretionary Grant Opportunity

AGENCY: U.S. Department of Transportation (DOT), Federal Highway Administration (FHWA).

ACTION: Notice of Funding Opportunity (NOFO) Number 693JJ324NF00017

Charging and Fueling Infrastructure Discretionary Grant Opportunity (Round 2)

SUMMARY: The purpose of this NOFO is to solicit applications for the Charging and Fueling Infrastructure Discretionary Grant Program (CFI Program) established under the Infrastructure Investment and Jobs Act (“Bipartisan Infrastructure Law” or “BIL”). In addition, funds under the National Electric Vehicle Infrastructure (NEVI) Formula Program 10 percent set-aside (NEVI 10), also established by BIL, will also be awarded under this NOFO. Funding program sources, Fiscal Years (FY), and amounts available for award under this NOFO can be found in the table below. This NOFO also announces FHWA’s intention to make additional awards for applications submitted under FY 2022/2023 CFI Round 1 NOFO (693JJ323NF00004) issued March 14, 2023.

Summary of Funding Available Under this CFI NOFO Round 2

Fiscal Year and Program of Funding in this NOFO	Total Funding (approximately)	Funding for Applications Submitted under this NOFO Round 2	Funding for Applications Previously Submitted under FY 2022/2023 CFI NOFO Round 1
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CFI FY 2024	\$500,000,000	\$100,000,000	\$400,000,000
CFI FY 2025	\$600,000,000	\$600,000,000	
NEVI 10 FY 2023	\$21,200,000		\$21,200,000
NEVI 10 FY 2024	\$100,000,000		\$100,000,000
NEVI 10 FY 2025	\$100,000,000	\$100,000,000	
Total Available (approximately)	\$1,321,200,000	\$800,000,000	\$521,200,000

The CFI Program is divided into two separate grant categories: (1) the Community Charging and Fueling Program Grants (Community Program), to strategically deploy electric vehicle (EV) charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure located on public roads or in other publicly accessible¹ locations; and (2) the Alternative Fuel Corridor Grants (Corridor Program)², to strategically deploy charging and alternative fueling infrastructure located along designated alternative fuel corridors.³ The actual amount of funding available for award each fiscal year will be based on the reduction of authorized funding due to the imposition of the annual obligation limitation. While applicants can choose to apply for only one grant program, they may also submit separate applications under each program. If one eligible applicant is interested in applying for both Community and Corridor funding categories in a single application, they must clearly separate the proposed work, selection criteria, and budget requested for each category.

¹ Publicly accessible means the equipment is available to the public without restriction. A station that is not maintained or restricts access only to customers, tenants, employees, or other consumers is not publicly accessible. Publicly accessible locations may include public parking facilities, parking at public buildings, public transportation stations, Park-and-Rides, public schools, public parks, private parking facilities available for public use, visitor centers, and other public locations on Federal Lands.

https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf

² For more information, see: https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/

³ Overall, the CFI Program is authorized funding for 5 fiscal years, totaling up to \$2.5 billion (FY 2022 \$300 million, FY 2023 \$400 million, FY 2024 \$500 million, FY 2025 \$600 million, and FY 2026 \$700 million.)

The CFI Program will accelerate an electrified and alternative fuel transportation system that is convenient, affordable, reliable, equitable, accessible, and safe. The CFI Program will also help put the United States on a path to a nationwide network of at least 500,000 EV chargers by 2030 and improve networks for vehicles using hydrogen, propane, and natural gas. The CFI Program builds on FHWA Alternative Fuel Corridor (AFC) program and complements the NEVI Formula program, which is initially focused on enabling long distance trips along the National Highway System (NHS) through a convenient, reliable, affordable, and equitable electric vehicle charging network. The goals of the CFI Program are to 1) supplement, not supplant, necessary private sector investment; 2) complement existing Federal programs; 3) facilitate broad public access to a national charging and alternative fuel infrastructure network to accelerate the adoption of zero emissions vehicles; 4) implement Justice40⁴ objectives, lower transportation costs, and increase economic opportunity; 5) advance job quality, workforce development, and workforce equity; and 6) reduce greenhouse gas and vehicle-related emissions.

Funds available under this notice will provide crucial support for the full buildout of the Nation's electrified and alternative fuel corridors (supplementing funds from the NEVI Formula Program) and can fill in critical infrastructure gaps to help meet current or anticipated demand for corridor charging or alternative fueling infrastructure. By encouraging the adoption and expansion in use of alternative fuels, CFI Program investments have the potential to significantly address the transportation sector's outsized contributions to climate change. Currently, the transportation sector is both the largest source of U.S. carbon dioxide emissions, and is

⁴ The Justice40 Initiative sets the goal that 40 percent of the overall benefits of climate and other Federal investments flow to disadvantaged communities that have been marginalized by underinvestment and overburdened by pollution. Pursuant to Executive Order (E.O.) 14008, "Tackling the Climate Crisis at Home and Abroad," January 27, 2021, and the Office of Management and Budget's Interim Justice40 Implementation Guidance M-21-28 and Addendum M-23-09, FHWA recognizes disadvantaged communities as the census tracts identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST), located at <https://screeningtool.geoplatform.gov/>, as well as all Federally Recognized Tribes (whether or not they have land). Disadvantaged communities may be referred to as "Justice40 communities."

increasingly vulnerable because of the higher temperatures, more frequent and intense precipitation, and sea level rise associated with the changing climate.⁵

FHWA seeks to award funding under this NOFO to projects that address environmental justice,⁶ particularly for disadvantaged and other communities (prioritizing rural areas and low- and moderate-income neighborhoods) that may disproportionately experience the consequences of either climate change or other pollutants. Also, FHWA seeks to fund projects that help achieve the Justice40 Initiative goal as described in footnote 4. In addition, FHWA intends to use this funding opportunity to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and diverse workforce programs, in particular registered apprenticeships, labor management partnerships and Local Hire agreements,⁷ in project planning stages and program delivery.

This NOFO describes the application requirements, selection and evaluation criteria, Federal requirements, and available technical assistance during the grant solicitation period. To ensure a fair and unbiased evaluation of applications submitted under this NOFO, applications must be complete and address all statutory requirements; however, FHWA may request supplementary information, as needed, or to determine with which category of grant the application best aligns, or if applicants could be eligible to receive an award from both categories of funding. Recipients of an award under this program related to EV infrastructure are required to comply fully with applicable sections of the National Electric Vehicle Infrastructure Minimum

⁵ See EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, available at <https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks>.

⁶ See definition of environmental justice in Executive Order 14906 at <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/>.

⁷ Contracts awarded with geographic hiring preferences are eligible for assistance under most FHWA financial assistance programs.

Standards and Requirements Rule (23 CFR Part 680).⁸ These Standards specify technical aspects of charging infrastructure including connector types, power levels, minimum number of charging ports per station, minimum uptime (reliability standards), payment methods, and more; data submittal requirements; workforce requirements for installation, operation, or maintenance by qualified technicians; interoperability of EV charging infrastructure; traffic control devices and signage; network connectivity; and publicly available information. Questions related to this solicitation can be sent to the program inbox at CFIgrants@dot.gov until July 29, 2024. FHWA will deliver informational webinars to interested parties regarding this solicitation, as specified in the Grants.gov notice/synopsis. Please check the CFI Website (<https://www.fhwa.dot.gov/environment/cfi/>) and the Joint Office of Energy and Transportation (Joint Office) Website (<https://driveelectric.gov/>) for more information.

SPECIAL NOTE: Additional funding to be made available under the 10 percent set-aside of the National Electric Vehicle Infrastructure Program:

Paragraph (2) under the Highway Infrastructure Program heading in Title VIII of Division J of BIL provides funding for establishing the National Electric Vehicle Infrastructure (NEVI) Formula Program. This paragraph provides that the Secretary shall set aside 10 percent of the NEVI Formula Program each fiscal year for the Secretary of Transportation “to make grants to States and localities that require additional assistance to strategically deploy electric vehicle charging infrastructure.” For purposes of this NOFO, these funds are referred to as NEVI 10 funds. The Secretary finds that applications submitted under this NOFO by State and local governments for EV charging infrastructure projects would provide additional assistance to strategically deploy EV charging infrastructure. In response to the CFI Round 1 NOFO (693JJ323NF00004), FHWA received significantly more requests for funding than was

⁸ [Final Rule for National Electric Vehicle Charging Minimum Standards and Requirements](#)

available. These applications represent EV charging infrastructure projects that State and local governments could strategically deploy. In addition, by combining the NEVI 10 funds with the CFI funds, FHWA is reducing the burden on State and local applicants who would otherwise have to submit multiple applications to different programs. FHWA will not use separate criteria in selecting applications for NEVI 10 funding nor does FHWA require the applicant to specify that the project should be considered for such funding. Rather, FHWA will select applications for NEVI 10 funding using the same criteria as the CFI community and corridor programs, provided the application is for electric vehicle infrastructure.⁹

⁹ NEVI 10 funds awarded for projects under this NOFO will be administered pursuant to the same requirements as CFI except where a CFI requirement is determined to be inconsistent with a statutory requirement of the NEVI program under Title VIII of Division J.

Funding Opportunity Summary:	Funding available under this NOFO consists of two components: (1) Up to \$800 million to fund CFI Round 2 applications to provide grants to eligible entities to strategically deploy publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure in certain locations or along designated AFCs that will be accessible to all drivers of EVs, hydrogen vehicles, propane vehicles, and natural gas vehicles. (2) Up to \$521.2 million to fund applications previously submitted but not selected for award under the FY2022/2023 CFI Round 1 NOFO (693JJ323NF00004) published on March 14, 2023¹⁰.
Federal Agency Name:	U.S. Department of Transportation FHWA, Office of Planning, Environment and Realty (HEP) 1200 New Jersey Avenue, SE Washington, DC 20590
Funding Opportunity Title:	Charging and Fueling Infrastructure Discretionary Grant Opportunity (Round 2)
Announcement Type:	This is the CFI NOFO Round 2. Section 11401 of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117-58, Nov. 15, 2021), established the Charging and Fueling Infrastructure Discretionary Grant Program which is codified at 23 U.S.C. § 151(f)(2). There are two funding categories under the Charging and Fueling Infrastructure Discretionary Grant Program: (1) Community Charging and Fueling Program Grants and (2) Alternative Fuel Corridor Grants. Division J of BIL established the NEVI 10 percent set-aside.

¹⁰ <https://grants.gov/search-results-detail/346798>

Community Grants:		• Located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity. • Must be publicly accessible. • May use funds to contract with a private entity. • Minimum award amount of \$500,000¹¹, maximum award amount of \$15 million. • Must demonstrate benefits¹² will flow to Justice40 communities. • Expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible infrastructure. • Must be accessible to and usable by individuals with disabilities.
Corridor Grants:		• Located along a designated AFC; EV charging and other alternative fuels within 5 miles of the AFC.¹³ • Must be publicly accessible. • Minimum award amount of \$1 million¹⁴, no maximum award amount. • Must use funds to contract with a private entity. • Must demonstrate benefits¹⁵ will flow to Justice40 communities Must be accessible to and usable by individuals with disabilities.
Funding Opportunity Number:		693JJ324NF00017

¹¹ DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities and consideration.

¹² See footnote 4 for a description of the Justice40 Initiative

¹³ In order to be designated as an AFC for EV charging, FHWA criteria provides that the EV charger be located within 1 travel mile of the highway. For purposes of this NOFO, with respect to the Corridor Program, FHWA will consider applications along designated AFCs for EV chargers up to 5 miles off the highway.

¹⁴ DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities and consideration.

¹⁵ See footnote 4 for a description of the Justice40 Initiative.

Type of Award:	Cost Reimbursement Grant
Funding Categories:	The FHWA Administrator may advise the Secretary of Transportation (Secretary) on options for reduced awards. ¹⁶ Each application must clearly indicate if the application will be evaluated under the Community or the Corridor grant funds. An eligible applicant may submit separate applications under both programs. If one eligible applicant is interested in applying for both Community and Corridor funding categories in a single application, they must clearly separate the proposed work, selection criteria and budget requested for each category.
Assistance Listing Number (formerly Catalog of Federal Domestic Assistance (CFDA)):	20.205 – Highway Planning and Construction
Application Due Date:	Submission Deadline: Applications are due no later than 11:59 PM EST on AUGUST 28, 2024 , through Grants.gov. Applicants are encouraged to submit applications in advance of the application deadline; however, new applications will not be evaluated, and awards for newly submitted applications will not be made, until after the application submission deadline.
Submit Applications To:	FHWA uses Grants.gov for receipt of all applications. Applicants must register and use the system to submit applications electronically. <u>Approval of new user registrations for Grants.gov may take multiple weeks.</u> Applicants are encouraged to register for Grants.gov in advance of the submission deadline. Applicants are also encouraged to subscribe in Grants.gov under this NOFO number to receive notices of any updates, amendments, changes, or supplemental information related to this grant opportunity. <u>It is the Applicant's responsibility to monitor Grants.gov for any updates/amendments to this NOFO.</u> Complete instructions on how to register and apply can be found at Grants.gov. If interested parties experience difficulties at any point during registration or application process, please use the help available on Grants.gov such as the Ask Grant/Chat Now with Grant

¹⁶ Per section B.2. Scalable Project Options, applicants to both Community and Corridor programs are encouraged to propose projects that are scalable and identify scaled funding options in case insufficient funding is available to fund an applicant's project at the full requested amount.

	service; or the Grants.gov 24/7 Customer Support Hotline at 1-800-518-4726; or email support@grants.gov. USDOT staff <u>cannot</u> assist with technical Grants.gov system and user questions.
Questions:	Submit CFI NOFO Questions to Email: CFIgrants@dot.gov Applications will not be reviewed in advance, but FHWA staff are available to answer questions regarding the program. In addition, FHWA will post answers to questions and requests for clarifications at Grants.gov under this funding opportunity number. Due to the competitive nature of the program, during the application submittal phase, FHWA is unable to accommodate individual meeting requests to discuss the opportunity or specific project ideas, and unable to provide individualized guidance or render opinions about the merit of a specific project. The CFIgrants@dot.gov inbox will close after July 29, 2024. Applicants are encouraged to submit their questions to the inbox in advance of this date. Based on the volume of questions, we will attempt to answer as many questions as possible.

SUPPLEMENTARY INFORMATION: The organization of this NOFO is based on an outline set forth in Appendix I to Title 2 of the Code of Federal Regulations (CFR) Part 200 to ensure consistency across Federal financial assistance programs.

RESERVATION OF FUNDS FOR FY 2022/2023 CFI ROUND 1 APPLICATIONS THAT WERE NOT SELECTED FOR CFI FUNDING: In January 2024, DOT announced award selections resulting from the FY 2022/2023 CFI Round 1 NOFO (693JJ323NF00004). Under this CFI Round 2 NOFO (693JJ324NF00017), FHWA is making up to \$400 million in FY 2024

CFI funding and up to \$121.2 million of NEVI 10 funding (\$21.2 million in FY 2023 funding and \$100 million in FY 2024 funding) available to certain applications that were submitted but not selected under the CFI Round 1 FY 2022/2023 NOFO. For purposes of selecting projects under this reservation of funds, FHWA will follow the criteria and process set forth in the FY 2022/2023 CFI Round 1 NOFO. No amendments are being made to either the selection criteria or process, so no previous application modifications will be needed or accepted. Instead, FHWA will forward all applications that were not selected for funding but rated by the technical review team as either “Highly Recommended,” or “Recommended,” and also found to meet one or more DOT priority considerations as provided in Section E.2 of the FY 2022/2023 CFI Round 1 NOFO. For purposes of this reservation of funds, FHWA incorporates the FY 2022/2023 NOFO by reference and will follow that NOFO criteria for all selections. Note that in following the NOFO process to determine which Recommended and Highly Recommended applications are to be funded, the Senior Review Team, FHWA Administrator, and the Secretary may apply the Statutory Selection Priorities and Additional Considerations independently from the original award process.

If an applicant submitted an application for funding under the FY 2022/2023 CFI Round 1 NOFO and was not selected, such applicant must notify FHWA by email to CFIGrants@dot.gov by July 1, 2024, if the applicant wishes for that application to be reconsidered for award using this reservation of funding. The applicant does not need to resubmit the Round 1 application, but needs only to notify the FHWA that the applicant wishes for the application to be reconsidered for award using this reservation of funding. Round 1 applicants seeking such reconsideration of their unawarded Round 1 application will not be permitted to modify, amend or supplement their Round 1 applications. To maximize chances of

obtaining an award, CFI FY2022/2023 unawarded applicants may request consideration under the reserved funds, and they may also submit a new application following the criteria outlined in this Round 2 NOFO. FHWA will not award more funding to any one project above the allowable Federal share.

Table of Contents

A. Program Description	183
1. Overview	183
2. Additional Information	205
3. Administration Priorities and Departmental Strategic Plan Priority Statements	216
B. Federal Award Information	227
1. Amount Available	22
2. Scalable Project Options	18
C. Eligibility Information	19
1. Eligible Applicants	19
2. Cost Sharing or Matching	25
3. Eligible Projects and Project Costs	27
4. Community Program - Eligibility Information	27
5. Corridor Program - Eligibility Information	29
D. Application and Submission Information	30
1. Address to Request Application Package	30
2. Content and Form of Application	31
3. Unique Entity Identifier and System for Award Management (SAM)	46
4. Submission Dates and Timelines	47
5. Intergovernmental Review	47
6. Funding Restrictions	47
7. Other Submission Considerations	49
E. Application Review Information	50
1. Selection Criteria	50
2. Review and Selection Process	65
3. Additional Information	67
F. Federal Award Administration Information	68
1. Award Notices	68
2. Administrative and National Policy Requirements	68
3. Reporting	76
G. Federal Awarding Agency Contacts	77
H. Other Information	78
1. Protection of Confidential Business Information	78
2. Publication/Sharing of Application Information	78
3. DOT Feedback on Applications	79

A. Program Description

1. Overview

The CFI Program was established by the Bipartisan Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act, Section 11401, Pub. L. 117–58, Nov. 15, 2021, codified at 23 U.S.C. § 151) with two grant categories, one for the Community Program and one for the Corridor Program. For a summary of funding available amounts, by source and fiscal year, please see the Summary section above.

The CFI Community Program and the CFI Corridor Program each have their own respective evaluation criteria and program requirements.

i. Community Program

Community Program grants are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to charging or alternative fueling infrastructure.

Under 23 U.S.C. § 151(f)(8), FHWA seeks to award Community Program Grants to eligible entities (listed in Section C.1.) for projects on any public road or in other publicly accessible locations that are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to publicly accessible EV charging infrastructure, or hydrogen, propane, or natural gas fueling infrastructure. Projects expanding access to charging and fueling infrastructure in rural areas,¹⁷ low- and-moderate income neighborhoods, and communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes shall be prioritized (23 U.S.C. § 151(f)(8)(F)).

¹⁷ For the purposes of the CFI Program, Urbanized Areas (UZA) with populations of less than 50,000 will be considered rural. For purpose of this notice, in defining urban and rural communities, DOT will rely on the Census Bureau 2020 definition of UA as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Website at: http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/

Infrastructure may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks,¹⁸ or in publicly accessible parking facilities owned or managed by a private entity (23 U.S.C. § 151(f)(8)(E)). If selected for an award, grant recipients may use funds to contract with a private entity¹⁹ that owns or manages parking facilities. Grant recipients may place charging and fueling infrastructure in parking garages, on-street parking locations, and other parking facilities that charge a parking fee. In addition, the grant recipient must ensure that all electric vehicle charging infrastructure funded as part of their grant includes any parking fee in their price structure and comply with 23 CFR 680.116(a)(3) and 23 CFR 680.116(c)(9).

ii. Corridor Program

Corridor Program grants are expected to support buildout of charging or alternative fueling infrastructure along designated AFCs.

Under 23 U.S.C. § 151(f)(6), FHWA seeks to award Corridor Program Grants to eligible entities (listed in Section C.1.) to contract with a private entity²⁰ for acquisition and installation of publicly accessible EV charging infrastructure, or hydrogen, propane, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle along designated AFCs. As of 2023, designated AFCs cover nearly 205,000 miles of the NHS and traverse rural and urban areas, Tribal lands, national parks, and underserved and disadvantaged communities. The CFI Program will assist State and local agencies, private industry, and other interested stakeholders to build an alternative fuels transportation network to better meet drivers' needs and improve the mobility of passenger and commercial vehicles that employ electric, hydrogen fuel

¹⁸ Use of parks must comply with DOT 4(f) requirements 23 U.S.C. 138, 49 U.S.C. 303, and 23 CFR part 774.

¹⁹ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

²⁰ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

cell, propane, and natural gas fueling technologies across the nation. The Corridor Program envisions a national AFC network that allows for inter-city, regional, and interstate travel using cleaner fuels, addresses driver range anxiety, integrates with existing transportation planning processes, and accelerates public interest and awareness of alternative fuel availability. This includes both light-duty passenger vehicles and medium/heavy-duty vehicles. Through this NOFO, FHWA seeks to solicit applications that enable these objectives while contributing to the broader objectives outlined below.

FHWA seeks to award projects in both urban and rural areas along designated AFCs to create a balance of publicly accessible electric charging and alternative fuel infrastructure. The EV charging infrastructure should be conveniently and safely located as close to the AFC as possible, and, in general, no greater than five miles from Interstate exits or highway intersections along designated corridors. Hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure is allowable no more than five miles from Interstate exits or highway intersections along the corridor. Infrastructure shall be located along a designated AFC under this section, on the condition that any affected Indian Tribes are consulted before the designation (23 U.S.C. § 151(f)(6)).

2. Additional Information

DOT is committed to considering project funding decisions holistically among the various discretionary grant programs available in BIL. DOT also recognizes that applicants may be seeking funding from multiple discretionary grant programs and opportunities. An applicant may seek the same award amounts from multiple DOT discretionary opportunities or seek a combination of funding from multiple DOT opportunities. The applicant should identify any other DOT programs and opportunities they have applied for and intend to apply for beyond the

CFI Program (or if the Federal funding is already available to the applicant including NEVI formula and NEVI 10 funds), and what award amounts they will be seeking, within their application. The CFI Community Program seeks to layer in a “dig once,” future-proofing approach to this substantial investment in charging and alternative fuel infrastructure. This “dig once” philosophy equates to maximizing the overall societal and economic benefits of a project while minimizing the cost and disruption of construction by considering and installing for current needs and as many of the reasonably foreseeable future needs as practicable. Examples may include, but are not limited to, communications and broadband conduits, duct banks, and adequate power distribution for multimodal vehicular charging.

In addition to personally owned electric and alternative fuel vehicles, this NOFO can enable electrified and alternative fueled shared mobility, active mobility, and other affordable transportation options by combining funding from the Community Grant Program with other public and private investments.

Applicants for the Corridor Program should ensure their applications, as they relate to EV infrastructure, align with their State’s NEVI Deployment Plan.

3. Administration Priorities and Departmental Strategic Plan Priority Statements

The DOT will consider funding projects that advance the Departmental priorities of safety, equity, climate and sustainability, and workforce development, job quality, and wealth creation as described in the [USDOT Strategic Plan](#)²¹, [the USDOT Research, Development and Technology Strategic Plan](#)²², and in executive orders.²³

²¹ <https://www.transportation.gov/mission/us-dot-strategic-plan-fy-2022-2026>

²² https://www.transportation.gov/sites/dot.gov/files/2023-01/USDOT%20RDT%20Strategic%20Plan%20FY22-26_010523_508.pdf

²³ E.O. 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

B. Federal Award Information

1. Amount Available

A total of up to \$800 million is available for awards for new applications solicited under this NOFO, which includes up to \$700 million in CFI Program funds, and up to \$100 million in NEVI 10 funds. For a summary of funding available amounts, by source and fiscal year, please see the Summary section above. The CFI grant awards will identify which fiscal year(s) funding is provided for the award.

All awards of FY 2024 and FY 2025 CFI Program funding are available for obligation through September 30, 2027, and September 30, 2028, respectively. Fiscal Year 2025 funds cannot be obligated before October 1, 2024. Once funds are obligated, CFI Program funds are available until expended. NEVI 10 funds are available until expended.

i. Community Program Award Information

A total of up to \$350 million in CFI Program funds appropriated for FY 2024 and 2025 are available through this NOFO for the Community Program. Additional awards may be made using FY 2025 NEVI 10 funds. The anticipated minimum award size is \$500,000 and the statutory maximum award amount is \$15 million (23 U.S.C § 151(f)(8)(I)). DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold above upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities.

ii. Corridor Program Award Information

EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). E.O. 14025, Worker Organizing and Empowerment (86 FR 22829), and E.O. 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335).

A total of up to \$350 million in CFI Program funds appropriated for FY 2024 and 2025 are available through this NOFO for the Corridor Program. Additional awards may be made using FY 2025 NEVI 10 funds. The anticipated minimum award size is \$1 million and there is no statutory maximum award size under this NOFO. The DOT reserves the discretion to consider award sizes under the anticipated minimum award size threshold above upon receiving the full pool of applications and assessing the needs of the program in relation to grant priorities.

***iii. Reserved Funding Award Information - Additional Awards of Applications
Previously Submitted under FY2022/2023 CFI Round 1 NOFO***

A total of up to \$400 million in FY 2024 CFI funding and up to \$21.2 million in FY 2023 and up to \$100 million in FY 2024 NEVI 10 funds is available to fund applications previously submitted under the FY 2022/2023 CFI Round 1 NOFO, that were not selected for awards. For more information, see the opening Summary section of this NOFO. Any funding not needed under this reserve will be made available for awards to CFI Round 2 new applications.

2. Scalable Project Options

Applicants to both Community and Corridor programs are encouraged to propose projects that are scalable and identify scaled funding options in case insufficient funding is available to fund an applicant's project at the full requested amount. For example, if a portion of the total project could be constructed and opened for functional public use, with the remainder of the total project constructed at a later time, please state such in the application, including the cost, brief scope, and scheduling needs for initial/scaled project. If an applicant advises that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget

would be affected by a reduced award. DOT may award a lesser amount whether or not a scalable option is provided.

C. Eligibility Information

1. Eligible Applicants

To be selected for a grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project that meets the minimum project amount listed above in Section B.1.i. for the Community Program and Section B.1.ii. for the Corridor Program. Ownership structures of potential applicants vary significantly across the country. Therefore, an entity must evaluate the list of eligible applicants and demonstrate in their application that they are eligible for an award. If awards are made using NEVI 10 funds, then eligible applicants will be limited to State and local governments, per statute.

Eligible Applicants	Community Program 23 U.S.C. § 151(f)(8)(C)	Corridor Program 23 U.S.C. § 151(f)(3)	NEVI 10 (Community or Corridor)
A State ²⁴ or political subdivision of a State	X	X	X
A metropolitan planning organization	X	X	
A unit of local government	X	X	X
A special purpose district or public authority with a transportation function, including a port authority	X	X	
An Indian Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304)) ²⁵	X	X	
A territory of the United States	X	X	
An authority, agency, or instrumentality of, or an entity owned by, 1 or more entities as listed above	X	X	
A group of entities as listed above	X	X	

²⁴ The term “State” means any of the 50 States, the District of Columbia, or Puerto Rico 23 U.S.C. § 101(a)(28).

²⁵ The term “Indian” means a person who is a member of an Indian Tribe 25 U.S.C. § 5304(d). The term “Indian Tribe” means any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians 25 U.S.C. § 5304(e).

A State or local authority with ownership of publicly accessible transportation facilities	x		x
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The application must be submitted by one lead eligible applicant. If a group (two or more) of eligible entities above submits a joint application, the group must identify a lead applicant to serve as prime awardee in the event an award is made. The prime awardee will serve as the primary point of contact and be responsible for financial administration of the project. Joint applications should include a description of the roles and responsibilities of each eligible applicant and should be signed or include a letter of support by each eligible applicant.

The lead applicant may propose other organizations (such as a private entity²⁶) as part of their application. Generally, such other organizations would fall into a sub-recipient or contractor role as defined in 2 CFR 200.331. If possible, the applicant should identify anticipated sub-recipients or contractors in the application. The 2 CFR 200 Procurement Standards apply to contractor awards but not to sub-recipient awards.²⁷ If the relationship reflects a sub-recipient relationship under 2 CFR 200.331, then the requirements for pass-through entities in 2 CFR 200.332 apply.

Applications with a lead applicant that is not one of these statutory eligible applicants will be deemed ineligible and will not be evaluated to determine if the application contains a statutorily eligible project.

2. Cost Sharing or Matching

The Federal share of the cost of a project carried out with CFI Program funds under both programs shall not exceed 80 percent of the total project cost (23 U.S.C. § 151(f)(10)). Cost sharing or matching is required, with the maximum Federal share being 80 percent of the total

²⁶ “Private entity” means a corporation, partnership, company, or nonprofit organization (23 U.S.C. § 151(f)(1)).

²⁷ See the Contracting and Subgrants section of the CFI Q and A at https://www.fhwa.dot.gov/environment/cfi/cfi_faqs.pdf

cost of the project. Awardees must provide at least 20 percent of the total project cost (not 20 percent of the Federal share) as a matching share. Additional information on cost share can be found at 2 CFR 200.306 -- Cost sharing or matching and FHWA's guidance on Non-Federal Matching Requirements.²⁸²⁹ DOT will not consider previously incurred costs, previously expended or encumbered funds, or any CFI Program funds received towards the matching requirement for any project.

Eligible entities are required to contract with a private entity under the Corridor Program and are permitted to contract with a private entity under the Community Program.³⁰

Under the CFI Program, a "private entity" means a corporation, partnership, company, or nonprofit organization. (23 U.S.C. § 151(f)(1)). As per 23 U.S.C. 151(f)(10), the Federal share for the cost of a project carried out with these grants shall not exceed 80 percent.³¹ Where a recipient contacts a private entity for the services specified in the statute (for Corridor, the recipient must contract with a private entity for the acquisition and installation of EV charging infrastructure and for Community, the recipient may contract with a private entity for the acquisition, construction, installation, maintenance, or operation of EV Charging infrastructure), the statute requires that the private entity shall contractually agree to pay the non-Federal share of the project cost carried out with CFI Program funds that is not paid by the Federal Government. Accordingly, the recipient must demonstrate it has taken best efforts to require the private entity to contractually pay for the non-Federal share. If a recipient is able to demonstrate

²⁸ https://www.fhwa.dot.gov/legisregs/directives/policy/fedaaid_guidance_nfmr.pdf

²⁹ <https://www.transportation.gov/grants/dot-navigator/understanding-non-federal-match-requirements>

³⁰ For NEVI 10, BIL Title VIII of Division J provides that recipients "may" use funds to contract with private entities and that private entities "may" pay the non-Federal share of the cost of a project.

³¹ Note: The cost share requirement may be met with other Federal funding only if authorized in the statute of the other Federal funding. If there is no express language stating that the funding can be used as a match on other Federal awards, then the Federal funding cannot be used for the non-Federal cost share. Under this NOFO, Tribes are allowed to satisfy the non-Federal match requirements using Tribal Transportation Program funds.

that, despite its best efforts, a contract is unable to be executed with the private entity to pay the non-Federal share, FHWA will not consider the recipient to be in violation of the grant agreement pursuant to 23 CFR 1.36. However, the CFI Grant Recipient remains ultimately responsible for ensuring the non-Federal cost share is met for the project.³²

3. Eligible Projects and Project Costs

Each of the two funding opportunities has different statutory rules for what kinds of projects are eligible for funding. More information about Eligible Projects and Project Costs for each program is listed below in Section C.4 and C.5. Applications will be considered for the funding program indicated and supported in the application. Applicants that do not include statutorily eligible projects will not be evaluated for the selection criteria.

4. Community Program - Eligibility Information

Community Program grants are expected to reduce greenhouse gas emissions and to expand or fill gaps in access to charging or alternative fueling infrastructure.

Community Program – Eligible Projects

- Community Program grants may be awarded to any project that is expected to reduce greenhouse gas emissions and to expand or fill gaps in access to eligible infrastructure.
- Eligible infrastructure is a publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure.³³ Propane fueling infrastructure is limited to infrastructure for medium- and heavy-duty vehicles.³⁴

³² Note: The cost share requirement may be met with other Federal funding only if authorized in the statute of the other Federal funding. If there is no express language stating that the funding can be used as match on other Federal awards, then the Federal funding cannot be used for the non-Federal cost share. Under this NOFO, Tribes are allowed to satisfy the non-Federal match requirements using Tribal Transportation Program funds.

³³ 23 U.S.C. § 151(f)(8)

³⁴ 23 U.S.C. § 151(f)(7)

- Projects may be located on any public road or in other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.³⁵
- Both Direct Current Fast Charging and Alternating Current Level 2 chargers are eligible under the CFI Community Program.

Community Program – Eligible Project Costs

- Acquisition and installation of eligible infrastructure (as defined above). An applicant that receives a CFI grant for installation of eligible infrastructure may also use grant funds for:
 - Any related construction or reconstruction and the acquisition of real property directly related to the project.³⁶
 - Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.³⁷
 - Contracting with a private entity for the acquisition, construction, installation, maintenance, or operation of eligible infrastructure included in the project.³⁸

Operating assistance shall be limited to costs allocable to operate and maintain the eligible infrastructure and service, and may not exceed the amount of a contract to acquire and install eligible infrastructure.³⁹
- Educational and community engagement activities to develop and implement education programs through partnerships with schools, community organizations, and vehicle

³⁵ 23 U.S.C. § 151(f)(8)(E)

³⁶ 23 U.S.C. § 151(f)(8)(D)(ii)

³⁷ 23 U.S.C. § 151(f)(8)(D)(i)

³⁸ 23 U.S.C. § 151(f)(8)(H)

³⁹ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

dealerships to support the use of zero-emission vehicles and associated infrastructure (may not exceed more than 5 percent of the grant amount awarded).⁴⁰

5. Corridor Program - Eligibility Information

Corridor Program grants are expected to support buildout of charging or alternative fueling infrastructure along designated AFCs.⁴¹

Corridor Program – Eligible Projects

- Corridor Program grants must be awarded to any project that contracts with a private entity for acquisition and installation, or operation, of eligible infrastructure.
- Eligible infrastructure is publicly accessible electric vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle.⁴² Propane fueling infrastructure is limited to infrastructure for medium- and heavy-duty vehicles.⁴³
- Projects must be located along an alternative fuel corridor designated under this section, on the condition that any affected Indian Tribes are consulted before the designation.⁴⁴
- EV charging infrastructure should be conveniently and safely located as close to the AFC as possible, and, in general, no greater than five miles from Interstate exits or highway intersections along designated corridors.⁴⁵
- Hydrogen fueling infrastructure, propane fueling infrastructure, and natural gas fueling infrastructure should be conveniently and safely located as close to the AFC as possible, and,

⁴⁰ 23 U.S.C. § 151(f)(8)(K)

⁴¹ For more information on AFC's https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/

⁴² 23 U.S.C. § 151(f)(6)(A)

⁴³ 23 U.S.C. § 151(f)(7)

⁴⁴ 23 U.S.C. § 151(f)(6)(B)

⁴⁵ In order to be designated as an AFC for EV charging, FHWA criteria provides that the EV charger be located within 1 travel mile of the highway. For purposes of this NOFO, with respect to the Corridor Program, FHWA will consider applications along designated AFCs for EV chargers up to 5 miles off the highway.

in general, no greater than five miles from Interstate exits or highway intersections along designated corridors.

Corridor Program – Eligible Project Costs

- Contracting with a private entity for acquisition and installation of eligible infrastructure (as defined above).⁴⁶
- Providing a private entity with operating assistance for the first 5 years of operations after the installation of eligible infrastructure while the facility transitions to independent system operations.⁴⁷ Operating assistance shall be limited to costs allocable to operate and maintain the eligible infrastructure and service, and may not exceed the amount of a contract to acquire and install eligible infrastructure.⁴⁸
- An applicant that receives a CFI grant for acquisition and installation, or operations, of eligible infrastructure may also use grant funds for acquisition and installation of traffic control devices located in the right-of-way to provide directional information to eligible infrastructure included in the project.⁴⁹
- Preliminary engineering, engineering, and design-related services directly relating to the construction of a highway project, including engineering, design, project development and management, construction project management and inspection.⁵⁰

D. Application and Submission Information

1. Address to Request Application Package

All application materials may be found on Grants.gov. Once at Grants.gov, select the Search Grants tab. Then enter one of the following:

⁴⁶ 23 U.S.C. § 151(f)(6)(A)

⁴⁷ 23 U.S.C. § 151(f)(6)(C)(i)

⁴⁸ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

⁴⁹ 23 U.S.C. § 151(f)(6)(D)(ii)

⁵⁰ 23 U.S.C. § 101(a)(4)

- Opportunity Number: 693JJ324NF00017
- Opportunity Name: Charging and Fueling Infrastructure Discretionary Grant Program
- Assistance Listing Number: 20.205

When at one of these pages, select the CFI Opportunity, which will open to a page with several tabs. The first tab is a synopsis of the opportunity. The Related Documents tab is the Full Announcement (the NOFO document), NOFO Amendments, and supporting documents added by DOT such as FAQs. The Package tab allows you to preview the forms needed to submit an application. The red Subscribe button allows applicants to register to receive notice by email when DOT updates or adds to the opportunity page. The red Apply button allows applicants to apply using Grants.gov. Applicants should use the Grants.gov Workspace to create and submit the application. See Grants.gov for training on using Grants.gov Workspace.

For a Telephone Device for the Deaf (TDD), please call (202) 366-3993. If potential applicants are unable to download the application package from the internet, they may send a written request for a paper copy to the below address. Requests should be sent to:

CFIGrants@dot.gov

2. Content and Form of Application

All applications must be submitted electronically through [Grants.gov](https://www.grants.gov). The application must include: (1) STANDARD FORMS; and (2) APPLICATION SUPPORT. See instructions below.

(1) STANDARD FORMS: The following are mandatory:

- Standard Form 424 (Application for Federal Assistance)
- Standard Form 424C (Budget Information for Construction Programs)
- Standard Form 424D (Assurances for Construction Programs)
- Standard Form LLL (Disclosure of Lobbying Activities)

- Project Abstract Summary
- Attachments (Use this form to add APPLICATION SUPPORT file(s))

(2) APPLICATION SUPPORT: A narrative document no more than 25 pages that addresses the following items i.-iv. which are detailed below. In Grants.gov, please submit the APPLICATION SUPPORT as one PDF file if possible.

- i. Project Narrative
- ii. Budget Information
- iii. Project Merit Criteria
- iv. Project Readiness and Environmental Risk

i. Project Narrative

FHWA recommends that the project narrative be prepared with standard formatting preferences (i.e., a single-spaced document, using a standard 12-point font such as Times New Roman, with 1-inch margins). If possible, Website links to supporting documentation should be provided rather than copies of these supporting materials. If supporting documents are submitted, applicants should clearly identify within the project narrative the relevant portion of the project narrative that each document supports. FHWA recommends using appropriately descriptive final names (e.g., Project Narrative, Maps, Geospatial Data, Project Budget) for all attachments.

Also, in the project narrative, applicants should describe how the project addresses the following areas as well as the additional project narrative information that is specified below. DOT specifies that the project narrative follow the outline below. Following the outline will also assist evaluators in locating the relevant information.

Community Program

I. Description of project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, geospatial data describing the project location(s) (e.g., ESRI shapefiles, latitude/longitude coordinates, intersections, specific addressees, etc.), the number of EV charging ports/alternative fueling dispensers expected at each project site, and how traffic safety considerations will be addressed for vehicles entering and leaving the site. Applicants should provide as much information as possible for the location of the project site(s) and the number of the number of EV charging ports/alternative fueling dispensers, keeping in mind the award is limited to the project and location as described in the application. If there is some uncertainty regarding the location or number of EV charging ports/alternative fueling dispensers, this should be described in detail in the application and the potential sites and the number of EV charging ports/alternative fueling dispensers discussed.

Applicants must address how their project appropriately mitigates any safety risks introduced by the project. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should include how their project will not negatively impact the overall safety of the traveling public. Applicants should also consider the National Roadway Safety Strategy (NRSS)⁵¹ when addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach. This description should also detail how the access is in compliance with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.).

II. Description of how the project expands community-based infrastructure or fills gaps in access by equitably expanding the deployment of publicly available EV charging infrastructure,

⁵¹ <https://www.transportation.gov/NRSS>

or hydrogen, propane or natural gas fueling infrastructure in community locations, located on any public road or in any other publicly accessible locations, such as parking facilities at public buildings, public schools, and public parks, or in publicly accessible parking facilities owned or managed by a private entity.

III. Additional Project Narrative Information. FHWA is interested in community charging and fueling deployment projects in several focus areas. As applicable, applicants are encouraged to indicate which focus area(s) their proposed project address(es) and how the project benefits the community and improves access to EV and alternative fueling infrastructure. In addition, in association with the focus areas specified, applicants are encouraged to note whether the project would expand alternative fueling/charging access to rural areas, low- and moderate- income neighborhoods, and/or underserved or hard to reach communities where the private sector may not invest absent Federal funding.

More than one category can be identified.

- Neighborhood and Multi-Family Charging: Provide convenient, affordable access to charging infrastructure in public or shared private locations within walking distance of where future EV owners live, potentially including multi-family properties and curbside installations in urban neighborhoods. Projects should seek to advance low-cost solutions with light construction when possible (e.g., pole-based charging) and take advantage of charge management technology to minimize site power requirements. Charging projects in this category are likely to be Level 2 installations (alternating current charging no more than 19.2 kW per port) given proximity to homes with long duration charging potential and challenges associated with upgrading electric service in

dense neighborhoods. However, applicants are allowed to propose direct current fast charging solutions when appropriate. Projects should address innovative ways to navigate challenges such as curbside access, reservation/convenient availability, reliability, and management of limited spaces. The DOT encourages collaboration between applicants, right-of-way (ROW)/property owners, and electric utilities during the application, installation, and maintenance of charging infrastructure.

- Multi-Modal Hubs and Shared-Use Fleets and Services: Seek to connect or promote rental vehicle, taxi, carshare, ride-share, ride-hail, bicycle, micromobility, microtransit, and other electrified or alternative fuel multi-passenger or active mobility options that provide alternatives to individual vehicle ownership.

Projects may also seek to connect national freight corridors with local delivery providers and fleets, such as urban depots charging for light- and medium-duty vehicles.

- Multi-Purpose Workplace and Destination Charging: Destination charging that corresponds to locations where vehicles are likely to be parked for an extended period of time facilitates convenience and often allows for lower-power, low-cost charging. Many of these locations, when publicly accessible, can serve multiple purposes allowing employees, customers, or visitors to use a location to both park and charge their vehicle and creating additional utility to these locations in both rural and urban communities. Projects should seek to identify these commonly used popular locations to increase access to charging

and facilitate low-cost, lower power charging. Charging speeds should be aligned with typical parking times for a given location, allowing drivers to depart with a meaningful increase in driving range.

- **Community Fleets and Freight:** Enable local medium- and heavy-duty electrification and alternative fuel use for Class 3 through Class 8 Vehicle fleets for use cases including, but not limited to municipal services, first-mile/last-mile, and hybrid deployments that combine dedicated infrastructure for medium- and heavy-duty vehicles with co-deployed charging for light-duty passenger vehicles. The deployment of these projects should align with Phases 1, 2, or 3 of the National [Zero Emission Freight \(ZEF\) Corridor Strategy](#), as specified in the Appendix for each Phase.

Corridor Program

I. Description of project location, including a detailed geographical description of the proposed project, a map of the project's location and connections to existing transportation infrastructure, geospatial data describing the project location(s) (e.g., ESRI shapefiles, latitude/longitude coordinates, intersections, specific addresses, etc.), the number of EV charging ports/alternative fueling dispensers expected at each project site, and how traffic and pedestrian safety considerations will be addressed for users accessing the site and nearby destinations. Applicants should provide as much information as possible about the location of the project site(s) and the number of EV charging ports/alternative fueling dispensers, keeping in mind the award is limited to the project and location as described in the application. If there is some uncertainty regarding the location or number of EV charging ports/alternative fueling dispensers, this should be described in detail in the application and the potential sites and EV charging

ports/alternative fueling dispensers discussed. As described in section V below, Corridor program applicants should identify availability of on-site amenities.

Applicants must address how their project appropriately mitigates any safety risks introduced by the project for all users, including pedestrians accessing nearby destinations. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should include how their project will ensure safety of all users and not negatively impact the overall safety of the traveling public. Applicants should also consider the NRSS⁵² when addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach.

II. Description of how public accessibility of charging or fueling infrastructure proposed to be funded with a grant under this subsection has been considered, including charging or fueling connector types and publicly available information on real-time availability and payment methods to ensure secure, convenient, fair, and equal access.⁵³

III. Description of outcomes from collaborative engagement with stakeholders (including automobile manufacturers, utilities, infrastructure providers, technology providers, electric charging, hydrogen, propane, and natural gas fuel providers, metropolitan planning organizations, States, Indian Tribes, and units of local governments, fleet owners, shared mobility operators, fleet managers, fuel station owners and operators, labor organizations, infrastructure construction and component parts suppliers, and multi-State and regional entities) that address the following for EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure:

⁵² <https://www.transportation.gov/NRSS>

⁵³ (23 U.S.C. § 151 (f)(4)(A)(i))

- Foster enhanced, coordinated, public-private or private investment;
- Expand deployment;
- Protect personal privacy and ensure cybersecurity; and
- Ensure that a properly trained workforce is available to construct and install infrastructure (23 U.S.C. § 151 (f)(4)(A)(ii)).

IV. Identify whether the location of the station or fueling site considered the following:

- The availability of onsite amenities for vehicle operators, such as restrooms or food facilities. Applicants are encouraged to identify other onsite and nearby amenities such as WiFi availability and protection from the weather;
- Access in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);
- Height and fueling capacity requirements for facilities that charge or refuel large vehicles, such as semi-trailer trucks; and
- Appropriate distribution to avoid redundancy and fill charging or fueling gaps (23 U.S.C. § 151 (f)(4)(A)(iii)).

V. Details to ensure infrastructure installation that can be responsive to technology advancements, such as accommodating autonomous vehicles, vehicle-to-grid technology, and future charging methods (23 U.S.C. § 151 (f)(4)(A)(iv)).

VI. Discussion about the long-term operation and maintenance of the EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, to avoid stranded assets and protect the investment of public funds in that

infrastructure (23 U.S.C. § 151 (f)(4)(A)(v)).⁵⁴ For example, applicants could include data such as fuel supply availability (e.g., the specific electric utility tariff(s) under which the applicant intends to take service), expected average use levels over time, and long-term operation and maintenance agreements.

VII. Assessment of the estimated emissions that will be reduced through the use of EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure, which shall be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) CFI Emissions tool⁵⁵ developed by Argonne National Laboratory (or a successor tool) (23 U.S.C. § 151 (f)(4)(B)).

VIII. Description of how the project improves the AFCs by expanding the deployment of public EV charging infrastructure, particularly DC fast charging infrastructure or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs. The application should indicate how the project: (1) will contribute to the conversion of corridor-pending corridors to corridor-ready corridors by filling infrastructure gaps; (2) will help meet current or anticipated excess demand for corridor charging or alternative fueling infrastructure; and (3) will provide infrastructure to support greater adoption of light- or medium- and heavy-duty alternative fuel vehicles.

IX. Additional Project Narrative Information. Applicants should specify the reasons for which CFI Corridor Program funding is being requested and demonstrate that the proposed project is not duplicative with the NEVI Formula Program or previous FHWA CFI awards. FHWA is interested in corridor charging and fueling deployment projects in several focus areas. As applicable, applicants are encouraged to indicate which focus area(s) their proposed project

⁵⁴ Also see 23 CFR § 680.106(i)

⁵⁵ [AFLEET CFI Tool \(anl.gov\)](https://afleet.anl.gov)

address(es) and how the project contributes to the build-out of a national corridor network. More than one category can be identified.

- Demonstrate Build-Out of AFCs: Expand deployment of EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along designated AFCs. Infrastructure projects of interest can expand existing or add new charging and fueling infrastructure for light-duty, medium-duty, and heavy-duty vehicles.
- Zero Emission Corridors for Medium- and Heavy-Duty Vehicles: Enable zero emission movement of goods, connect distribution hubs, and connect population centers. Projects may also seek to connect national freight corridors with local delivery providers and fleets, such as urban depot charging for light- and medium-duty vehicles. Projects may also leverage other funding for alternative fuel infrastructure at ports or depots along corridors. The deployment of these projects should align with Phases 1 or 2 of the National [Zero Emission Freight \(ZEF\) Corridor Strategy](#)⁵⁶ Medium- and heavy-duty infrastructure applications should include explicit fleet commitments to use the infrastructure.
- Long Dwell Time Locations Along AFCs: Charging and fueling infrastructure that correlates to locations where vehicles are parked for extended periods of time can enhance driver convenience and, in some cases, significantly reduce costs. In the case of EV charging, long dwell time locations can meet driver demands and reduce the potential electric demand of EVs through lower power

⁵⁶ driveelectric.gov/files/zef-corridor-strategy.pdf

charging. Many long dwell time locations, such as small downtowns, hotels/motels, park and ride facilities, parks, and campgrounds are located along corridors and can facilitate convenient, affordable travel.

FOR BOTH PROGRAMS

For both the Community Program and Corridor Program the project narrative should provide information as to how innovative payment approaches (such as contactless technology, mobile wallets, bundling with transit discounts and other benefits programs, etc.) will be used to ensure that low- and zero-emission transportation options are accessible to diverse populations, including the unbanked and underbanked. To the extent practicable, applicants should provide supporting data and documentation in a form that is directly verifiable by FHWA. FHWA may, but is not required to, request supplementary information, including additional data, to clarify supporting data and documentation submitted in an application, but FHWA encourages applicants to submit the most relevant and complete information they can provide. Supplementary information may be requested to determine with which category of grant the application best aligns. To ensure a fair and unbiased evaluation of applications submitted under this NOFO, FHWA will not request additional information to perfect incomplete applications.

FOR BOTH PROGRAMS

ii. Budget Information: Grant Funds, Sources and Uses of All Project Funding

Describe your overall budget and how funds will be spent on various portions of the project(s). Provide a budget narrative explaining each element of cost contained in the Standard Form 424C. Categorize your budget into uses such as project planning and development (such as costs for meaningful public involvement), ROW/acquisition costs, installation costs, operation costs, maintenance costs, educational activity costs, etc. The estimated amount of funds or percentages of funds to be spent in each category should be indicated as well as which entity is responsible for each cost. This section should also include any operating subsidies that will be

sought or have been obtained for EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure. However, identified operating subsidies are not subject to program limitations for operating assistance (i.e., operating assistance may not exceed the amount of a contract to acquire and install eligible infrastructure⁵⁷) unless the funding source for the operating subsidy is through Title 23.

Describe your cost share and how you will satisfy the cost share requirements of the NOFO Section C.2.

Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds, the applicant is applying for, has been awarded, or intends to use. Funding sources should be grouped into three categories: non-Federal, CFI Program, and other Federal with specific amounts from each funding source. The applicant should identify any named or planned sub-recipients or contractors in the application and describe compliance with or intention to comply with 2 CFR 200.

Provide a table showing the following as applicable: (1) the Federal funding requested for activities that are pre-NEPA and/or do not require NEPA approval; and (2) the Federal funding requested for activities that are post-NEPA approval (i.e., final design, ROW, construction).

For purposes of this NOFO and consistent with Title 23, the term construction is defined at 23 U.S.C. §101(a)(4), in part, as the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a highway or any project eligible for assistance under this title, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by

⁵⁷ 23 U.S.C. § 151(f)(6)(C)(ii-iii)

the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.⁵⁸

The Standard Form 424C should be supported by a budget narrative explaining each element of cost.⁵⁹

FHWA reserves the right after an application is selected for award, to request additional supporting information and or documentation for purposes of confirming that costs proposed are allowable (2 CFR 200.403), reasonable (2 CFR 200.404) and allocable (2 CFR.405).

Except for the information properly marked as described in Section H., the Department may share application information within the Department or with other Federal Agencies if the Department determines that sharing is relevant to the respective program's objectives.

iii. Project Merit Criteria

The applicant should describe how the proposal meets the Project Merit Criteria list in Section E.1.iv.

iv. Project Readiness and Environmental Risk

⁵⁸ The 23 U.S.C. §101(a)(4) definition of construction continues to provide the following examples of what is included in the term: (A) assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services; assessing resilience, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services; (B) reconstruction, resurfacing, restoration, rehabilitation, and preservation; (C) acquisition of ROW; (D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing; (E) elimination of hazards of railway-highway grade crossings; (F) elimination of roadside hazards; (G) improvements that directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas; (H) improvements that reduce the number of wildlife-vehicle collisions, such as wildlife crossing structures; and (I) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.

⁵⁹ After applications are selected for award, the Government reserves the right to request from the applicant/selectee supporting information and/or documentation for the purpose of confirming that the elements of cost contained in the proposed budget are Allowable (2 CFR 200.403), Reasonable (2 CFR 200.404), and Allocable (2 CFR 200.405).

The application should include information that, when considered with the project budget information, is sufficient for FHWA to evaluate whether the project is reasonably expected to begin in a timely manner, and obligate awards before the deadline. To assist FHWA's determination of project readiness, application information should include:

- A detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed;
- Discussion of energy source and storage needs, such as (1) a description of engagement or plans to engage with relevant utility providers to date, (2) whether utility upgrades will be needed to complete the project, and if other types of upgrades are needed, (3) whether utility designs have begun, been submitted, or are final;
- An assessment of real property and ROW acquisition necessary for the project or a statement that no acquisition is necessary;
- Information about the inclusion of this project (or a plan to having this project included) in the relevant State, metropolitan, and local planning documents⁶⁰;
- Any project approvals already obtained, including whether site assessments have taken place and whether permits have been issued or applied for;
- Identification of known or anticipated project risks and how they will be addressed;
- Discussion about any coordination or public engagement that has been completed or is on-going regarding this project;

⁶⁰ The planning requirements applicable to the Federal-aid highway program apply to all CFI Program Grant projects. In accordance with 23 U.S.C. §§ 134 and 135, all projects requiring an action by FHWA must be in the applicable plan and programming documents (e.g., metropolitan transportation plan, transportation improvement program (TIP), and statewide transportation improvement program (STIP)). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. Inclusion in the STIP is required under certain circumstances. To the extent a project is required to be on a metropolitan transportation plan, TIP, or STIP, it will not receive a grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans to receive a grant.

- Discussion about intentions for Disadvantaged Business Enterprise (DBE) participation or engagement;
- Discussion of how equity and accessibility requirements will be met;
- An anticipated project timeline or anticipated project milestone dates;
- Information about how 23 CFR Part 680 requirements, published on February 28, 2023, will be included; and
- Any other information that will demonstrate project readiness.

The application should also include information about the expected or anticipated environmental impacts of the project. To assist FHWA's environmental risk assessment, application information should include any National Environmental Policy Act (NEPA) reviews or approvals and permits that have already been completed or an anticipated timeline to obtain the necessary approvals and permits for the project. For more information on NEPA, see Section F.2.: Administrative and National Policy Requirements.

3. Unique Entity Identifier and System for Award Management (SAM)

Effective April 4, 2022, the Data Universal Numbering System (DUNS) number is no longer required for entities doing business with the Federal Government and has been replaced by the SAM UEI. As of that date, applicants are required to use a UEI issued during the SAM.gov registration process. Active registrants in SAM.gov have had their SAM UEI automatically assigned and it is currently viewable within SAM.gov. There is no additional action necessary for registered entities to take to obtain their SAM UEI. Each applicant is required to:

- Be registered in SAM before submitting their application;
- Provide a valid UEI in their application; and

- Continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by a Federal awarding Agency.

Please see <https://www.grants.gov/web/grants/applicants/applicant-faqs.html#UEI> for more information on the transition from DUNS to SAM UEI, including what UEI to enter into the UEI field on Grants.gov and on application package forms.

The FHWA may not make a Federal award to an applicant until the applicant has complied with all applicable UEI and SAM requirements. If an applicant has not fully complied with the requirements by the time the Federal awarding Agency is ready to make a Federal award, the Federal awarding Agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

NOTE TO APPLICANTS: The SAM.gov requires the registrant to provide a UEI number to complete the registration. These processes can take several weeks to complete so should be started well before the application deadline.

4. Submission Dates and Timelines

Applications must be submitted electronically through Grants.gov no later than 11:59 p.m., Eastern Time on **AUGUST 28, 2024**.

5. Intergovernmental Review

The CFI Program is not subject to the Intergovernmental Review of Federal Programs under EO 12372.

6. Funding Restrictions

Pre-CFI Program Grant award costs (costs incurred prior to execution of a grant agreement or authorization in Financial Management Information Systems) will not be reimbursed.

Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

i. Community Program

Under 23 U.S.C. § 151(f)(8)(K), grant funds may be used for educational and community engagement activities (e.g., projects to educate consumers on the availability of new charging and fueling to address range anxiety; projects that work with communities to identify their needs for new charging and fueling infrastructure) to develop and implement education programs through partnerships with schools, community organizations, and vehicle dealerships to support the use of zero-emission vehicles and associated infrastructure; however, this cost is capped at no more than 5 percent of the grant amount the recipient is awarded. As in the Corridor Program, under 23 U.S.C. § 151(f)(7), projects for propane fueling are limited to infrastructure for medium- and heavy-duty vehicles.

ii. Corridor Program

Under 23 U.S.C. § 151(f)(6)(A), grant funds shall only be used to contract with a private entity⁶¹ for acquisition and installation of publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure that is directly related to the charging or fueling of a vehicle. As per 23 U.S.C. § 151(f)(6)(C)(i-iii), operating assistance costs allocable to operating and maintaining publicly available EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for the first 5 years of operations after the installation are allowable while the facility transitions to independent system operations and those costs may not exceed the amount of the contract to acquire and install publicly accessible

⁶¹ The Federally Funded Research and Development Centers, including the National Renewable Energy Laboratory, are ineligible to be contracted as a private entity under this grant program.

charging or fueling infrastructure. Under 23 U.S.C. § 151(f)(6)(D)(i)-(iii), costs for the acquisition and installation of traffic control devices located in the ROW to provide directional information to publicly accessible EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure acquired, installed, or operated is limited to applicants that receive a grant and are using that grant for the traffic control devices and that cost may not exceed the amount of the contract to acquire and install publicly accessible charging or fueling infrastructure. Per 23 U.S.C. § 151(f)(7), projects for propane fueling are limited to infrastructure for medium- and heavy-duty vehicles.

7. Other Submission Considerations

i. Consideration of Applications

Only applicants who comply with all submission deadlines described in this NOFO and electronically submit valid applications through Grants.gov will be eligible for award. Applicants are strongly encouraged to make submissions in advance of the deadline.

ii. Late Applications

Applications received after the deadline will not be considered except in the case of unforeseen technical difficulties outlined below. Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must provide email notification to CFIgrants@dot.gov prior to the application deadline with the username of the registrant and details of the technical issue experienced. The applicant must provide:

- Details of the technical issue experienced;
- Screen capture(s) of the technical issues experienced along with corresponding Grants.gov "Grant tracking number";

- The “Legal Business Name” for the applicant that was provided in the SF-424;
- The Point of Contact name submitted in the SF-424;
- The UEI associated with the application; and
- The Grants.gov Help Desk Tracking Number.

To ensure a fair competition of limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) failure to complete the Grants.gov and UEI registration processes before the deadline; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Website; (3) failure to follow all instructions in this NOFO; and (4) technical issues experienced with the applicant’s computer or information technology environment.

After FHWA reviews all information submitted and contacts the Grants.gov Help Desk to validate reported technical issues, FHWA staff will contact late applicants to approve or deny a request to submit a late application through Grants.gov. The FHWA will not accept appeals of FHWA’s decision to approve or deny a request for a late application. If the reported technical issues cannot be validated, late applications will be rejected as untimely.

iii. Compliance with Section 508 of the Rehabilitation Act of 1973

The DOT encourages applicants to submit documents that are compliant with Section 508 of the Rehabilitation Act of 1973. Section 508 guidelines are available at <https://www.access-board.gov/ict/>.

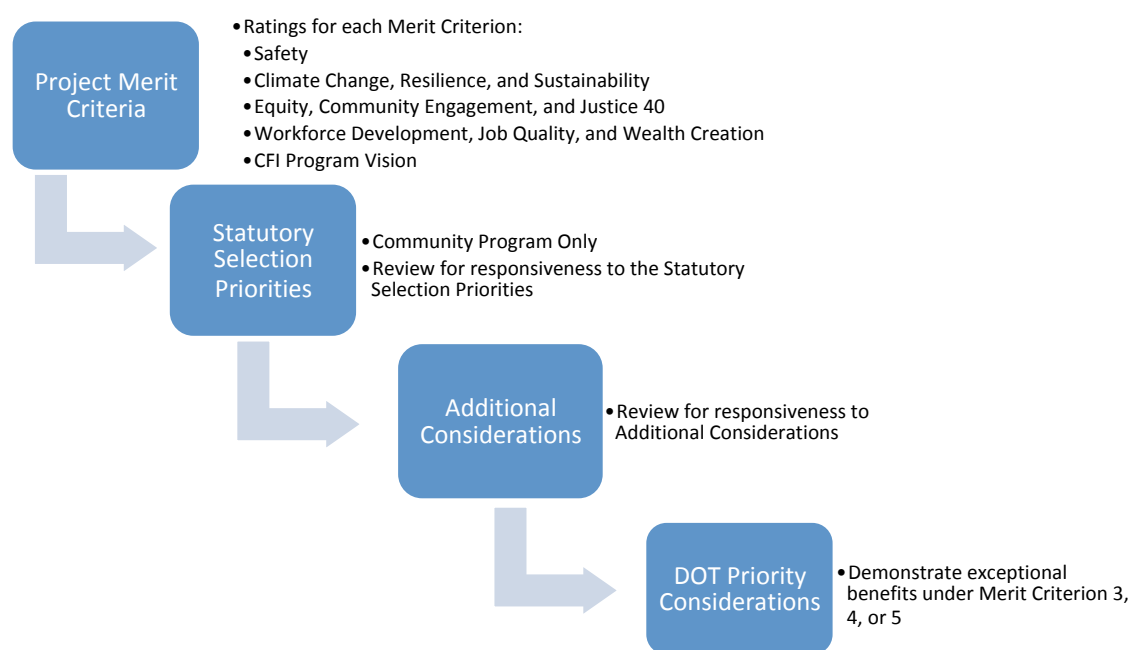
E. Application Review Information

1. Selection Criteria

i. Community Program

The FHWA will award CFI Community Program Grants based on screening of applicable eligibility requirements followed by evaluation of the Project Merit Criteria (Section E.1.iv.), Statutory Selection Priorities (Section E.1.v.), Additional Considerations (Section E.1.vi.), and DOT Priority Considerations (Section E.1.vii.) as shown in Figure 1, below and described in this Section.

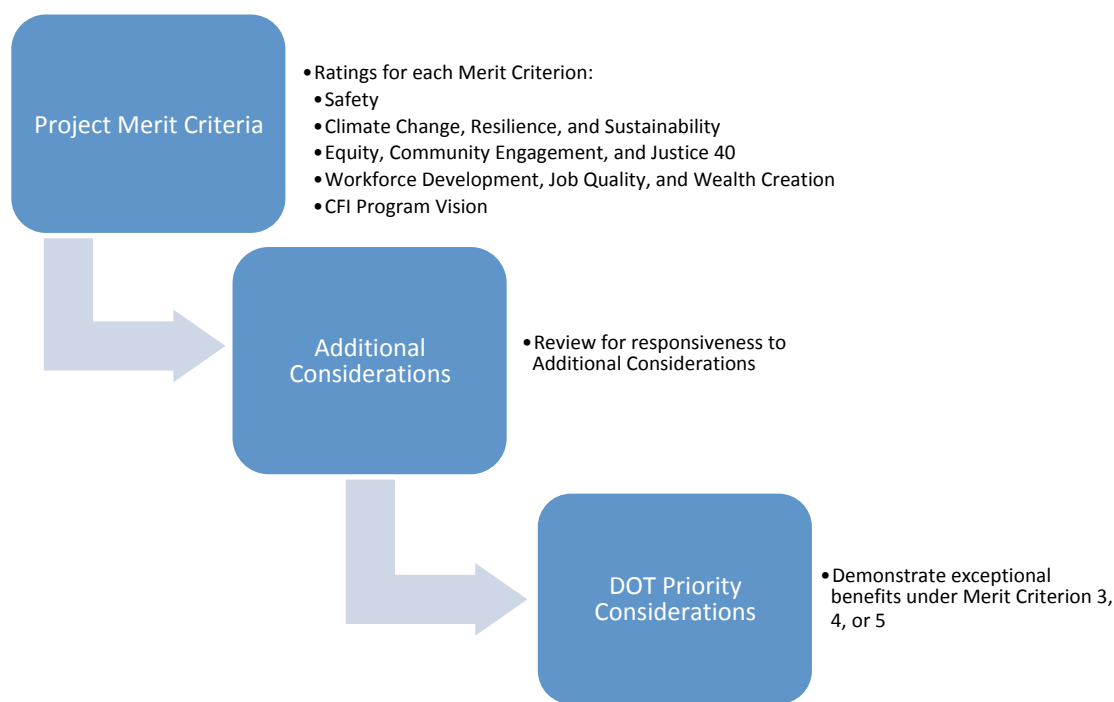
Figure 1: Community Program Selection Criteria for Eligible Projects



ii. Corridor Program

The FHWA will award CFI Corridor Program Grants based on screening of applicable eligibility requirements, followed by evaluation of the Project Merit Criteria (Section E.1.iv.), Additional Considerations (Section E.1.vi.), and DOT Priority Considerations (Section E.1.vii.) as shown in Figure 2, below and described in this Section.

Figure 2: Corridor Program Evaluation for Eligible Projects



iii. Overall Application Rating

If a project does not meet the applicable eligibility requirements (Section C.), the application will not be further evaluated. Based on evaluation of the Project Merit Criteria listed below, DOT will assign each eligible project an overall rating of highly recommended, recommended, or not recommended for each of the grant programs for which the applicant is applying. A **Highly Recommended** project is one that meets all statutory eligibility criteria, receives a rating of Highly Qualified in at least 3 of the 5 Project Merit Criteria described below, receives at least a rating of Qualified for each of the Project Merit Criteria described below. A **Recommended** project is one that meets all statutory eligibility criteria and receives at least a rating of Qualified for each of the Project Merit Criteria described below. A **Not Recommended** project is one that does not meet one or more of the statutory eligibility criteria or receives a

rating of Not Qualified for any of the Project Merit Criteria described below. When a project is determined to be Not Recommended at any time during the review, DOT will discontinue further evaluation under remaining criteria.

iv. Project Merit Criteria

The DOT has designated five project criteria which will be used to evaluate and rate the merit of an application, as follows.

a. Criterion 1 Safety

Applicants must address how their project appropriately mitigates any safety risks introduced by the project. Prior to receiving funds, all projects are expected to, at a minimum, identify and mitigate to the extent practicable any significant safety risks that could result after the project completion. Applicants should address how their project will not negatively impact the overall safety of the traveling public. Applicants should also consider the NRSS⁶² when addressing how the projects will support the goal of achieving zero roadway death through a Safe Systems Approach.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all):	The application demonstrates that the project will (must demonstrate at least one):	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items:
(1) Provide positive safety benefits for all users; <u>AND</u> (2) Does not negatively impact safety for all users; <u>AND</u> (3) Promote safety through design.	(1) Provide positive safety benefits for all users; <u>OR</u> (2) Does not negatively impact safety for all users; <u>OR</u> (3) Promote safety through design.	(1) Provide positive safety benefits for all users; (2) Does not negatively impact safety for all users; <u>OR</u> (3) Promote safety through design.

⁶² <https://www.transportation.gov/NRSS>

b. Criterion #2 Climate Change, Resilience, and Sustainability

Applicants must address how the project will consider climate change, resilience, and environmental justice in the planning stage and in project delivery. Applicants are encouraged to use the [DOT Navigator Climate checklist](#) in responding to this criteria. In particular, applicants must address the extent to which the project reduces greenhouse gas emissions in the transportation sector, incorporates evidence-based climate resilience measures and features, advances objectives in the [National Climate Resilience Framework](#), and reduces the lifecycle greenhouse gas emissions from the project materials. Applicants also must address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, endangered species, and resiliency to natural disasters, with a focus on prevention, response, and recovery.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all): (1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET ⁶³ to estimate emission reductions required; AND (2) Incorporate	The application demonstrates that the project will (must demonstrate at least one): (1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET to estimate emission reductions required; OR (2) Incorporate evidence-based climate resilience measures or	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items: (1) Significantly reduce greenhouse gas emissions in the transportation sector. For the Community Program, although not required, applicants are encouraged to use tools to demonstrate estimated emission reductions and explain the significance of reductions. For the Corridor Program, the use of AFLEET

⁶³ Corridor Program emissions estimates must be conducted using the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) CFI Emissions tool developed by Argonne National Laboratory (or a successor tool) (23 U.S.C. § 151 (f)(4)(B)). [AFLEET CFI Tool \(anl.gov\)](#)

evidence-based climate resilience measures or features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; <u>AND</u> (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>AND</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.	features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; <u>OR</u> (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>OR</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.	to estimate emission reductions required; (2) Incorporate evidence-based climate resilience measures or features, and addresses the Federal Flood Risk Mitigation Standard as updated by EO 13690, as appropriate; (3) Consider climate change, resilience, and environmental justice in project planning and delivery; <u>OR</u> (4) address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.
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c. Criterion #3 Equity, Community Engagement, and Justice⁴⁰

Applicants must address how their project will include an equity assessment which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations in a project area. To be highly qualified, applicants should demonstrate that 40 percent of funds received under this program will benefit disadvantaged communities using the Climate and Economic Justice Screening Tool (CEJST),⁶⁴ considering the following parameters based on community type. Projects will be considered to benefit disadvantaged communities if

⁶⁴ <https://screeningtool.geoplatform.gov/>

they are 1) within Tribal lands owned by Federally Recognized Tribes, 2) within a rural community (outside of a census defined urbanized area), 3) within a disadvantaged community in a census defined urbanized area, or 4) within a ½-mile buffer of a disadvantaged community in a census defined urbanized area. Applicants should demonstrate how meaningful public involvement⁶⁵, inclusive of disadvantaged communities, will occur throughout a project’s life cycle. Projects should demonstrate, to the extent possible, that outcomes should target benefits towards disadvantaged communities. Applicants should address how project benefits will increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, and improve access to resources and quality of life.

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all): (1) include an equity analysis which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations in a project area. Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; AND (2) include meaningful public engagement throughout a project’s life cycle AND (3) increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, or improve access to resources and quality of life; AND (4)	The application demonstrates that the project will (must demonstrate at least one): (1) include an equity analysis which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations in a project area. Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; OR (2) include meaningful public engagement throughout a project’s life cycle OR (3) increase affordable transportation options, improve safety, connect Americans to good-paying jobs, fight climate change, or improve access to resources and quality of life; OR (4)	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items: (1) include an equity analysis which evaluates whether a project will create proportional impacts and remove transportation related disparities to all populations in a project area Applicants must use the CEJST in their assessment to demonstrate benefits towards disadvantaged communities; (2) include meaningful public engagement throughout a project’s life cycle; (3) increase affordable transportation options, improve safety, connect Americans to good-paying

⁶⁵ <https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making>

enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; <u>AND</u> (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project <u>OR</u> indicate that this is not relevant; <u>AND</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates greater public and private investments and strategies in land-use productivity, including rural main street revitalization or increase in the production or preservation of location-efficient housing.	enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; <u>OR</u> (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project <u>OR</u> indicate that this is not relevant; <u>OR</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates greater public and private investments and strategies in land-use productivity, including rural main street revitalization or increase in the production or preservation of location-efficient housing.	jobs, fight climate change, or improve access to resources and quality of life; (4) enable all people within the multimodal transportation networks to reach their desired destination safely, affordably, and with a comparable level of efficiency and ease; (5) address, as applicable, the unique challenges rural and Tribal communities face related to mobility and economic development, including isolation, transportation cost burden, and traffic safety (consistent with DOT's Rural Opportunities to Use Transportation for Economic Success (ROUTES) initiative) if geographically relevant to the project <u>OR</u> indicate that this is not relevant; <u>OR</u> (6) incorporate and support integrated land use, economic development and transportation planning to improve the movement of people and goods and local fiscal health, facilitates greater public and private investments and strategies in land-use productivity, including rural main street revitalization or increase in the production or preservation of location-efficient housing.
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d. Criterion #4 Workforce Development, Job Quality, and Wealth Creation

Applicants must address how their project will create good-paying jobs with free and fair choice to join a union, including through the use of project labor agreements, promote investments in

high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); and adopt local and economic hiring preferences for the project workforce or include other changes to hiring policies and workplace cultures to promote the entry and retention of underrepresented populations.⁶⁶ Applicants should address how the project promotes local inclusive economic development and entrepreneurship, including prioritizing the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.⁶⁷

Highly Qualified	Qualified	Not Qualified
The application demonstrates that the project will (must demonstrate all): (1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards including, but not limited to the use of project labor agreements; <u>AND</u> (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with convictions, etc.); <u>AND</u> (3)	The application demonstrates that the project will (must demonstrate at least one): (1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards including, but not limited to the use of project labor agreements; <u>OR</u> (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in infrastructure jobs (people with disabilities, people with	The application contains insufficient information to allow reviewers to assess whether the project will demonstrate any of the following items: (1) create good-paying jobs with free and fair choice to join a union and expand strong labor standards including, but not limited to the use of project labor agreements; (2) promote investments in high-quality workforce development programs with supportive services to help train, place, and retain people in good-paying jobs or registered apprenticeships, with a focus on women, people of color, and others that are underrepresented in

⁶⁶ <https://www.fhwa.dot.gov/construction/hiringpreferences/qanda060822/>

⁶⁷ Nothing in this criterion is intended to conflict with DOT's DBE Program regulations at 49 CFR part 26. The use of DBE or firms that may be certified for participation in other applicable Federal, State, or local programs must be consistent with DOT DBE.

use hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>AND</u> (4) promote local inclusive economic development and entrepreneurship such as the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.	convictions, etc.); <u>OR</u> (3) utilize hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>OR</u> (4) promote local inclusive economic development and entrepreneurship such as the use of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.	infrastructure jobs (people with disabilities, people with convictions, etc.); (3) use hiring policies and provide a workplace culture to promote the entry and retention of underrepresented populations; <u>OR</u> (4) promote local inclusive economic development and entrepreneurship such as the utilization of DBEs, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.
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e. Criterion #5 CFI Program Vision

Applicants must describe how their project will fulfill the CFI Program Vision by expanding the deployment of EV charging and alternative fuels through community-based infrastructure in the Community Program and Alternative Fueling Corridor Networks in the Corridor Program.

Highly Qualified	Qualified	Not Qualified
For Community Programs, A. The application demonstrates the project <u>WILL</u> : (1) equitably expand the deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities, parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial	For Community Programs, A. The application demonstrates the project <u>MAY</u> : (1) equitably expand the deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities, parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial districts, tourism destinations	For Community Programs, A. The application contains insufficient information to allow reviewers to assess whether the project <u>WILL</u> or <u>MAY</u> demonstrate any of the following items: (1) equitably expand the deployment of public EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure in publicly accessible locations for use by the community, including but not limited to local businesses; retail centers; municipal and local community sites; intermodal transportation facilities,

districts, tourism destinations and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; AND (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application demonstrates that the project <u>will address one of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-purpose workplace and destination charging; OR (4) community fleets and freight. <u>OR</u> For Corridor Programs, A. The application demonstrates the project <u>WILL</u>: (1) expand deployment of public DC fast charge EV charging port infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of	and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; OR (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application demonstrates that the project <u>may address one of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-purpose workplace and destination charging; OR (4) community fleets and freight. <u>OR</u> For Corridor Programs, A. The application demonstrates the project <u>WILL</u>: (1) expand deployment of public DC fast charge EV charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of charging or fueling	parking facilities, multimodal hubs, multiunit dwellings, workplaces, commercial districts, tourism destinations and cultural sites; public parks and recreational destinations, and other frequented site host locations in the local community; OR (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling pumps to be constructed at each project site. B. In addition, the application <u>contains insufficient information to allow reviewers to assess whether the project WILL or MAY demonstrate any of the following focus areas</u> in Section D.2.i.: (1) neighborhood and multi-family charging; (2) multi-modal hubs and shared-use fleets and services; (3) multi-purpose workplace and destination charging; OR (4) community fleets and freight. <u>OR</u> For Corridor Programs, A. The application contains insufficient information to allow reviewers to assess whether the project <u>WILL</u> or <u>MAY</u> demonstrate any of the following items: (1) expand deployment of public DC fast charge EV
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charging or fueling infrastructure that would be unlikely to be completed without Federal assistance; AND (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application demonstrates that the project <u>WILL address one of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; OR (2) zero emission corridors for medium- and heavy-duty vehicles; OR (3) long dwell time locations along AFCs.	infrastructure that would be unlikely to be completed without Federal assistance; OR (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application demonstrates that the project <u>MAY address one of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; OR (2) zero emission corridors for medium- and heavy-duty vehicles; OR (3) long dwell time locations along AFCs.	charging infrastructure, or hydrogen, propane or natural gas fueling infrastructure along FHWA-designated AFCs that would enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance; OR (2) identify and describe the characteristics of the project location(s) and state the expected number of EV charging ports or alternative fueling dispensers to be constructed at each project site. B. In addition, the application <u>contains insufficient information to allow reviewers to assess whether the project WILL or MAY demonstrate any of the following focus areas</u> in Section D.2.i.: (1) demonstrate build-out of AFCs; OR (2) zero emission corridors for medium- and heavy-duty vehicles; OR (3) long dwell time locations along AFCs.
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v. Statutory Selection Priorities – Community Program Only

The Statutory Selection Priorities only apply to projects for the CFI Community Program:

- (1) Priority goes to projects that expand access to EV vehicle charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within rural areas (23 U.S.C. § 151(f)(8)(F)(i));

- (2) Priority goes to projects that expand access to EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within low- and moderate-income neighborhoods (23 U.S.C. § 151(f)(8)(F)(ii)); and
- (3) Priority goes to projects that expand access to EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure within communities with a low ratio of private parking spaces to households or a high ratio of multiunit dwellings to single family homes, as determined by the Secretary (23 U.S.C. § 151(f)(8)(F)(iii)).

vi. Additional Considerations

Community Program Considerations

For the Community Program, DOT will then consider the extent to which the project complements and does not duplicate existing Federal investments such as those in the NEVI Formula Program, contribute to geographic diversity among eligible entities, including achieving a balance between urban and rural communities⁶⁸ and the extent to which the project meets current or anticipated market demands for charging or fueling infrastructure, including faster charging speeds with high-powered capabilities necessary to minimize the time to charge or refuel current and anticipated vehicles.⁶⁹ DOT will also consider, based on the application, whether the project is reasonably expected to begin in a timely manner, obligate awards before the deadline, and how quickly they are planned to be completed and made available for use by the traveling public.

Corridor Program Considerations

⁶⁸ 23 U.S.C. § 151(f)(8)(G)(i)

⁶⁹ 23 U.S.C. § 151(f)(8)(G)(ii)

After completing the merit review, for the Corridor Program, DOT will consider the extent to which the projects complement and do not duplicate existing Federal investments such as those in the NEVI Formula Program and improve alternative fueling corridor networks by converting corridor-pending corridors to corridor-ready corridors or in the case of corridor-ready corridors, providing redundancy (aa) to meet excess demand for charging or fueling infrastructure; or (bb) to reduce congestion at existing charging or fueling infrastructure in high-traffic locations⁷⁰ through identification of existing⁷¹ and planned⁷² locations. The DOT will consider the extent to which a project would meet current or anticipated market demands for corridor charging or alternative fueling infrastructure,⁷³ would support a long-term competitive market for charging or alternative fueling and does not significantly impair existing charging and infrastructure providers⁷⁴ through an analysis of the estimated charging or alternative fueling demand at the proposed infrastructure locations coordinated to avoid infrastructure overlap. The DOT will consider the extent to which the project would enable or accelerate the construction of charging or fueling infrastructure that would be unlikely to be completed without Federal assistance⁷⁵ as a result of meaningful public engagement with communities that have lacked private investment in vehicle charging or alternative fuel infrastructure. The DOT will consider the extent to which the project would deploy EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure for medium- and heavy-duty vehicles (including along the [National Highway Freight Network](#) established under section 167(c) and in proximity to intermodal transfer stations⁷⁶ by identifying if the

⁷⁰ 23 U.S.C. § 151(f)(5)(A)(i)(I) and (II) (aa) and (bb)

⁷¹ <https://afdc.energy.gov/station>

⁷² https://www.fhwa.dot.gov/environment/nevi/ev_deployment_plans/

⁷³ 23 U.S.C. § 151(f)(5)(A)(ii)

⁷⁴ 23 U.S.C. § 151(f)(5)(A)(iv)

⁷⁵ 23 U.S.C. § 151(f)(5)(A)(iii)

⁷⁶ 23 U.S.C. § 151(f)(5)(A)(vi)

proposed infrastructure would be located at, near, or enroute to an intermodal coastal or inland port facility, and if yes, describe whether and how the proposed charging or alternative fuel infrastructure will be designed and scaled to accommodate medium- and heavy-duty alternative fuel vehicles. The DOT will consider the extent to which projects support the National Zero-Emission Freight Corridor Strategy⁷⁷ and the FHWA Freight Electric Vehicle Corridor designations⁷⁸. The DOT will consider the extent to which the project would ensure, to the maximum extent practicable, geographic diversity among grant recipients to ensure that EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure is available throughout the United States.⁷⁹ The DOT will also consider the extent to which the private entity that the eligible entity contracts for an eligible project (i) submits to the Secretary the most recent year of audited financial statements and (ii) has experience in installing and operating EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas fueling infrastructure⁸⁰ as evidenced by discussion in the narrative and provided resumes (not to exceed 2 pages per resume) for key participating team members. The DOT will also consider the extent to which, to the maximum extent practicable, the eligible entity and the private entity that the eligible entity contracts for an eligible project enter into an agreement (i) to operate and maintain publicly available EV charging infrastructure, hydrogen fueling infrastructure, propane fueling infrastructure, or natural gas infrastructure and (ii) that provides a remedy and an opportunity to cure if the requirements described in clause (i) are not met.⁸¹ DOT will also consider, based on the application, whether the project is reasonably expected to begin in a timely manner, obligate awards before the

⁷⁷ driveelectric.gov/files/zef-corridor-strategy.pdf

⁷⁸ https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/freight_ev_corridors/

⁷⁹ 23 U.S.C. § 151(f)(5)(B)

⁸⁰ 23 U.S.C. § 151(f)(5)(C)(i) and (ii)

⁸¹ 23 U.S.C. § 151(f)(5)(D)(i) and (ii)

deadline, and how quickly they are planned to be completed and made available for use by the traveling public.

vii. DOT Priority Considerations

The following are DOT Priority Considerations for the CFI Program, which apply to BOTH the Community and Corridor Programs. After completing the project merit review, DOT will prioritize Highly Recommended projects and Recommended projects that are responsive to the applicable Statutory Selection Priorities (Community Program only) and Additional Considerations, and that demonstrate exceptional benefits under Merit Criterion #3 Equity, Community Engagement, and Justice⁴⁰, Merit Criterion #4 Workforce Development, Job Quality, and Wealth Creation, and/or Merit Criterion #5 CFI Program Vision.

2. *Review and Selection Process*

The FHWA will evaluate applicants for the CFI Program Grants in accordance with the evaluation process described below. The FHWA CFI Program Manager will conduct an application intake and eligibility review by providing an initial eligibility screening based on the respective statutory eligibility criteria under Section C of the NOFO. Only eligible projects will be evaluated against the selection criteria described above.

i. Review Process

The FHWA will establish a Technical Review Team to review each eligible application for Community and Corridor funding categories. The Technical Review Team may be composed of individuals from FHWA Office of Planning, Environment and Real Estate, other FHWA Offices, Office of the Secretary, other DOT Administrations, the Joint Office of Energy and Transportation, and the U.S. Department of Energy. They will review each application against the Project Merit Criteria to assign an overall rating of “Highly Recommended,” “Recommended,” or “Not Recommended,” as defined under Section E.1.iv. to each application.

After assignment of the overall rating, the Technical Review Team will prioritize the Highly Recommended and Recommended applications for responsiveness to the Statutory Selection Priorities (Community Program only), Additional Considerations, and DOT Priority Considerations as described under Section E.1.v-vii.

ii. Selection Process

The Technical Review Team will send to the FHWA Senior Review Team (SRT) the overall project rating for each grant application and the evaluation of responsiveness to the Statutory Selection Priorities (Community Program only), Additional Considerations, and DOT Priority Considerations for Highly Recommended and Recommend projects.

The FHWA SRT will determine which projects to advance to the FHWA Administrator as recommended for funding. The FHWA Administrator will determine which projects to advance to the Secretary, through the Under Secretary for Transportation Policy, as recommended for funding. The FHWA SRT will be the same for CFI and NEVI-10 Programs described in this NOFO.

The FHWA SRT will determine which Highly Recommended projects to advance to the FHWA Administrator. The FHWA SRT may also recommend for selection Recommended projects that are responsive to the Statutory Selection Priorities (Community Program only), Additional Considerations, and one or more of the DOT Priority Considerations. When recommending a Recommended project over a Highly Recommended project, the FHWA SRT will select Recommended projects by considering how well the project addressed the Statutory Selection Priorities (Community only), Additional Considerations and Project Merit Criteria. The FHWA SRT will also consider the number of merit criteria rated Highly Qualified and endeavor to ensure a geographically diverse award of projects when recommending a

Recommended project over a Highly Recommended project. The FHWA Administrator will determine which Highly Recommended projects, and any Recommended projects, to advance to the Secretary after considering the FHWA SRT recommendations including the responsiveness to the DOT Priority Considerations. The FHWA Administrator may advise the Secretary on options for reduced awards under either the Community or the Corridor Program.

The Secretary makes final project selections and will select among the projects advanced by the FHWA Administrator. The Secretary's selections identify the applications that best address the CFI Program Vision for Community and Corridor Grants, Project Merit Criteria, Statutory Selection Priorities (for Community Program), Additional Considerations, and DOT Priority Considerations.

3. Additional Information

The FHWA may, during the selection process, enter into discussions with an applicant that may include mutually agreeing upon a lesser amount of a potential award than originally requested in the application if necessary due to the quantity, size, and scope of the applications received in response to this NOFO and the results of the application review process. Discussions may include scalable project options as described under Section B.2. of this NOFO.

Prior to award, each selected applicant will be subject to a risk assessment as required by 2 CFR 200.206. The DOT must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM. An applicant may review information in SAM.gov and comment on any information about itself that a Federal awarding Agency previously entered. The FHWA will consider comments by the applicant, in addition to the other information in SAM.gov, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Award Notices

Following the evaluation outlined in Section E., the Secretary will announce awarded projects by posting a list of selected projects at [CFI - Environment - FHWA \(dot.gov\)](https://www.fhwa.dot.gov/cfi-environment/).

Notice of selection is not authorization to begin performance or to incur costs for the proposed project. Following that announcement, FHWA will contact the point of contact listed in the SF 424 to initiate negotiation of the project agreement for authorization. Recipients of CFI Program Grant awards will not receive lump-sum cash disbursements at the time of award announcement or obligation of funds. Instead, FHWA will reimburse CFI Program Grant funds to recipients only after a project agreement has been executed, allowable expenses are incurred, and valid requests for reimbursement are submitted. Unless authorized by FHWA in writing after FHWA's announcement of FY 2022 and FY 2023 CFI Program awards, any costs that a recipient incurs before FHWA executes a project agreement for that recipient's project are ineligible for reimbursement and are ineligible match for cost share requirements.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by DOT at 2 CFR Part 1201. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR, shall apply to awards provided under this program. Awards are subject to all applicable Federal laws, rules, and regulations, including the Uniform Relocation and Real Property Acquisition Act (42 U.S.C. §§ 4601 et seq.; 49 CFR part 24) and National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 et seq.; 40 CFR parts 1500 – 1508; 23 CFR part 771). Applicants should consider the appropriate level of review under NEPA. Eligible CFI projects are generally the type of actions that would not be expected to

result in significant environmental impacts. Several NEPA Categorical Exclusions (CE) may be applicable including those found at 23 CFR 771.117(c) and (d), depending on the scope of the action and the CE's conditions. One example of a CE that may apply to projects under this grant is the CE 23 CFR 771.117 (c)(23), however other CEs or other NEPA requirements may apply. In addition, DOT has adopted the Department of Energy's (DOE's) Electric Vehicle Charging Stations CE and it also may apply to projects under this NOFO.⁸² Before a CE determination can be applied, the action must be analyzed to determine whether there are project impacts to natural, community, or historical resources (i.e., unusual circumstances that would require further analysis to determine whether the CE classification is appropriate (see 23 CFR 771.117(a-b)).

In connection with any program or activity conducted with or benefiting from funds awarded under this NOFO, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget (OMB). In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FHWA determines that a recipient has failed to comply with applicable Federal requirements, FHWA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

⁸² <https://www.federalregister.gov/documents/2023/09/20/2023-20238/notice-of-adoption-of-electric-vehicle-charging-stations-categorical-exclusion-under-the-national>

EO 14005 directs the Executive Branch Departments and Agencies to maximize the use of goods, products, and materials produced in, and services offered in, the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grant recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. Any grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carriers Safety Regulations (FMCSR), or vehicles that are exempt from FMVSS or FMCSR in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

Critical Infrastructure Security, Cybersecurity, and Resilience: It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats, consistent with the National Security Memorandum on Critical Infrastructure Security and Resilience (NSM-22) and the National Security Memorandum on Improving Cybersecurity for Critical Infrastructure Control Systems (NSM-5). Each applicant selected for Federal funding under this NOFO must demonstrate, prior to the signing of the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by the Department and the U.S. Department of Homeland Security, will be required to do so before receiving funds for construction. Information on cybersecurity performance goals can be found at <https://www.cisa.gov/cpg>. These performance goals provide a baseline set of cybersecurity practices broadly applicable across critical infrastructure with known risk-reduction value, a benchmark for critical infrastructure operators

to measure and improve their cybersecurity maturity, and a combination of recommended practices for IT and OT owners, including a prioritized set of security practices. Additionally, funding recipients must be in compliance with 2 CFR § 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.

Domestic Preference Requirements: As expressed in EO 14005, ‘Ensuring the Future Is Made in All of America by All of America’s Workers’ (86 FR 7475), the executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Funds made available under this NOFO are subject to the domestic preference requirement at Build America, Buy America Act (Pub. L. No 117-58, div. G §§ 70901–70927). The Department expects all applicants to comply with that requirement. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

Civil Rights and Title VI: As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR part 21), the ADA, and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. The DOT’s and the applicable Operating Administrations’ Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

Federal Contract Compliance: As a condition of grant award and

consistent with EO 11246, EEO (30 FR 12319, and as amended), all federally-assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing EO 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. The OFCCP will identify projects that receive an award under this NOFO and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally-assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on the DOL Website: [Construction Compliance Frequently Asked Questions | U.S. Department of Labor \(dol.gov\)](#).

The applicability of Federal requirements to a project may be affected by the scope of the NEPA reviews for that project. For example, under 23 U.S.C. § 313(g), Buy America requirements apply to all contracts that are eligible for assistance under title 23, United States Code, and are carried out within the scope of the NEPA finding, determination, or decision regardless of the funding source of such contracts if at least one contract is funded with Title 23

funds. As another example, ADA regulations and Section 504 of the Rehabilitation Act of 1973 regulations apply to all projects funded under this NOFO.

Performance and Program Evaluation: As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT or another Agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The DOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an Agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges Federal awarding Agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency.” 5 U.S.C. § 311. Credible program evaluation activities are implemented with

relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation (2 CFR Part 200).

Project Signage and Public Acknowledgements: Recipients are encouraged for construction and non-construction projects to post project signage and to include public acknowledgments in published and other collateral materials (e.g., press releases, marketing materials, website, etc.) satisfactory in form and substance to DOT, that identifies the nature of the project and indicates that “the project is funded by the Bipartisan Infrastructure Law.” In addition, recipients employing project signage are required to use the official Investing in America emblem in accordance with the Official Investing in America Emblem Style Guide. Costs associated with signage and public acknowledgments must be reasonable and limited. Signs or public acknowledgments should not be produced, displayed, or published if doing so results in unreasonable cost, expense, or recipient burden. The Recipient is encouraged to use recycled or recovered materials when procuring signs.

Climate Change and Environmental Justice Impact Consideration: Each applicant selected for CFI Program funding must demonstrate effort to consider climate change and environmental justice impacts as described in Section E.1.b. Projects that have not sufficiently considered climate change and environmental justice in their planning, as determined by the

DOT, will be required to do so before receiving funds for construction, consistent with EO 14008, *Tackling the Climate Crisis at Home and Abroad* (86 FR 7619).⁸³

Equity and Barriers to Opportunity: Each applicant selected for CFI Program Grant funding must demonstrate effort to improve equity and reduce barriers to opportunity. Projects that have not sufficiently considered equity and barriers to opportunity in their planning, as determined by DOT, will be required to do so before receiving funds for construction, consistent with EO 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (86 FR 7009).⁸⁴

Davis-Bacon Act: Recipients of an award under this program are also required to comply fully with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148; 23 U.S.C. § 109(s)(2); 23 U.S.C. § 113(a)), which requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by an award made available under this program, be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor.

DBE Program: Recipients of an award under this program are also required to comply fully with the DBE Program, which is a legislatively mandated DOT program that applies to Federal-aid highway dollars expended on federally-assisted contracts issued by DOT recipients in order to ensure nondiscrimination in the award and administration of DOT-assisted contracts, help remove barriers to the participation of DBEs in DOT-assisted contracts, and assist in the

⁸³ An illustrative example of how these requirements are applied to recipients can be found here: <https://cms.buildamerica.dot.gov/buildamerica/financing/infra-grants/infra-fy21-fhwa-general-terms-and-conditions>

⁸⁴ An illustrative example of how these requirements are applied to recipients can be found here: <https://cms.buildamerica.dot.gov/buildamerica/financing/infra-grants/infra-fy21-fhwa-general-terms-and-conditions>

development of firms that can compete successfully in the marketplace outside of the DBE Program. The DBE Program was most recently reauthorized by the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141). Note that the DBE program requirements do not apply to projects funded with NEVI 10 funds.

Compliance with 23 CFR Part 680: Recipients of an award under this program are also required to comply fully with applicable sections of the National Electric Vehicle Infrastructure Standards and Requirements (23 CFR Part 680), which has certain requirements for EV charging infrastructure, including installation, operation, and maintenance requirements, interoperability and connectivity standards, minimum uptime requirements, data submission requirements, as well as certain data fields that must be made available, free of charge, to third-party software developers, via application programming interface.⁸⁵ This regulation also has certain requirements for the workforce installing, maintaining, and operating EV chargers to have appropriate licenses, certifications, and training to ensure that the installation and maintenance of EV chargers is performed safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers.⁸⁶ Installation, maintenance and operations of infrastructure for other fuel types is encouraged to follow a similar approach and utilize a skilled workforce with appropriate licenses, certifications, and training.

3. Reporting

i. Progress Reporting on Grant Activities

Each applicant selected for CFI Program Grant funding must submit quarterly progress reports and Federal Financial Reports (SF-425) to monitor project progress and ensure accountability and financial transparency in the CFI Program grant process. Each applicant

⁸⁵ [EV Charging Minimum Standards Rule as Submitted to Federal Register for Publication \(Unofficial\) \(dot.gov\)](#)

⁸⁶ 23 CFR 680.106(j)

selected for CFI Program Grant funding will also be subject to applicable reporting and data submission requirements in 23 CFR 680.112(a)-(c) and 23 CFR 680.116(c).

ii. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding Agencies exceeds \$10 million for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Pub. L. No. 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Pub. L. No. 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

iii. Other

FHWA reserves the right to request additional information, if deemed needed, to better understand the status of the project. The successful applicant will provide additional financial reporting beyond the semi-annual reporting, if such statements are necessary to address FHWA's Stewardship and Oversight responsibility of the funds. The successful applicant also agrees to allow periodic project inspections and FHWA will provide NOFO for such inspections.

G. Federal Awarding Agency Contacts

For questions concerning this NOFO and the CFI Program, please Email CFIGrants@dot.gov.

A TDD is available for individuals who are deaf or hard of hearing at (202) 366-3993.

Office hours are from 7:30 a.m. to 4:00 p.m., Eastern Time, Monday through Friday, except Federal holidays.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the applicant submits information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may cross-reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it “Contains Confidential Business Information (CBI)”; (2) mark each page that contains confidential information with “CBI”; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. DOT will protect confidential information complying with these requirements to the extent required under applicable law. If FHWA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FHWA will follow the procedures described in its FOIA regulations at 49 CFR 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

2. Publication/Sharing of Application Information

Following the completion of the selection process and announcement of awards, FHWA may publish a list of all applications received along with the names of the applicant

organizations and funding amounts requested. Except for the information properly marked as described in Section H., FHWA may make application narratives publicly available or share application information within DOT or with other Federal Agencies if FHWA determines that sharing is relevant to the respective program's objectives.

3. DOT Feedback on Applications

Feedback by FHWA is available as a courtesy to applicants not selected for award to receive information .



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE WEST PUEBLO URBAN RENEWAL PLAN

SUMMARY:

This Ordinance makes certain legislative findings that approves the West Pueblo Urban Renewal Plan and establishes the West Pueblo Urban Renewal Area.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 10128, dated February 28, 2022, the City Council approved a multi-party Intergovernmental Agreement (the IGA) for a major project that includes approval of the proposed West Pueblo Urban Renewal Plan (the Plan) prepared by the Pueblo Urban Renewal Authority (PURA).

BACKGROUND:

The IGA authorizes the City to cooperate with the other parties to plan a significant community-wide development project featuring (1) a new Detention Facility containing approximately 182,000 square feet constructed and operated by Pueblo County to serve both the City and the County and (2) the extension of Joe Martinez Boulevard from Purcell Boulevard in Pueblo West to Pueblo Boulevard. The Detention Facility will include secure housing, kitchen and laundry, support spaces such as administration, recreation, storage, and related programs. It is planned to be a modular unit design that can be expanded as needed in the future. The road and traffic improvements plan consist of a four lane, 3.1-mile roadway with a planned design speed of 45 MPH. It will have limited vehicular access between Purcell Boulevard and Pueblo Boulevard to facilitate the movement of traffic and to encourage its use as an alternative to Highway 50 West for access to and from the City.

The Plan is being undertaken in accordance with a procedure that permits unincorporated area adjacent to the Plan area within the City to be included in the Plan. Permitted uses for properties in the Plan area are those allowed in the City of Pueblo

Land Use Code for annexed parcels and uses allowed in the Pueblo County Land Use Code for unincorporated parcels. The County Commissioners are scheduled to approve the Plan at its meeting on September 17, 2024. All property in unincorporated Pueblo County will be annexed into the City as the Plan is being carried out and as a condition of extending City water and sewer service into such areas.

The County will pay for the bulk of the costs of the project and the proposed Plan will provide additional financial support by authorizing property tax increment financing. After notice by PURA and negotiations that followed, all taxing entities who levy property taxes in the proposed urban renewal area have executed TIF agreements, which PURA approved on April 11, 2023. PURA approved the plan recommendation to City Council on September 12, 2023.

FINANCIAL IMPLICATIONS:

The County has retained financial consultants and bond counsel and plans to issue tax exempt bonds and/or certificates of participation to pay for most of the project costs. The Plan prepared by PURA authorizes the use of property tax increment financing that creates a special fund from future new property taxes to help pay for certain eligible costs. In negotiations with the taxing entities, PURA agreed to remit to School District 60 that portion of the TIF which is attributable to the District's Debt Service Mill Levy and to assist the Library District with development of a new library facility to serve the Plan area.

Among the eligible costs that PURA will assist in financing are (1) roadway connections to include Medal of Honor Boulevard Extension, W. 24th Street capacity upgrades, W. 31st Street to W. 29th Street extension (Baker Steamer), Spaulding Avenue offsite connection/extension, and traffic signalization; (2) trunk main water and sanitary sewer extensions, upsizing, and replacement onsite and downstream; (3) stormwater, park, trail, and open space improvements within Wildhorse Creek onsite and downstream; (4) environmental remediation of salvage yards; (5) Honor Farm management improvements; and (6) crime Prevention through environmental design projects.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission advised that the proposed project is in conformity with the City's Comprehensive Plan and recommended approval at their meeting on July 10, 2024.

STAKEHOLDER PROCESS:

Affected taxing entities and PURA have all signed TIF agreements.

ALTERNATIVES:

None.

RECOMMENDATION:

The PURA Board of Commissioners recommends approval of this Ordinance.

ATTACHMENTS:

1. PURA resolution approving TIF agreements with taxing entities
2. West Pueblo Urban Renewal Plan Impact Report 9.8.2022
3. West Pueblo Urban Renewal Plan
4. The West Pueblo Conditions Survey - updated July 27, 2024
5. PURA Resolution approving the Plan and recommending City Council approval

ORDINANCE NO.

AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE WEST PUEBLO URBAN RENEWAL PLAN

WHEREAS, pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed it is in the public interest to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”); and

WHEREAS, pursuant to a contract with the Pueblo Urban Renewal Authority (the “Authority”) the consultant firm, Short Elliott Hendrickson (the “Consultant”), has prepared a Conditions Survey of the area (the “Area”) described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of “blighted area” in the Act; and

WHEREAS, the Authority has approved, submitted, and presented to the City Council a Conditions Survey prepared by the Consultant entitled “West Pueblo URA Plan: Conditions Survey” (the “Survey”) originally dated May 2, 2022, and updated as of July 27, 2024, which describes in detail the conditions in the Area and is incorporated herein by this reference; and

WHEREAS, the Authority has approved, submitted, and presented to City Council the Urban Renewal Plan for the Area, a copy of which has been approved as to form by the City Attorney and is attached hereto and incorporated herein as Exhibit B; and

WHEREAS, the Area included in the Plan contains real property in unincorporated Pueblo County that is contiguous to a portion of the Area within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act; and

WHEREAS, each owner of and holder of a recorded mortgage or deed of trust encumbering real property in such unincorporated area has consented in writing to inclusion in the Area; and

WHEREAS, in accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at its meeting on _____, 2024 pursuant to the notices of public hearing required by the Act; and

WHEREAS, to the extent that the Area may contain land that the Pueblo County Assessor has classified as agricultural for the purposes of levying and collecting property taxes at any time during the five-year period prior to the date of approval of the Plan, each public body that levies an ad valorem property tax on such agricultural land has consented in writing to inclusion of the agricultural land within the Area in the Plan (the County will consent by approving the Plan); and

WHEREAS, cooperation with the County to carry out the Plan will support community and regional goals and provide needed public facilities, infrastructure, housing, and provide needed traffic improvements; and

WHEREAS, the Plan is a matter of public record in the custody of the City Clerk and is available for public inspection during business hours of the City; and

WHEREAS, notice of the public hearing on the Plan was published as required by Section 31-25-107(3), C.R.S., at least thirty days prior to the public hearing; and

WHEREAS, written notice was mailed or delivered to each property owner, business, and resident of the Area included in the Plan informing them of the public hearing at least thirty days prior to the public hearing; and

WHEREAS, the Pueblo Planning and Zoning Commission has determined that the Plan complies with the Pueblo Regional Comprehensive Development Plan as amended to date (the

“Comprehensive Plan”), which is the general plan for the development of the City as a whole; and

WHEREAS, the Plan allocates property tax increment revenues to the Authority to carry out the Plan and requires compliance with certain provisions of the Act, including House Bill 15-1348, as amended to date (collectively, the “Amended 1348 Requirements”); and

WHEREAS, on September 9, 2024, the City Council conducted a public hearing and reviewed said Plan pursuant to the procedural and notice requirements of the City Charter and the Act, and the City Council having considered the evidence presented in support of and in opposition to the Plan, the Survey, the City’s Comprehensive Plan, and staff recommendations and so having considered the legislative record and given appropriate weight to the evidence; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Urban Renewal Area described in the Plan is found and declared to be a blighted area as defined in the Act. This is a legislative finding by the City Council based upon the Survey and other evidence presented to City Council.

SECTION 2.

The boundaries of the Urban Renewal Area have been drawn as narrowly as the City Council determines feasible to accomplish the planning and development objectives of the Plan.

SECTION 3.

The Plan is subject to approval by the County in accordance with Section 112.5 of the Act and will be undertaken with the support and participation of the County.

SECTION 4.

As required by the Act, the public bodies that levy property taxes in the Area (the “Taxing Entities”) have received (1) a copy of the Plan, (2) financial information showing the net financial benefits to the Taxing Entities from redevelopment of the Urban Renewal Area, and (3) a proposed agreement that waives the right to claim property tax increment revenue allocated to the Authority by the Act and related provisions necessary and in the public interest to remediate conditions of blight and construct required improvements in the Urban Renewal Area.

SECTION 5.

Pueblo School District No. 60 has been permitted to participate in an advisory capacity with respect to the inclusion in the Plan of the tax allocation provisions authorized by Section 31-25-107(9) of the Act.

SECTION 6.

It is not expected that any relocation of individuals and families will be required in connection with the Plan, but to the extent that any such relocation may be required, a feasible method exists for the relocation of individuals and families in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families.

SECTION 7.

It is not expected that any relocation of business concerns will be required in connection with the Plan, but to the extent that any such relocation may be required, a feasible method exists for the relocation of such business concerns in the Urban Renewal Area or in other areas that are not generally less desirable with respect to public utilities and public and commercial facilities.

SECTION 8.

The City Council has taken reasonable efforts to provide written notice of the public hearing prescribed by Section 31-25-107(3) of the Act to all property owners, residents, and owners of business concerns in the proposed Urban Renewal Area at their last known addresses at least thirty days prior to the public hearing on the Plan.

SECTION 9.

Section 31-25-107(4)(d) of the Act does not apply because no more than 120 days have passed since the commencement of the only public hearing on the Plan.

SECTION 10.

Section 31-25-107(4)(e) of the Act does not apply because the City Council did not fail to previously approve this Plan.

SECTION 11.

The Plan conforms with the Pueblo Regional Comprehensive Development Plan, as amended, which is the general plan for the development of the City of Pueblo as a whole.

SECTION 12.

The Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area described in the Plan by private enterprise.

SECTION 13.

To the extent that the Urban Renewal Area described in the Plan may constitute open land within the meaning of Section 31-25-107(5) of the Act, it is found and determined that the Authority does not intend to undertake land acquisition in the Urban Renewal Area; a shortage of housing of sound standards and design that is decent, safe, and sanitary exists in the City; and the construction of residential housing in the area is an integral part of and essential to the program of the City.

SECTION 14.

To the extent that the Urban Renewal Area described in the Plan may constitute open land within the meaning of Section 31-25-107(6) of the Act, it is found and determined that the Authority does not intend to undertake land acquisition in the Urban Renewal Area; the nonresidential uses under the Plan are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives.

SECTION 15.

The Authority is not authorized to acquire property through the exercise of eminent domain.

SECTION 16.

The County, City, and Authority have complied with all applicable Amended 1348 Requirements, including securing signed agreements with affected Taxing Entities regarding the use of tax increment financing to carry out the Plan.

SECTION 17.

The West Pueblo Urban Renewal Plan has been duly reviewed and considered and is hereby approved. The Authority is hereby authorized to take any and all actions pursuant to the Act to carry out the Plan, including, without limitation, (1) completing any agreements as may be required to carry out the Plan and (2) filing of the Plan and related documents with the Pueblo County Assessor.

SECTION 18.

This Ordinance shall become effective upon final passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

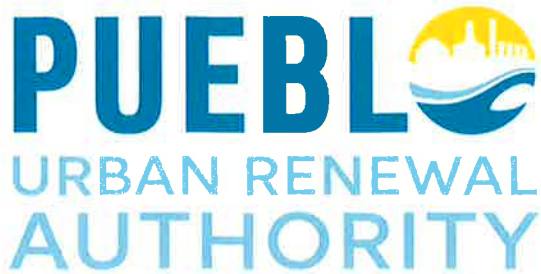
☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



TITLE

A RESOLUTION OF THE PUEBLO URBAN RENEWAL AUTHORITY, A BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, APPROVING AS TO FORM AN AGREEMENT BY AND AMONG THE PUEBLO URBAN RENEWAL AUTHORITY, A BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO (THE "AUTHORITY"); AND A TAXING ENTITY WITHIN THE WEST PUEBLO URBAN RENEWAL AREA, AND AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE AND MAKE MINOR MODIFICATIONS OF THE SAME.

RECOMMENDATION

Approve resolution 2023-13 at the Tuesday, April 11, 2023, regular meeting of the Board of Commissioners.

BACKGROUND

Approving this resolution approves the Chairman and Secretary to enter into agreements with any Taxing Entity regarding the West Pueblo Urban Renewal Project Area. It also authorizes the Chairman and Secretary to make minor modifications to the agreement as needed.

FINANCIAL IMPACT

If this agreement is not approved there may be mediation and legal fees required.

RESOLUTION NO. 2023-13

A RESOLUTION OF THE PUEBLO URBAN RENEWAL AUTHORITY, A BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, APPROVING AS TO FORM AN AGREEMENT BY AND AMONG THE PUEBLO URBAN RENEWAL AUTHORITY, A BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO (THE "AUTHORITY"); AND A TAXING ENTITY WITHIN THE WEST PUEBLO URBAN RENEWAL AREA, AND AUTHORIZING THE CHAIRMAN AND SECRETARY TO EXECUTE AND MAKE MINOR MODIFICATIONS OF THE SAME.

WHEREAS, the Pueblo Urban Renewal Authority (the "Authority") and the City of Pueblo may approve to create the West Pueblo Urban Renewal Area; and,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE PUEBLO URBAN RENEWAL AUTHORITY, COLORADO, THAT:

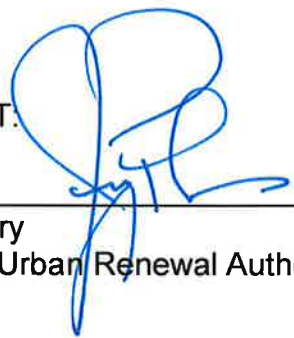
The agreement with any Taxing Entity regarding the West Pueblo Urban Renewal Area is hereby approved and the Chairman and Secretary are authorized to make minor modifications and execute the agreement/s.

Adopted this 11th day of April 2023.

APPROVED:


Chairperson,
Pueblo Urban Renewal Authority

ATTEST:


Secretary
Pueblo Urban Renewal Authority

PROPERTY TAX INCREMENT REVENUE AGREEMENT

(Pueblo City–County Library District – West Pueblo Urban Renewal Project)

1.0 **PARTIES.** This Agreement (the “Agreement”) is made and executed effective as of _____, 2022, by and between the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”) and the PUEBLO CITY-COUNTY LIBRARY DISTRICT, a political subdivision of the State of Colorado (the “District”). The Authority and the District are also referred to herein collectively as the “Parties” or individually as a “Party.”

2.0 **RECITALS.** The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 **Urban Renewal Project.** Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”).

2.2 **Authorization.** The area (the “Area” or “Urban Renewal Area”) included in the proposed Urban Renewal Plan includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act.

2.3 **Agricultural Land.** The proposed Urban Renewal Area includes approximately _____ acres of property that is or, within the previous five years, has been classified by the Pueblo County Assessor as agricultural land (“Agricultural Land”) for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 **City Approval of the Plan.** In accordance with the Act, the City Council of the City will consider approving the Plan at its meeting on _____, 2022 pursuant to the notices of public hearing required by the Act.

2.5 **County Approval of the Plan.** In accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at its meeting on _____, 2022 pursuant to the notices of public hearing required by the Act.

2.6 **Purpose of the Plan.** The purpose of the Plan is to eliminate conditions of blight documented in the “West Pueblo Urban Renewal Plan: Conditions Survey” dated May 2, 2022 (the “Conditions Survey”), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the District and other taxing entities are described in that certain document entitled “West Pueblo Urban Renewal Plan Impact Report” dated August 22, 2022 (the “Impact Report”).

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions the permit the financing of the Urban Renewal Project by means of property tax increment financing (“TIF Financing”) contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the “Amended 1348 Requirements”).

2.8 Enhanced Base Valuation. In addition to the other benefits of the Urban Renewal Project, inclusion of Agricultural Land in the Plan will result in the benefit to the District of the enhanced assessed base value required by Section 31-25-107(9)(g) of the Act in connection with the authorization for TIF Financing.

2.9 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.10 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

3.0 AGREEMENT. In consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and among the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 “Act” means the Colorado Urban Renewal Law, §§31-25-101, *et seq.*, C.R.S, as amended.

4.2 “Agreement” means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 “Agricultural Land” means land described in Section 2.3 of this Agreement.

4.4 “Amended 1348 Requirements” means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 “Authority” means the Party described in Section 1.0, and its successors and assigns.

4.6 “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

4.7 “City” means the City of Pueblo, a home rule city of the State of Colorado.

4.8 “District” means the Party described in Section 1.0, and its successors and assigns.

4.9 “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.

4.10 “Party” or “Parties” shall have the meaning described in Section 1.0.

4.11 “Plan” or “Urban Renewal Plan” means the urban renewal plan defined in Section 2.1.

4.12 “Project” shall have the same meaning as Urban Renewal Project.

4.13 “Project Documents” means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.

4.14 “Property Tax Increment Revenues” means all revenues produced by property tax levies on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF Financing provisions of the Plan.

4.15 “Special Fund” means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.16 “TIF Financing” means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.

4.17 “Urban Renewal Area” means the area included in the boundaries of the Plan.

4.18 “Urban Renewal Project” means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.

5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the District to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the District to inclusion of Agricultural Land in the Plan, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 Property Tax Increment Revenues. The District agrees the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of the Property Tax Increment Revenues it receives from the Pueblo County Treasurer each year from the property tax levy of the District against the TIF portion of the assessment roll as authorized in the Plan for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the "Duration").

5.2 Pledge of Property Tax Increment Revenues. The District recognizes and agrees that in reliance on this Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.3 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.4 Receipt of Project Documents; Waivers. The District acknowledges receipt of the Project Documents and agrees that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of Plan as required by Sections 31-25-107 (3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan, the District hereby waives (1) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the District of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area, and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination; Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

8.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

8.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.13 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.14 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

8.15 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST: PUEBLO URBAN RENEWAL AUTHORITY

By: _____ By: _____
Secretary/Executive Director Chair

ATTEST: PUEBLO CITY-COUNTY LIBRARY DISTRICT

By: _____ By: _____

DRAFT

PROPERTY TAX INCREMENT REVENUE AGREEMENT

(School District No. 60 – West Pueblo Urban Renewal Project)

1.0 **PARTIES.** This Agreement (the “Agreement”) is made and executed effective as of June 27, 2023, by and between the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”) and PUEBLO SCHOOL DISTRICT NO. 60, a political subdivision of the State of Colorado (the “District”). The Authority and the District are also referred to herein collectively as the “Parties” or individually as a “Party.”

2.0 **RECITALS.** The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 **Urban Renewal Project.** Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”).

2.2 **Authorization.** The area (the “Area” or “Urban Renewal Area”) included in the proposed Urban Renewal Plan includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act.

2.3 **Agricultural Land.** The proposed Urban Renewal Area includes property that is or, within the previous five years, has been classified by the Pueblo County Assessor as agricultural land (“Agricultural Land”) for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 **City Approval of the Plan.** In accordance with the Act, the City Council of the City will consider approving the Plan at a meeting scheduled for the last quarter of 2023 pursuant to the notices of public hearing required by the Act.

2.5 **County Approval of the Plan.** In accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at its meeting scheduled for the last quarter of 2023 pursuant to the notices of public hearing required by the Act.

2.6 **Purpose of the Plan.** The purpose of the Plan is to eliminate conditions of blight documented in the “West Pueblo Urban Renewal Plan: Conditions Survey” dated May 2, 2022 (the “Conditions Survey”), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the District and other taxing entities are described in that certain document entitled “West Pueblo Urban Renewal Plan Impact Report” dated August 22, 2022 (the “Impact Report”).

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions the permit the financing of the Urban Renewal Project by means of property tax increment financing (“TIF Financing”) contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the “Amended 1348 Requirements”).

2.8 Enhanced Base Valuation. In addition to the other benefits of the Urban Renewal Project, inclusion of Agricultural Land in the Plan will result in the benefit to the District of the enhanced assessed base value required by Section 31-25-107(9)(g) of the Act in connection with the authorization for TIF Financing.

2.9 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.10 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

3.0 AGREEMENT. in consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and among the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 “Act” means the Colorado Urban Renewal Law, §§31-25-101, *et seq.*, C.R.S., as amended.

4.2 “Agreement” means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 “Agricultural Land” means land described in Section 2.3 of this Agreement.

4.4 “Amended 1348 Requirements” means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 “Authority” means the Party described in Section 1.0, and its successors and assigns.

4.6 “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

4.7 “City” means the City of Pueblo, a home rule city of the State of Colorado.

4.8 “District” means the Party described in Section 1.0, and its successors and assigns.

4.9 “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.

4.10 “Party” or “Parties” shall have the meaning described in Section 1.0.

4.11 “Plan” or “Urban Renewal Plan” means the urban renewal plan defined in Section 2.1.

4.12 “Project” shall have the same meaning as Urban Renewal Project.

4.13 “Project Documents” means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.

4.14 “Property Tax Increment Revenues” means all revenues, with the exception of those revenues described in Sections 5.1, 5.2, and 5.3 below, produced by property tax levies on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF Financing provisions of the Plan.

4.15 “Special Fund” means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.16 “TIF Financing” means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.

4.17 “Urban Renewal Area” means the area included in the boundaries of the Plan.

4.18 “Urban Renewal Project” means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.

5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the District to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the District to inclusion of Agricultural Land in the Plan, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 Property Tax Increment Revenues. The District agrees the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of the Property Tax Increment Revenues it receives from the Pueblo County Treasurer each year from the general fund, abatements, and credits property tax levy of the District against the TIF portion of the assessment roll as authorized in the Plan for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the "Duration").

5.2 Debt Service Mill Levy Allocation. The Authority and the District acknowledge that prior to and in November 2019, the eligible electors of the District passed ballot measures for the issuance of general obligation bonds to finance capital construction costs for the District ("Debt Service Mill Levy") and that the District voters in the future may pass measures authorizing similar general obligation bonds ("Future Debt Service Mill Levies"). The Authority agrees to deposit into a separate account created for and annually distributed to the District (the "District Account") all of the increase in Property Tax Increment Revenues calculated, produced, allocated and transferred to the Authority solely as a result of the levy by the District of the Debt Service Mill Levy, Future Debt Service Mill Levies, and Future Mill Levy Overrides (as defined in Section 5.3 below), upon taxable property within the Plan area pursuant to and in accordance with Section 31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado (the "Debt Service and Future Mill Levy Override Levy Allocation").

5.3 Future Mill Levy Override Allocation. The Parties acknowledge that the current Public School Finance Act of 1994, Colorado Revised Statutes Title 22, Article 54, Part 1 authorizes school districts, including the District, to submit to its eligible electors a ballot question to raise and expend local property tax revenues in excess of the District's total program ("Mill Levy Override"). While the District currently does not have a Mill Levy Override, its eligible electors may in the future pass one or more Mill Levy Overrides ("Future Mill Levy Overrides"). The Authority agrees to deposit into and annually distribute into and from the District Account all of the increase in Property Tax Increment Revenues calculated, produced, allocated and transferred to the Authority solely as a result of the levy by the District of Future Mill Levy Overrides upon taxable property within the Plan area pursuant to and in accordance with Section 31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado (the "Debt Service and Mill Levy Override Levy Allocation").

5.4 Pledge of Property Tax Increment Revenues. The District recognizes and agrees that in reliance on this Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.5 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.6 Receipt of Project Documents; Waivers. The District acknowledges receipt of the Project Documents and agrees that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of Plan as required by Sections 31-25-107 (3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan and to the provisions of Sections 5.1, 5.2, and 5.3 above, the District hereby waives (1) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act except as provided in Sections 5.1, 5.2, and 5.3 above; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the District of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area, and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination; Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for

an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

8.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

8.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.13 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.14 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

8.15 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST:

By:

Secretary/Executive Director

PUEBLO URBAN RENEWAL AUTHORITY

By:

Chair

ATTEST:

By:

Geri Patrone, Board Secretary

PUEBLO SCHOOL DISTRICT NO. 60

By:

Thomas Farrell, Board President

Approved as to form:

Caplan and Earnest LLC

Attorneys for Pueblo School District No. 60

PROPERTY TAX INCREMENT REVENUE AGREEMENT

(Lower Arkansas Valley Water Conservancy District – West Pueblo Urban Renewal Project)

1.0 PARTIES. This Agreement (the "Agreement") is made and executed effective as of May 30th, 2023, by and between the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the "Authority") and the LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT, a political subdivision of the State of Colorado (the "District"). The Authority and the District are also referred to herein collectively as the "Parties" or individually as a "Party."

2.0 RECITALS. The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 Urban Renewal Project. Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the "Act"), the City of Pueblo (the "City") and Pueblo County (the "County") have agreed to jointly undertake the West Pueblo Urban Renewal Project (the "Urban Renewal Project" or "Project") pursuant to the "West Pueblo Urban Renewal Plan" (the "Urban Renewal Plan" or "Plan").

2.2 Authorization. The area (the "Area" or "Urban Renewal Area") included in the proposed Urban Renewal Plan includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act.

2.3 Agricultural Land. The proposed Urban Renewal Area includes approximately 129.87 acres of property that is or, within the previous five years, has been classified by the Pueblo County Assessor as agricultural land ("Agricultural Land") for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 City Approval of the Plan. In accordance with the Act, the City Council of the City will consider approving the Plan at its meeting ~~on~~ in 4th QRT, 2023 pursuant to the notices of public hearing required by the Act.

2.5 County Approval of the Plan. In accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at its meeting ~~on~~ in 4th QRT, 2023 pursuant to the notices of public hearing required by the Act.

2.6 Purpose of the Plan. The purpose of the Plan is to eliminate conditions of blight documented in the "West Pueblo Urban Renewal Plan: Conditions Survey" dated May 2, 2022 (the "Conditions Survey"), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the District and other taxing entities are described in that certain document entitled "West Pueblo Urban Renewal Plan Impact Report" dated August 22, 2022 (the "Impact Report").

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions that permit the financing of the Urban Renewal Project by means of property tax increment financing ("TIF Financing") contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the "Amended 1348 Requirements").

2.8 Enhanced Base Valuation. In addition to the other benefits of the Urban Renewal Project, inclusion of Agricultural Land in the Plan will result in the benefit to the District of the enhanced assessed base value required by Section 31-25-107(9)(g) of the Act in connection with the authorization for TIF Financing.

2.9 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.10 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

3.0 AGREEMENT. In consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and among the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 "Act" means the Colorado Urban Renewal Law, §§31-25-101, *et seq.*, C.R.S., as amended.

4.2 "Agreement" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 "Agricultural Land" means land described in Section 2.3 of this Agreement.

4.4 "Amended 1348 Requirements" means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 "Authority" means the Party described in Section 1.0, and its successors and assigns.

- 4.6 “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.
- 4.7 “City” means the City of Pueblo, a home rule city of the State of Colorado.
- 4.8 “District” means the Party described in Section 1.0, and its successors and assigns.
- 4.9 “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.
- 4.10 “Party” or “Parties” shall have the meaning described in Section 1.0.
- 4.11 “Plan” or “Urban Renewal Plan” means the urban renewal plan defined in Section 2.1.
- 4.12 “Project” shall have the same meaning as Urban Renewal Project.
- 4.13 “Project Documents” means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.
- 4.14 “Property Tax Increment Revenues” means all revenues produced by property tax levies on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF Financing provisions of the Plan.
- 4.15 “Special Fund” means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.
- 4.16 “TIF Financing” means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.
- 4.17 “Urban Renewal Area” means the area included in the boundaries of the Plan.
- 4.18 “Urban Renewal Project” means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.
- 5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the District to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the District to inclusion of Agricultural Land in the Plan, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 Property Tax Increment Revenues. The District agrees the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of the Property Tax Increment Revenues it receives from the Pueblo County Treasurer each year from the property tax levy of the District against the TIF portion of the assessment roll as authorized in the Plan for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the "Duration").

5.2 Pledge of Property Tax Increment Revenues. The District recognizes and agrees that in reliance on this Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.3 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.4 Receipt of Project Documents; Waivers. The District acknowledges receipt of the Project Documents and agrees that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of Plan as required by Sections 31-25-107 (3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan, the District hereby waives (1) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the District of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area, and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination; Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

8.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

8.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.13 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.14 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

8.15 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST:

PUEBLO URBAN RENEWAL AUTHORITY

By:


Secretary/Executive Director

By:


Chair

ATTEST:

LOWER ARKANSAS VALLEY WATER
CONSERVANCY DISTRICT

By:



By:



PROPERTY TAX INCREMENT REVENUE AGREEMENT

(SE Colorado Water Conservancy District – West Pueblo Urban Renewal Project)

1.0 **PARTIES.** This Agreement (the “Agreement”) is made and executed effective as of APRIL 11, 2023, by and between the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”) and the SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, a political subdivision of the State of Colorado (the “District”). The Authority and the District are also referred to herein collectively as the “Parties” or individually as a “Party.”

2.0 **RECITALS.** The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 **Urban Renewal Project.** Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”).

2.2 **Authorization.** The area (the “Area” or “Urban Renewal Area”) included in the proposed Urban Renewal Plan includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act.

2.3 **Agricultural Land.** The proposed Urban Renewal Area includes approximately 129.87 acres of property that is or, within the previous five years, has been classified by the Pueblo County Assessor as agricultural land (“Agricultural Land”) for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 **City Approval of the Plan.** In accordance with the Act, the City Council of the City will consider approving the Plan at its meeting on ~~March 13~~ IN OCT 4, 2023 pursuant to the notices of public hearing required by the Act.

2.5 **County Approval of the Plan.** In accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at its meeting on ~~March 14~~ IN OCT 4, 2023 pursuant to the notices of public hearing required by the Act.

2.6 **Purpose of the Plan.** The purpose of the Plan is to eliminate conditions of blight documented in the “West Pueblo Urban Renewal Plan: Conditions Survey” dated May 2, 2022 (the “Conditions Survey”), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the District and other taxing entities are described in that certain document entitled “West Pueblo Urban Renewal Plan Impact Report” dated August 22, 2022 (the “Impact Report”).

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions that permit the financing of the Urban Renewal Project by means of property tax increment financing ("TIF Financing") contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the "Amended 1348 Requirements").

2.8 Enhanced Base Valuation. In addition to the other benefits of the Urban Renewal Project, inclusion of Agricultural Land in the Plan will result in the benefit to the District of the enhanced assessed base value required by Section 31-25-107(9)(g) of the Act in connection with the authorization for TIF Financing.

2.9 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.10 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

3.0 AGREEMENT. In consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and among the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 "Act" means the Colorado Urban Renewal Law, §§31-25-101, *et seq.*, C.R.S., as amended.

4.2 "Agreement" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 "Agricultural Land" means land described in Section 2.3 of this Agreement.

4.4 "Amended 1348 Requirements" means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 "Authority" means the Party described in Section 1.0, and its successors and assigns.

4.6 “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

4.7 “City” means the City of Pueblo, a home rule city of the State of Colorado.

4.8 “District” means the Party described in Section 1.0, and its successors and assigns.

4.9 “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.

4.10 “Party” or “Parties” shall have the meaning described in Section 1.0.

4.11 “Plan” or “Urban Renewal Plan” means the urban renewal plan defined in Section 2.1.

4.12 “Project” shall have the same meaning as Urban Renewal Project.

4.13 “Project Documents” means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.

4.14 “Property Tax Increment Revenues” means all revenues produced by property tax levies on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF Financing provisions of the Plan.

4.15 “Special Fund” means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.16 “TIF Financing” means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.

4.17 “Urban Renewal Area” means the area included in the boundaries of the Plan.

4.18 “Urban Renewal Project” means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.

5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the District to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the District to inclusion of Agricultural Land in the Plan, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 Property Tax Increment Revenues. The District agrees the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of the Property Tax Increment Revenues it receives from the Pueblo County Treasurer each year from the property tax levy of the District against the TIF portion of the assessment roll as authorized in the Plan for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the "Duration").

5.2 Pledge of Property Tax Increment Revenues. The District recognizes and agrees that in reliance on this Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.3 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.4 Receipt of Project Documents; Waivers. The District acknowledges receipt of the Project Documents and agrees that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of Plan as required by Sections 31-25-107 (3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan, the District hereby waives (1) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the District of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area, and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination: Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

8.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

8.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.13 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.14 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

8.15 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST:

By:

Secretary/Executive Director



PUEBLO URBAN RENEWAL AUTHORITY

By:

Chair



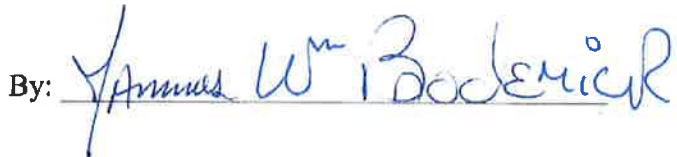
ATTEST:

By:



SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT

By:



PROPERTY TAX INCREMENT REVENUE AGREEMENT
(Pueblo City-County Library District- West Pueblo Urban Renewal Project)

1.0 **PARTIES.** This Agreement ("Agreement") is made and executed effective as of APRIL 11, 2023 by and between the **PUEBLO URBAN RENEWAL AUTHORITY**, a body corporate and politic of the State of Colorado ("Authority") and the **PUEBLO CITY-COUNTY LIBRARY DISTRICT**, a political subdivision of the State of Colorado ("District"). The Authority and the District are also referred to herein collectively as the "Parties" or individually as a "Party."

2.0 **RECITALS.** The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 **Urban Renewal Project.** Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. ("Act"), the City of Pueblo ("City") and Pueblo County ("County") have agreed to jointly undertake the West Pueblo Urban Renewal Project (the "Urban Renewal Project" or "Project") pursuant to the "West Pueblo Urban Renewal Plan" (the "Urban Renewal Plan" or "Plan").

2.2 **Authorization.** The area (the "Area" or "Urban Renewal Area") included in the proposed Urban Renewal Plan includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act.

2.3 **Agricultural Land.** The Proposed Urban Renewal Area includes approximately 129.87 acres of property that is or, within the previous five years, has been classified by the Pueblo County Assessor as agricultural land ("Agricultural Land") for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 **City Approval of the Plan.** In accordance with the Act, the City Council of the City will consider approving the plan at its meeting ~~on~~ IN QRT 4, 2023, pursuant to the notices of public hearing required by the Act.

2.5 **County Approval of the Plan.** In accordance with Section 31-25-112.5 of the Act, the County Commissioners of the County will consider approving the Plan at its meeting ~~on~~ IN QRT 4, 2023 pursuant to the notices of public hearing required by the Act.

2.6 **Purpose of the Plan.** The purpose of the Plan is to eliminate conditions of blight documented in the "West Pueblo Urban Renewal Plan: Conditions Survey" dated May 2, 2022 (the "Conditions Survey"), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the District and other taxing entities are described in that certain document entitled "West Pueblo Urban Renewal Plan Impact Report" dated August 22, 2022 (the "Impact Report").

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions that permit the financing of the Urban Renewal Project by means of property tax increment financing ("TIF Financing") contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the "Amended 1348 Requirements").

2.8 Enhanced Base Valuation. In addition to the other benefits of the Urban Renewal Project, inclusion of Agricultural Land in the Plan will result in the benefit to the District of the enhanced assessed base value required by Section 31-25-107(9)(g) of the Act in connection with the authorization for TIF Financing.

2.9 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.10 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

3.0 AGREEMENT. In consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and among the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 "Act" means the Colorado Urban Renewal Law, §§31-25-101, et seq., C.R.S., as amended.

4.2 "Agreement" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 "Agricultural Land" means land described in Section 2.3 of this Agreement.

4.4 "Amended 1348 Requirements" means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 "Authority" means the Party described in Section 1.0, and its successors and assigns.

4.6 "Bonds" means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

- 4.7 "City" means the City of Pueblo, a home rule city of the State of Colorado.
- 4.8 "District" means the Party described in Section 1.0, and its successors and assigns.
- 4.9 "Duration" means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.
- 4.10 "Party" or "Parties" shall have the meaning described in Section 1.0.
- 4.11 "Plan" or "Urban Renewal Plan" means the urban renewal plan defined in Section 2.1.
- 4.12 "Project" shall have the same meaning as Urban Renewal Project.
- 4.13 "Project Documents" means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.
- 4.14 "Property Tax Increment Revenues" means all revenues produced by property tax levies, on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF financing provisions of the Plan.
- 4.15 "Special Fund" means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.
- 4.16 "TIF Financing" means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.
- 4.17 "Urban Renewal Area" means the area included in the boundaries of the Plan.
- 4.18 "Urban Renewal Project" means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.

5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the District to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the District to inclusion of Agricultural Land in the Plan, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 Property Tax Increment Revenues. The District agrees the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of the Property Tax Increment Revenues it receives from the Pueblo County Treasurer each year from the property tax levy of the District against the TIF portion of the assessment roll as authorized in the Plan for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax

Increment Revenues pursuant to the Act (the "Duration").

5.2 Pledge of Property Tax Increment Revenues. The District recognizes and agrees that in reliance on this Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.3 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.4 Receipt of Project Documents; Waivers. The District acknowledges receipt of the Project Documents and agrees that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of Plan as required by Sections 31-25-107 (3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan, the District hereby waives (1) except as provided in 5.5 below, the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

5.5 Assistance with Future Additional Library Services for Urban Renewal Area. The Parties acknowledge that construction of residences in the Urban Renewal Area may require the District to construct additional library infrastructure to serve such future residents in the Urban Renewal Area. Accordingly, upon presentment of commercially reasonable data that, considering the burdens and benefits of revenue accruing to the District, shows impacts on the services of the District as a result of such additional residents in the Urban Renewal Area, the Authority agrees to give favorable consideration to providing such financial or other lawful assistance to the District as may be available to provide such infrastructure; provided that such assistance shall not impair any existing Bonds or other legal obligations of the Authority related to the Urban Renewal Project.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the District of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination; Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially affects any provisions hereof, the Parties will in good faith negotiate for an amendment of this agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or

employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

8.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

8.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.12 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.13 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.14 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

8.15 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST:

By: 
Secretary/Executive Director

PUEBLO URBAN RENEWAL AUTHORITY

By: 
Chair

ATTEST:

By: 

PUEBLO CITY-COUNTY LIBRARY DISTRICT

By: 
President

PROPERTY TAX INCREMENT REVENUE AGREEMENT

(Pikes Peak Park Metropolitan District Nos. 1-5 – West Pueblo Urban Renewal Project)

1.0 **PARTIES.** This Agreement (the “Agreement”) is made and executed effective as of APRIL 11, 202~~3~~, by and between the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”) and PIKES PEAK PARK METROPOLITAN DISTRICT NOS. 1-5, each a quasi-municipal corporation and political subdivision of the State of Colorado (each a “District” and collectively, the “Districts”). The Authority and the Districts are also referred to herein collectively as the “Parties” or individually as a “Party.”

2.0 **RECITALS.** The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 **Urban Renewal Project.** Pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”).

2.2 **Authorization.** The area included in the proposed Urban Renewal Plan (the “Area” or “Urban Renewal Area”) includes real property in unincorporated Pueblo County that is contiguous to a portion of the Urban Renewal Area that is within the municipal limits of the City, as authorized by Section 31-25-112.5 of the Act.

2.3 **Agricultural Land.** The proposed Urban Renewal Area may include property that has been classified within the previous five years as agricultural land by the Pueblo County Assessor (“Agricultural Land”) for the purposes of levying ad valorem property taxes. The Parties intend that this Agreement shall constitute written approval by the District to inclusion of such Agricultural Land in the Urban Renewal Area as provided by Section 31-25-107(1)(c)(II)(C) of the Act.

2.4 **City Approval of the Plan.** In accordance with the Act, the City Council of the City will consider approving the Plan at its meeting ~~on~~ IN QRT 4, 2023, pursuant to the notices of public hearing required by the Act.

2.5 **County Approval of the Plan.** In accordance with Section 31-25-112.5 the Act, the County Commissioners of the County will consider approving the Plan at their meeting ~~on~~ IN QRT 4, 2023, pursuant to the notices of public hearing required by the Act.

2.6 **Purpose of the Plan.** The purpose of the Plan is to eliminate conditions of blight documented in the “West Pueblo Urban Renewal Plan: Conditions Survey” dated May 2, 2022 (the “Conditions Survey”), and to redevelop and rehabilitate the Urban Renewal Area described in the Plan by private enterprise as required by the Act. The benefits and potential burdens of the Urban Renewal Project on the Districts and other taxing entities are described in that certain

document entitled “West Pueblo Urban Renewal Plan Impact Report” dated August 22, 2022 (the “Impact Report”).

2.7 Tax Increment Financing. The Urban Renewal Plan contains provisions that permit the financing of the Urban Renewal Project by means of property tax increment financing (“TIF Financing”) contained in Section 31-25-107(9) of the Act and is therefore subject to the requirements contained in House Bill 15-1348, enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279 (collectively, the “Amended 1348 Requirements”). As more specifically set forth in the Act, TIF Financing provides that taxes, if any, levied after the effective date of the approval of the Urban Renewal Plan upon taxable property in the Urban Renewal Area each year shall be divided for a period of not to exceed twenty-five (25) years from the effective date of the Urban Renewal Plan, and that a portion of said property tax revenues shall be allocated to and paid into a special fund of the Authority to pay principal of, interest on, and any premiums due in connection with bonds of, loans or advances to, or indebtedness, incurred by the Authority for financing an urban renewal project, or to make payments pursuant to an agreement executed pursuant to Section 31-25-107(9.5) or Section 31-25-107(11) of the Act.

2.8 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate conditions of blight and to comply with Section 31-25-107(4)(g) of the Act that requires the Plan afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation and redevelopment of the Urban Renewal Area by private enterprise.

2.9 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the Amended 1348 Requirements), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the Urban Renewal Area.

2.10 Relationship Among the Parties. The Parties are cooperating with the City and the County to facilitate carrying out the Plan and urban renewal projects within the Urban Renewal Area, and the Parties desire to enter into this Agreement for the transfer to the Districts of property tax revenues that the Authority receives from the Districts' mill levy on taxable property in the Urban Renewal Area

3.0 AGREEMENT. In consideration of the covenants, promises, and agreements of each of the Parties, the Parties agree to the provisions set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 “Act” means the Colorado Urban Renewal Law, §§31-25-101, *et seq.*, C.R.S, as amended.

4.2 “Agreement” means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 “Agricultural Land” means the land described in Section 2.3 of this Agreement.

4.4 “Amended 1348 Requirements” means the requirements applicable to use of Property Tax Increment Revenues imposed by House Bill 15-1348 enacted in 2015, as amended in 2016, by Senate Bill 16-177, and in 2017 by Senate Bill 17-279.

4.5 “Authority” means the Party described in Section 1.0, and its successors and assigns.

4.6 “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

4.7 “City” means the City of Pueblo, a home rule city of the State of Colorado.

4.8 “Districts” means the Parties described in Section 1.0, and their successors and assigns.

4.9 “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions of the Plan will be in effect as specified in Section 31-25-109(a) of the Act and the Plan and the Authority will receive the Property Tax Increment Revenues.

4.10 “District TIF Revenue” shall have the meaning described in Section 5.1 hereto.

4.11 “Party” or “Parties” shall have the meaning described in Section 1.0.

4.12 “Plan” or “Urban Renewal Plan” means the urban renewal plan defined in Section 2.1.

4.13 “Project” shall have the same meaning as Urban Renewal Project.

4.14 “Project Documents” means the Conditions Survey, Impact Report, Urban Renewal Plan, and the notices of public hearing described in Sections 2.4 and 2.5.

4.15 “Property Tax Increment Revenues” means all revenues produced by property tax levies on the TIF portion of the property tax assessment roll, as described in Section 31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the TIF Financing provisions of the Plan.

4.16 “Special Fund” means the fund described in the Plan and Section 31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.17 “TIF Financing” means the financing authorized and permitted pursuant to the tax allocation or tax increment provisions of the Plan and Section 31-25-107(9) of the Act.

4.18 “Urban Renewal Area” means the area included in the boundaries of the Plan.

4.19 “Urban Renewal Project” means all undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan authorized by and pursuant to the Act.

5.0 COOPERATION. In accordance with Section 31-25-112 of the Act, this Agreement shall constitute an agreement in writing by the Districts to aid the Authority in (1) the elimination of conditions of blight from the Urban Renewal Area, (2) written approval of the Districts to inclusion of Agricultural Land in the Plan, if any, and (3) providing necessary infrastructure through the unqualified payment or reimbursement of eligible costs of the Project.

5.1 The Districts’ Property Tax Increment Revenues. Effective as of the date of final approval of the Plan by the City and the County, after deducting ____ percent (____%) for administration of this Agreement, the Authority shall pay to the Districts all the increase in property tax revenues calculated, produced, allocated, and paid to the Authority as a result of the levy of the Districts upon taxable property within the Urban Renewal Area, pursuant to and in accordance with § 31-25-107(9)(a)(II), C.R.S. of the Act (the “District TIF Revenue”). The Authority shall place the District TIF Revenue in a separate District Account created within the Special Fund (the “District Account”). Commencing on the date the Authority receives any District TIF Revenue and for the Duration of the Authority’s right to receive District TIF Revenue, the Authority, on or before the 20th day of each month, shall pay all such District TIF Revenue received during the previous month into the District Account and shall transfer the funds in the District Account to the Districts.

5.2 Use of District TIF Revenue. The Districts agree to use the District TIF Revenue received pursuant to this Agreement in accordance with the statutory authority granted to the Districts under their Service Plan and Section 32-1-101, *et seq* C.R.S. The Authority hereby acknowledges and agrees that in the event that the Plan is finally approved by the City and County after one or more of the Districts issues Bonds secured by, *inter alia*, a pledge of the Districts’ ad valorem property tax revenues (including the Districts’ TIF Revenues, and including but not limited to those certain Bonds anticipated to be issued by Pikes Peak Park Metropolitan District No. 1 on or around May 2023, in the maximum principal amount of \$8,000,000), the Authority’s counsel shall provide an opinion upon final approval of the Plan by the City and County to the Districts stating that this Agreement is a legal, valid and binding obligation of the Authority enforceable in accordance with the terms stated herein.

5.2 Pledge of Property Tax Increment Revenues. The Districts recognize and agree that, except for the District TIF Revenue that will be deposited in the District Account, the Authority shall have the unqualified right to irrevocably pledge all the Property Tax Increment Revenues it receives to payment of the eligible costs of the Urban Renewal Project for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S. to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and shall be an obligation of the Parties pursuant to Section 31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement, and priority of the pledge of the Property Tax Increment Revenues shall be governed by Section 11-57-208, C.R.S.

5.3 Amended 1348 Requirements. The Parties acknowledge that the Amended 1348 Requirements created new requirements applicable to new or modified urban renewal projects. By entering into this Agreement, the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein to aid in the timely execution of the Urban Renewal Project.

5.4 Receipt of Project Documents; Waivers. The Districts acknowledge receipt of the Project Documents and agree that the Project Documents and execution of this Agreement satisfy the requirements of the Act regarding all applicable Amended 1348 Requirements for the adoption of the Plan, TIF Financing for this Urban Renewal Plan, approvals for inclusion of Agricultural Land in the Plan, and notices related thereto, except those that may apply to future modifications of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. Subject to such right to receive notice of any proposed future modification of the Plan, the District hereby waives (1) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area; (2) the right to enjoin any activity of the Authority pursuant to the Plan, including the right of the Authority to issue Bonds necessary to finance the Project; (3) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (4) the arbitration rights contained in Section 31-25-107 (12) of the Act; and (5) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

6.0 NOTIFICATION OF PROPOSED MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the Districts of any proposed modification of the Plan as required by Sections 31-25-107(3.5) and (7) of the Act. This Agreement is not part of the Plan.

7.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Urban Renewal Plan and the Urban Renewal Area and does not include any other urban renewal plan or urban renewal area.

8.0 MISCELLANEOUS.

8.1 Delays. Subject to Section 8.2 herein, any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; extreme weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

8.2 Termination; Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF Financing provision, the Authority may terminate this Agreement by delivering written notice to the Districts. The Parties further agree that, in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and

provisions of this Agreement, but does not impair any otherwise valid contracts or financial obligations in effect at such time.

8.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

8.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

8.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this Agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

8.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this Agreement.

8.7 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

8.8 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of "Bonds" in the Act, including payment of eligible costs or any other lawful financing obligation related to the Project.

8.9 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

8.10 No Assignment. No Party may assign any of its rights or obligations under this Agreement; provided, however, the Agreement may be assigned by a Party to a successor of such Party.

8.11 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

8.12 No Presumption. The Parties to this Agreement and their attorneys have had full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

8.13 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity or enforceability of the Agreement as a whole.

8.14 Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made minor changes to this Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST: 
By: _____
Secretary/Executive Director

PUEBLO URBAN RENEWAL AUTHORITY

By: 
Chair

ATTEST:

PIKES PEAK PARK METROPOLITAN
DISTRICT NOS. 1-5

By: Heidi Garner

By: Jessie Pulliam

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

ATTEST:

By: 
Secretary/Executive Director

PUEBLO URBAN RENEWAL AUTHORITY

By: 
Chair

ATTEST:

By: 
Heidi Garner (Jan 26, 2023 14:24 MST)

PIKES PEAK PARK METROPOLITAN
DISTRICT NOS. 1-5

By: 
Zoraida Pulliam (Jan 26, 2023 15:23 MST)

TIF Agreement Pikes Peak Park MD Nos. 1-5, 2023-01-25

Final Audit Report

2023-01-26

Created:	2023-01-26
By:	Christina Dumpert (cdumpert@wbapc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAcQTLi2OFtBKGYL0Aj2tlePu1LGoGxO1i

"TIF Agreement Pikes Peak Park MD Nos. 1-5, 2023-01-25" History

-  Document created by Christina Dumpert (cdumpert@wbapc.com)
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West Pueblo Urban Renewal Plan

Impact Report

Pueblo Urban Renewal Authority

166649 | August 22, 2022



Building a Better World
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Engineers | Architects | Planners | Scientists



Building a Better World
for All of Us®

August 22, 2022

West Pueblo Urban Renewal Plan
Pueblo Urban Renewal Authority

Dear PURA Board of Commissioners,

This Impact Report is intended to satisfy the requirements outlined in Colorado's Urban Renewal Law, C.R.S. 31-25-107(3.5)I-V. According to Statute, the Urban Renewal Impact Report is a supplementary document to the Urban Renewal Plan that is required if property or sales taxes will be utilized in the project area for renewal activities. The Pueblo West Urban Renewal Plan area intends to utilize tax increment financing within its project area and therefore requires an impact report to be completed.

This Impact Report meets the minimum requirements defined by C.R.S. 31-25-107(3.5)I-V, but also has been designed to provide the Pueblo Urban Renewal Authority with a realistic forecast of how development will proceed throughout the Plan area. The forecast utilized in this report has been informed by an analysis of all properties within the project area, as well as interviews with PURA staff. The forecasts are intentionally designed to be conservative estimates and reflect community development needs that have been highlighted by this Board and the public.

The goal of this report is to provide the Pueblo Urban Renewal Authority with a realistic forecast of impacts to better inform negotiations with impacted taxing entities and ensure that the West Pueblo Urban Renewal Plan succeeds in bringing about the renewal hoped for by the Pueblo community.

Sincerely,

Andrew Arnold

CC: Jerry Pacheco and Cherish Deeg

Executive Summary

The West Pueblo Urban Renewal Plan Impact Report:

The Pueblo Urban Renewal Authority has begun the process of establishing a new Urban Renewal Plan area. This report describes the area as the West Pueblo Urban Renewal Plan. The previously completed Conditions Survey found that this plan area meets the statutory threshold of conditions outlined in C.R.S. 31-25-103. The Plan area exhibits five of the eleven statutorily defined blighting conditions, meaning that the project is eligible for renewal activities.

One type of renewal activity is the utilization of property and sales taxes to help remediate blight, incentivize redevelopment, and fund public improvements throughout the project area. This mechanism is known as Tax Increment Financing, and Colorado's Urban Renewal Law requires that an Impact Report be submitted with any Urban Renewal Plan that intends to utilize property and/or sales taxes for renewal activities in its project area (C.R.S. 31-25-107(3.5)I-V). The West Pueblo Urban Renewal Plan proposes the use of Tax Increment Financing, which triggered the need for this Impact Report.

The minimum requirements for an Impact Report are outlined in Colorado's Urban Renewal Law. Those requirements include,

- A) the estimated time to complete the Urban Renewal Project,
- B) The estimated annual property tax increment to be generated by the Urban Renewal Project and the portion of such increment to be allocated during this period to fund the urban renewal project,
- C) an estimate on the county revenue impact, and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure,
- D) a statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional County infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority,
- E) Any other estimated impacts of the urban renewal project on county services and revenues.

This Impact Report addresses each of the statutory requirements outlined above. Specifically, this Impact Report forecasts future tax incremental revenue by projecting a probable development scenario throughout the 385-acre Plan area over the next 25 years. This report assumes that the West Pueblo Urban Renewal Plan will be successful in remediating blighting conditions present within this area, which will help facilitate new development. The report also assumes that this new development will be incentivized by the Pueblo Urban Renewal Authority to address community needs, such as an increase in affordable housing, mixed-use and commercial development.

With the assistance of PURA Staff, this report evaluated probable development that is likely to occur if supported by West Pueblo Urban Renewal Plan. The report forecasted development type, density and value on each parcel using market assumptions and local development trends. These development scenarios were then phased over the Plan area's lifetime, according to the type of development and estimated market absorption rates. The resulting assessed value from these development scenarios was then contrasted with the base assessment of the West Pueblo Urban Renewal Plan area to determine the annual tax increment generated by the project. New retail space was also estimated, which was used to determine new sales tax production within the Plan area.

This redevelopment's total tax revenue and increment has been estimated by the impact report to determine the revenue impacts on effected taxing entities. The report also addresses population and student generation within the Plan area, and its potential impact to taxing entities such as the County and the School District.

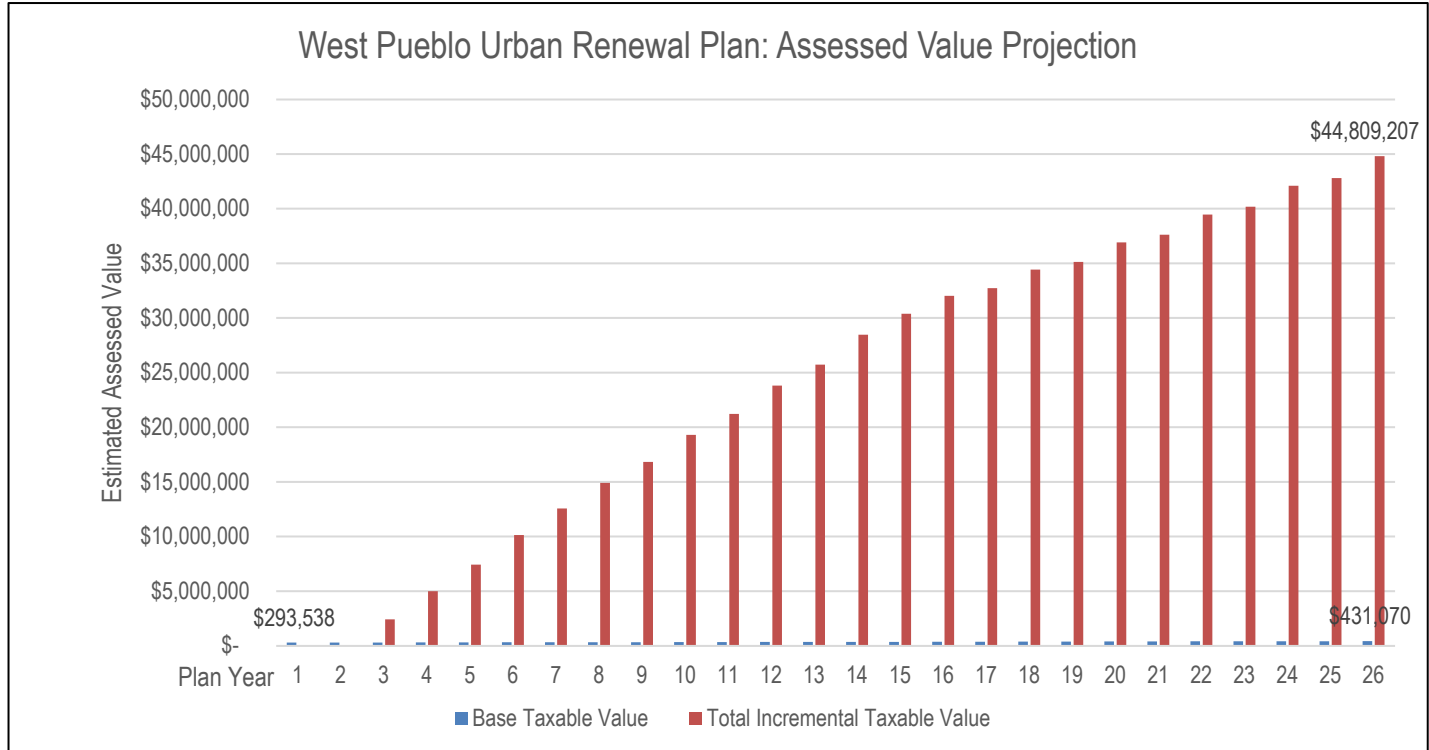
This report found that the West Pueblo Urban Renewal Plan would not adversely affect the taxing entities that collect property and sales tax within its boundary. The Renewal Plan will not require new County Infrastructure to be

Executive Summary (continued)

successful, nor would it require substantial County funded services. Although a County facility and roadway extension are planned to be included and to connect to this area, the Plan's TIF revenue is intended to help fund these improvements. This report evaluated County budgets and property tax revenue and found that the Plan's fiscal impacts were minimal. This report also analyzed the Plan's impacts to the Pueblo School District 60. Projected development would generate a significant number of new students. However, this report concludes that this increase in students will help offset a declining pupil membership in the district. Capital improvements are unlikely to be triggered by redevelopment in the Plan area, meaning that fiscal impacts by the West Pueblo Plan were minimal. This report concludes that effected taxing entities should support the West Pueblo Urban Renewal Plan, as its benefits to the community outweigh its fiscal costs.

The West Pueblo Urban Renewal Plan represents PURA's, the City of Pueblo's and Pueblo County's commitment to achieving public private partnerships that will facilitate community-minded development where it is needed most. This Impact Report was designed not only to evaluate the potential impacts of this development, but to also provide a roadmap for achieving these redevelopment goals. Projected Property and Sales Tax Increment that would be generated within this Urban Renewal Plan Area are described in the table below:

West Pueblo Urban Renewal Plan Fiscal Projections ¹		
Base Assessed Value of Plan Area	\$	293,538
Total New Improvement Assessed Value	\$	43,496,000
Total Estimated Property Tax TIF Revenue (25-Years)	\$	58,601,000
Total Estimated Sales Tax TIF Revenue (25-Years)	\$	22,313,000
Annual Property Tax TIF Revenue (25-Year Average)	\$	2,253,000



¹ Estimates have been rounded.

Contents

Letter of Transmittal
Executive Summary
Contents

1	Impact Report Summary	1
	Project Area Existing Conditions	1
	Current Assessment of Plan Area	3
	Taxing Districts Present	3
2	Impact Report Methodology	3
	Forecasting Future Growth	3
	Redevelopment Phases	4
	Redevelopment Feasibility Analysis	4
	Development Feasibility and Assumptions	5
	Tax Increment Financing Assumptions	7
	Sales Tax Assumptions	8
	The But-For Assumption	8
3	Tax Increment Financing Summary	9
	Redevelopment Parcels	9
	Projected Assessment and Phasing	12
	Property Tax TIF Projections	12
	Sales Tax TIF Projections	14
4	Taxing Entity Impacts	15
	Statutory Impacts	15
	Assessed Value Comparison	16
	Pueblo County	16
	Pueblo School District 60	18
	Impact Summary on Taxing Entities	19
	TIF Summary Table, 25-Year Total	20
	Impact Report Appendix	21
	Appendix A	A-1
	Appendix B	B-1

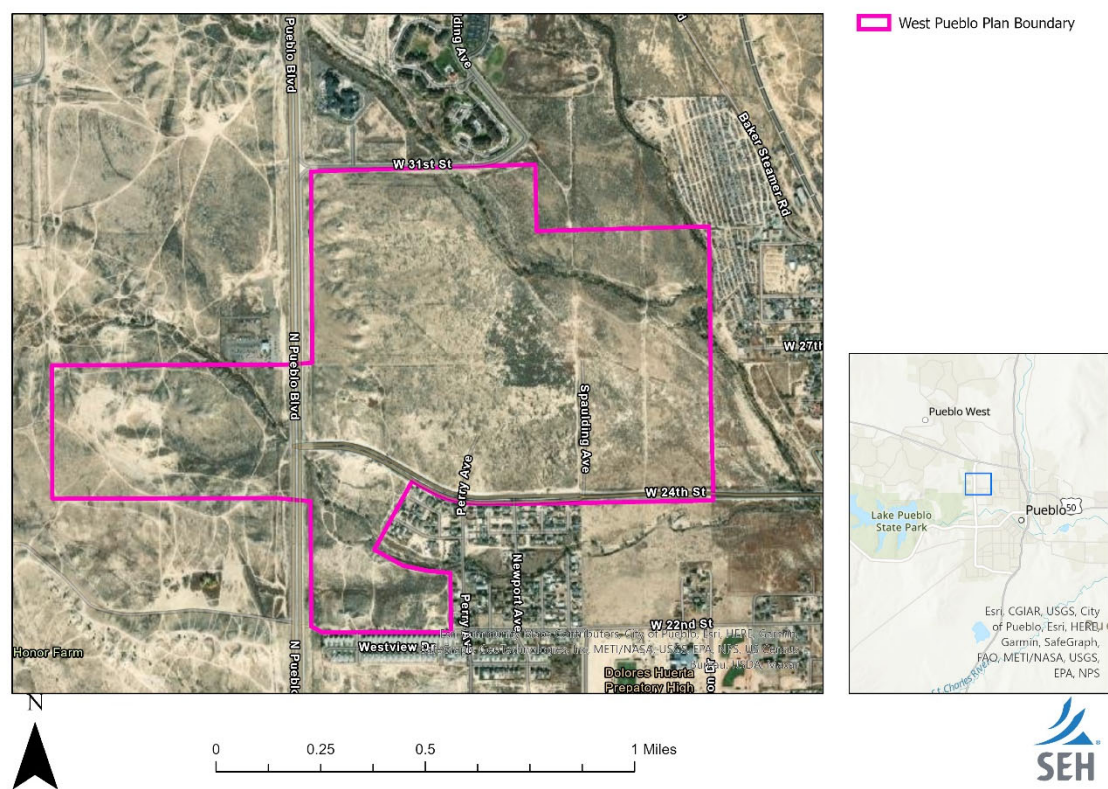
West Pueblo Urban Renewal Plan

Impact Report

Prepared for the Pueblo Urban Renewal Authority

1 Impact Report Summary

West Pueblo Urban Renewal Plan Impact Report



Project Area Existing Conditions

The West Pueblo Urban Renewal Plan area encompasses 385-acres² within the City of Pueblo. This area includes 8 parcels. This survey area has been strategically drawn to include parcels that need or will attract new investment or reinvestment. The area also includes public right-of-way that may benefit from urban renewal treatment.

² Acreage estimate includes Public Right of Way e.g. Roads and Alleys

West Pueblo Urban Renewal Plan Area Description

The proposed West Pueblo Urban Renewal Plan targets an area needing blight remediation, reinvestment, and redevelopment. The plan area is within Pueblo's City Limits and encompasses eight large, currently vacant parcels in city's northeast quadrant. Segments of West 31st Street, West 34th Street, and North Pueblo Boulevard are also included within the plan. The boundary is bisected into west and east parts by North Pueblo Boulevard. The boundary also includes unincorporated property but is specifically drawn in a way that can advance specific Pueblo County infrastructure and public projects.

The goal of the West Pueblo Urban Renewal Project is to encourage "renewal" throughout this surveyed area by attracting additional investment within the project boundary. At the time of this impact report, three potential private developments have been proposed within the area, under the assumption that they could received support from the Pueblo Urban Renewal Authority and the West Pueblo Plan.

Pueblo County has also indicated that a major infrastructure extension and public service facility could be located within the plan area. The infrastructure improvement would involve extending a roadway that eventually would connect the plan area to Pueblo West. It had been proposed that this infrastructure improvement would service a County-owned facility and could be supported financially via tax increment financing revenue. This scenario is further explored in the Tax Entity Impacts section.

West Pueblo URA Plan Area	Totals
Number of Total Acres	385
Parcel Acreage	355
Number of Parcels	8

1.1 Zoning Districts

The West Pueblo Urban Renewal Plan area includes 6 City of Pueblo zoning districts. Each zoning district regulates the land uses on their respective parcels according to the City of Pueblo's Comprehensive Plan and municipal code. These zoning districts will regulate the redevelopment that will be permitted throughout the West Pueblo Urban Renewal project. The zoning districts also inform the forecasts made by this Impact Report.

There are three parcels within the plan area that are currently in unincorporated pueblo county. These parcels have a County land use designation for agricultural uses, which were included as part of the A-1 category. A summary of each zoning district's acreage, number of parcels, and assessed value has been included in the table below.

Zoning Districts Statistics

Zoning	Number of Parcels	Number of Acres	% Parcel Acreage	Assessed Value
R-2	1	40.01	0.11	\$ 200
R-5	1	19.83	0.06	\$ 100
R-6	1	28.34	0.08	\$ 17,150
R-8	2	74.99	0.21	\$ 65,250
B-3	1	61.56	0.17	\$ 7,320
A-1	2	129.87	0.37	\$ 11,870

Source - Pueblo County GIS, City of Pueblo GIS and Pueblo County Assessor Office

Current Assessment of Plan Area

The Plan area includes 8 parcels. The total equalized assessed value of these parcels, according to the Pueblo County Assessor's database, is \$101,890. Using the 2021 Certified Assessment the City of Pueblo, the existing taxable value of the West Pueblo Urban Renewal Plan area is 0.012% of the City's total taxable value and 0.0068% of the County's taxable value.

The survey boundary encompasses properties that are taxed according to three Pueblo County taxing districts, 60B, 60CT, 60D. Each district has a different mill levy, which is outlined in the table below. The number of parcels, estimated acreage and assessed value according to each Taxing District within the survey boundary is recorded in the following table.

Taxing Districts Present

Tax District Statistics				
Tax Districts	Mill Levy	Number of Parcels	Estimated Acreage	Estimated Assessed Value
60B	97.705	4	177	\$ 72,770
60CT	81.233	2	68	\$ 28,530
60D	82.072	2	110	\$ 590

The West Pueblo Urban Renewal Plan includes three parcels that exhibit an agricultural assessment as per their 2020 assessment. To accurately forecast tax increment generation on these parcels, this report assumed that each agricultural parcel will be reassessed as vacant/commercial. The analysis assigned a new market value to each agriculturally assessed parcel and used this new value as the urban renewal plan's base value.

2 Impact Report Methodology

Forecasting Future Growth

West Pueblo Urban Renewal Plan's goal is to incentivize redevelopment by remediating blighting conditions and spurring new investments in public infrastructure, amenities, and community development needs.

One of the tools urban renewal authorities can use to bring about these changes is known as Tax Increment Financing (TIF). TIF is a redevelopment strategy that leverages future tax revenues to incentivize redevelopment for urban renewal activities. Colorado's Urban Renewal Law mandates that urban renewal project areas which intend to use TIF for renewal activities submit a supplementary Impact Report to help forecast growth within a renewal area and estimate the impacts this growth will have on taxing entities that operate within that area. The impact report's purpose is to ensure that taxing entities that rely on property tax revenues will not be adversely impacted by the urban renewal project.

Quantifying these impacts requires a forecast of probable growth throughout the project area over the project's lifetime. The West Pueblo Urban Renewal Plan is expected to last 25 years, the maximum amount of time allotted by Colorado's Urban Renewal Law. This report estimates where and when this redevelopment will take place.

The analysis organized all new development into three **Phases**. Each Phase lasts a specific amount of time deemed reasonable for redevelopment. The properties selected for each phase were analyzed by a range of redevelopment factors and the presence of blighting factors³. These factors helped to organize parcels based on their redevelopment feasibility.

Redevelopment Phases

Redevelopment Phase	Estimated Time
1	5 Years
2	8 Years
3	10 Years

The analysis assumes that the first two years of the Plan will not generate any new assessed value. After this two-year lag period, the redevelopment Phases begin. The first Phase is assumed to take place between 2024 and 2028, lasting five years. The second phase will begin in 2029 and conclude in 2036, lasting eight years. The third and final phase is projected to begin in 2037 and end with the Urban Renewal Plan in 2046⁴.

Redevelopment Feasibility Analysis

The analysis assumes a particular redevelopment perspective, one that is informed by proposed development, County infrastructure extensions, and projected growth throughout the city. This underscores the order, pace and type of development that is likely to occur within the West Pueblo Urban Renewal Plan area.

This report analyzed every parcel within the Plan area using specific redevelopment metrics. These metrics included:

- *market valuation,*
- *assessments, zoning,*
- *proposed development,*
- *underutilization,*
- *vacancy,*
- *the presence of blighting factors,*
- *non-conforming lots,*
- *topography,*
- *access,*
- *utilities,*
- *floor-area ratios, and*
- *other redevelopment factors.*

The analysis created a matrix using these redevelopment factors which scored each parcel. Parcels that scored the highest for redevelopment feasibility were then placed in specific redevelopment Phases:

Phase 1: Parcels in this phase scored high for redevelopment feasibility. Parcel's undergoing annexations, rezonings, or featuring proposed developments were included in this phase. In general, these parcels tend to be underutilized, vacant, or exhibiting low building improvement

³ All Blighting Factors geo-located within the West Pueblo Urban Renewal Plan Conditions Survey.

⁴ Property Tax Increment in 2047 is also included as part of this report's TIF projections.

values relative to land values. Phase 1 represents the areas within the plan most likely to develop over the next seven years.

Phase 2: Parcels in this phase scored high for redevelopment feasibility but exhibited factors that made them less likely to develop as quickly as Phase 1. These parcels tend to be large parcels with significant topography, lacking interior street networks or infrastructure. They also are underutilized and vacant. The parcels in this Phase also exhibit regulatory hurdles, such as needing rezones and annexations. For these reasons, it is likely that these parcels will develop after Phase 1 is complete since they are adjacent to this future development.

Phase 3: Parcels in this phase scored lower for redevelopment feasibility than parcels in Phases 1 and 2. These parcels tend to exhibit steep topography, lack infrastructure, and are underutilized. These parcels also currently lack access and utilities, meaning that their development is dependent on surrounding parcels. The westernmost parcels in this Phase may benefit from County plans to extend surface infrastructure to the Plan area. However, until this project is complete, these Phase 3 parcels are likely to redevelopment last within the West Pueblo Plan area.

Development Feasibility and Assumptions

This report evaluated recently completed and proposed developments throughout the City of Pueblo to help forecast the type, size, time and value of each redevelopment Phase. This provided a baseline to better project redevelopment within the West Pueblo Plan area over the next 25 years. These assumptions are cataloged below:

- **Type of Development** – Forecasted development is assumed to match its zoning district, except for the agricultural zones. All Agriculturally zoned parcels are assumed to be positioned for higher intensity development, and rezone to an R-5 designation once their redevelopment phase begins. Residential and mixed-use zones are anticipated to be favored throughout the plan area, meaning that the majority of new development will be residentially assessed.
- **Size of Development** – The scale of future development is limited by market demands, such as local absorption rates. Commercial development also needs to account for parking, ROW, and other site improvements that limits the size of vertical construction. SEH analyzed historic floor area ratios (FAR) of existing developments and compared this with recent developments within the City limits. FAR is a ratio between a property's land area and its total building area. The ratio serves as an indicator of how built up a property is relative to its land and can serve as a proxy for utilization. Because of the Plan area's zoning, and emphasis on housing development, this analysis conservatively estimated that future development would average a floor area ratio of 0.15⁵.
- **Time of Development** – As mentioned in the Size of Development section, market absorption rates were used to ensure that forecasted development was appropriately phased to meet local market demands. This report also assumes that early phases will need to be successfully completed before future phases can be initiated.

⁵ This FAR estimate considers open space, greenways, trails, and parks amenities that are assumed to be part of residential development. These amenities effectively lower FAR.

- Value of Development** – This report estimated the future value of development by comparing recent single family home sales, townhome and condominium sales, apartment rental rates, and local capitalization rates. This helped evaluate baselines for residential and commercial development, including for sale and for rent properties. These assumptions were incorporated into the TIF model based on unit pricing and price per square foot. These prices included both land and building improvement values. Unit sales price and price per square foot was chosen over cost per square foot because future taxable value is a derivative of actual assessed value. Although the County assessor uses three techniques to assess properties, recent sales price is a common appraisal method. Therefore, the sales price per square foot is a better indicator of future taxable value than cost per square foot. In order to ensure that projections did not over estimate market value, this analysis assumes that only 80% of a properties market value will become its final assessment. This report also analyzed market pricing and affordable pricing to anticipate value for development's targeting lower-income households within the plan area.

PUEBLO COMP ANALYSIS						
		MARKET RATE		AFFORDABLE RATE		
	DEVELOPMENT TYPE	\$/UNIT	Rent \$/SF	\$/UNIT	Rent \$/SF	% DIFF
RESIDENTIAL	SINGLE FAMILY HOME	\$ 316,000	\$ -	\$ 275,000	\$ -	87%
	TOWNHOME	\$ 255,086	\$ -	\$ 221,989	\$ -	87%
	CONDO	\$ 255,086	\$ -	\$ 221,989	\$ -	87%
	MULTI-FAMILY	\$ 226,000	\$ 2.25	\$ 200,000	\$ 1.99	87%
		\$/UNIT	Lease \$/SF			Cap Rate
COMMERCIAL	OFFICE	\$ -	\$ 12.5			7.25%
	RETAIL	\$ -	\$ 14.0			6.80%
	LIGHT INDUSTRIAL	\$ -	\$ 14.0			7.00%

These assumptions guided this report's forecast of future development throughout the West Pueblo Urban Renewal Plan area.

Tax Increment Financing Assumptions

As part of Statutory Requirements, this report projected the estimated property and sales tax generation for future development within the West Pueblo Urban Renewal Plan area. These projections are based on Pueblo County's 2022 certified assessments of property and the mill levies associated with the taxing entities present in the project area. The full list of taxing entities⁶ and their associated millage rates are tabulated below:

West Pueblo Urban Renewal Plan Mill Levies				
Note:		TIF Percentages are assumed to be 100% for the Impact Report		
60B District	Tax Entity	2022 Mill Levy	TIF Agreement %	TIF Eligible Mill Levy
	PUEBLO COUNTY	30.199	100%	30.199
	CITY OF PUEBLO	15.633	100%	15.633
	S.E.WATER CONSV DISTRICT	0.839	100%	0.839
	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	1.503	100%	1.503
	PUEBLO CITY-COUNTY LIBRARY DISTRICT	5.889	100%	5.889
	SCHOOL DISTRICT 60	43.642	100%	43.642
	Total	97.705	100%	97.705
60D District	Tax Entity	2022 Mill Levy	TIF Agreement %	TIF Eligible Mill Levy
	PUEBLO COUNTY	30.199	100%	30.199
	S.E.WATER CONSV DISTRICT	0.839	100%	0.839
	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	1.503	100%	1.503
	PUEBLO CITY-COUNTY LIBRARY DISTRICT	5.889	100%	5.889
	SCHOOL DISTRICT 60	43.642	100%	43.642
	Total	82.072	100%	82.072
60CT District	Tax Entity	2022 Mill Levy	TIF Agreement %	TIF Eligible Mill Levy
	PUEBLO COUNTY	30.199	100%	30.199
	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	1.503	100%	1.503
	TURKEY CREEK CD	0	100%	0
	PUEBLO CITY-COUNTY LIBRARY DISTRICT	5.889	100%	5.889
	SCHOOL DISTRICT 60	43.642	100%	43.642
	Total	81.233	100%	81.233

⁶ The Pikes Peak Metro District has been excluded for the purposes of this report.

This report assumes that all impacted taxing entities⁷ will pledge 100% of their millage rate to the West Pueblo Urban Renewal Project area. Property tax projections made by this report assume that the number of taxing entities, as well as their millage rates, will remain unchanged over the project's lifetime.

Tax Increment assumptions are also based on the above mill levies and assumes that the project area's starting **base value is \$293,538**⁸. This report projects that both the project base and all future development will appreciate at a rate pegged to inflation. This report assumes that the **inflation rate will average 3%** biennially over the project's lifetime⁹.

Sales Tax Assumptions

Colorado's Urban Renewal Law permits sales tax to be collected within urban renewal project areas to be leveraged for tax increment financing¹⁰. This report assumes that the City's sales tax rate is the only eligible sale tax for tax increment financing. The amount of sales tax that can be allocated to an urban renewal project is determined by calculating the amount of sales tax collected within the project area's boundary over the past 12 months. This is known as the sales tax base. Any increase over this base associated with new improvements within the project area is subject to negotiations between the municipality and the urban renewal authority over what portion of this increase can be paid out to fund urban renewal activities within the project area.

This report assumes that 100% of the City of Pueblo's sales tax generated by new improvements within the West Pueblo Urban Renewal Plan area will be allocated to the Pueblo Urban Renewal Authority. All sales tax calculations are estimates that have been isolated to only include new retail space forecasted to develop within the Plan area. The City of Pueblo imposes a 3.7% sales tax rate on the purchase price paid or charged on retail services. However, only 0.7% of the City's sales tax rate is already allocated to special funds. These include the police tax and economic development tax. This report assumes that only 3% of the City's 3.7% sales tax rate will be eligible for tax increment financing.

The But-For Assumption

The final assumption made in this report is that all new development would not occur but for the West Pueblo Urban Renewal Plan and the Pueblo Urban Renewal Authority. The goal of this urban renewal plan is to incentivize development through a variety of tools, TIF being just one example, where new investments manifest throughout the Plan area because of the Pueblo Urban Renewal Authority's efforts. All tax increment estimates must therefore be considered revenue that is generated because of the Pueblo Urban Renewal Authority's efforts to attract and facilitate redevelopment to the Plan area. The Conditions Survey identified five statutorily defined blighting factors within the Plan area that impair and arrest sound development. The West Pueblo Urban Renewal Plan will remediate these conditions and bring about development that is desired by the Pueblo community. Because of this, future incremental revenues should not be considered property tax or sales tax that is abdicated by the area's taxing entities. Instead, these incremental revenues should be perceived as a future tax base that would not exist but for the creation of the West Pueblo Urban Renewal Plan.

⁷ The Pikes Peak Metro District has been excluded for the purposes of this report.

⁸ This base value has been adjusted to account for agriculturally assessed properties.

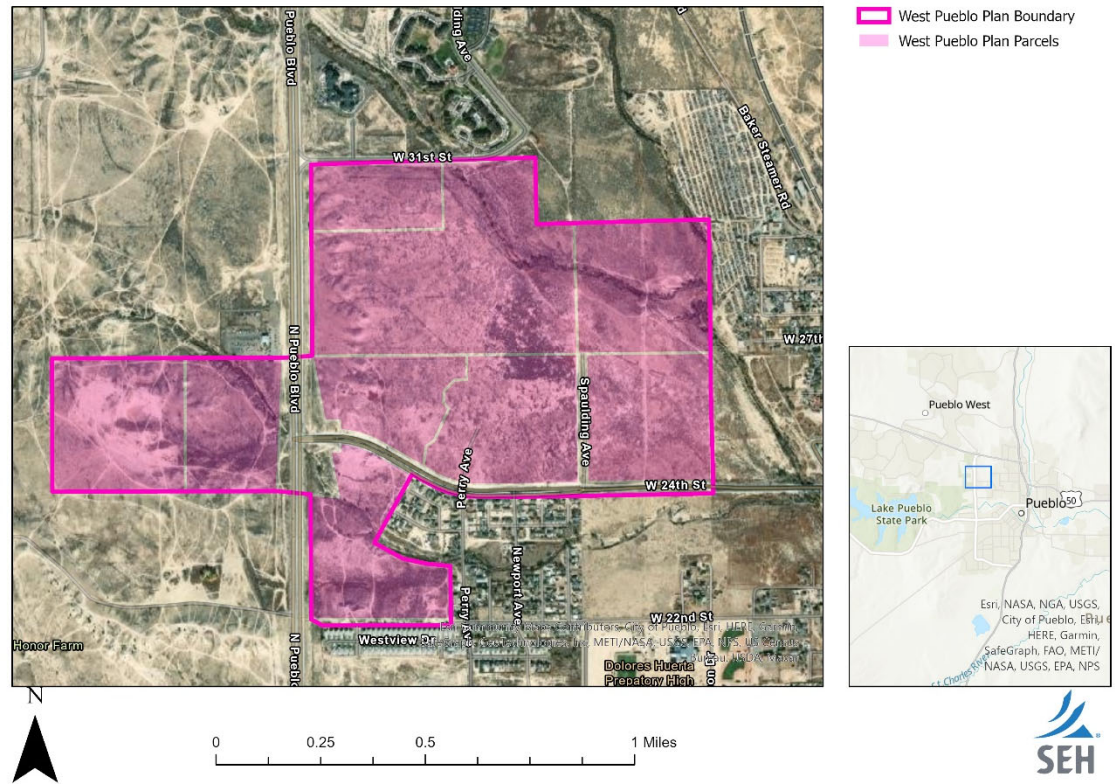
⁹ Colorado's Urban Renewal Law requires that the base assessment be reevaluated every two years within an urban renewal project area.

¹⁰ C.R.S. 31-25-107(9)(e)

3 Tax Increment Financing Summary

This Impact Report forecasted potential development throughout the West Pueblo Urban Renewal Plan area over the next 25 years and projected its assessed value and taxable revenue. These projections were used to estimate the amount of property tax increment and sales tax increment that will be generated within the Plan area if the urban renewal project is successful. Development projections are based on the methodology outlined in Section 2 of this report.

West Pueblo Urban Renewal Plan Impact Report



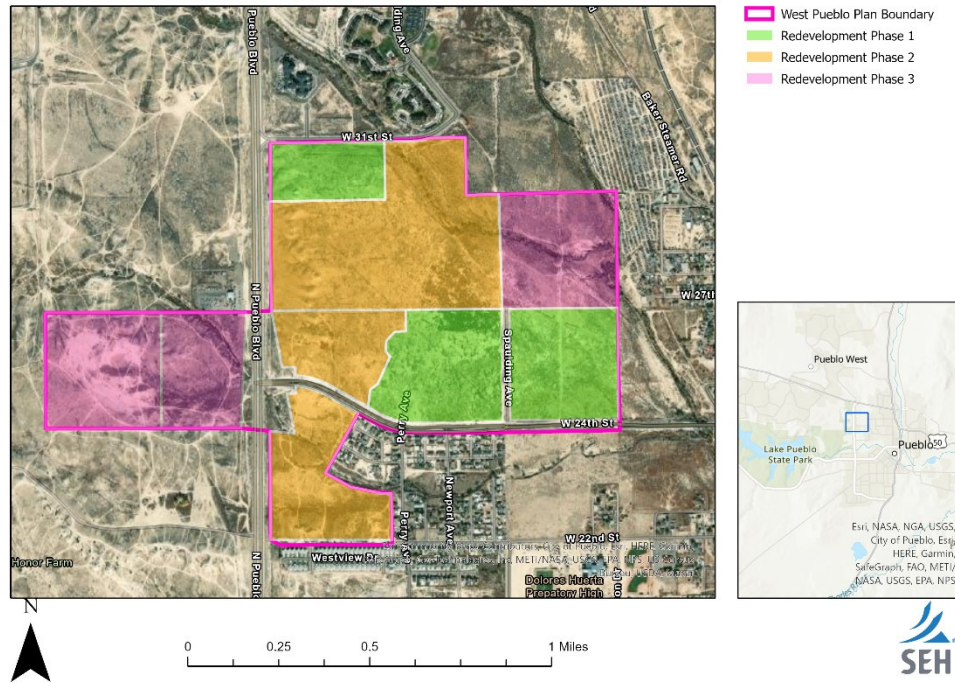
Redevelopment Parcels

The Impact Report forecasted development on the eight (8) parcels within the Plan Area. These properties were organized into three categories based on their timeline for redevelopment. Properties that are expected to redevelop within the next seven years were categorized as **Redevelopment Phase 1**. Properties that are likely to develop in the next eight years are labeled as **Redevelopment Phase 2**. Properties that are likely to develop in the Plan's final 10 years are labeled **Redevelopment Phase 3**.

The following maps illustrate each Redevelopment Phase and their selected parcel locations. Neighborhood Maps of each Redevelopment Phase are included in this Report's Appendix.

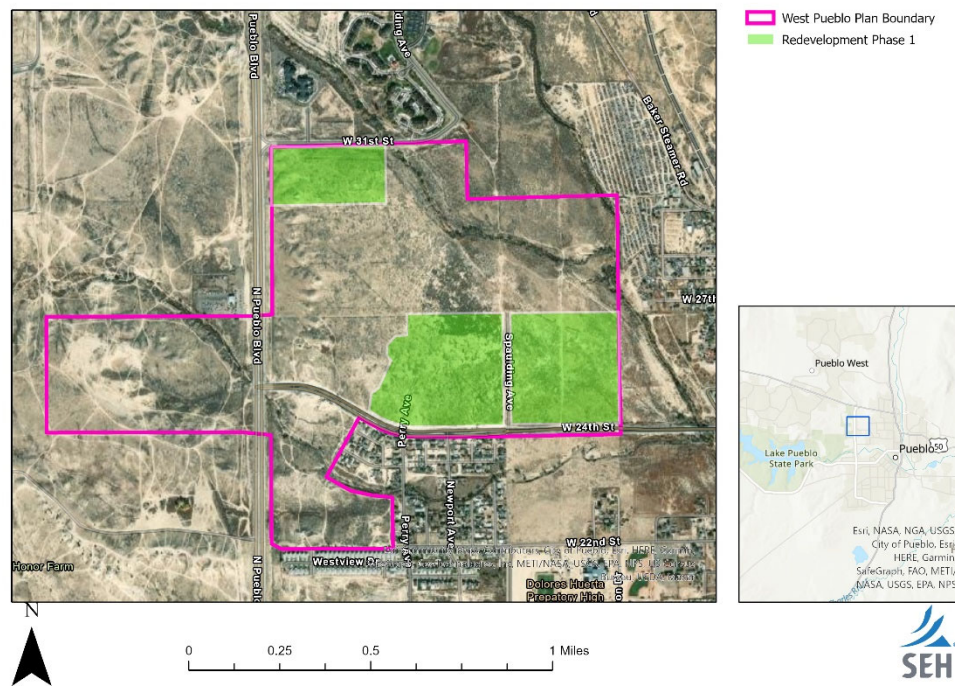
Redevelopment Phases - Summary Map

West Pueblo URA Plan: Redevelopment Phases



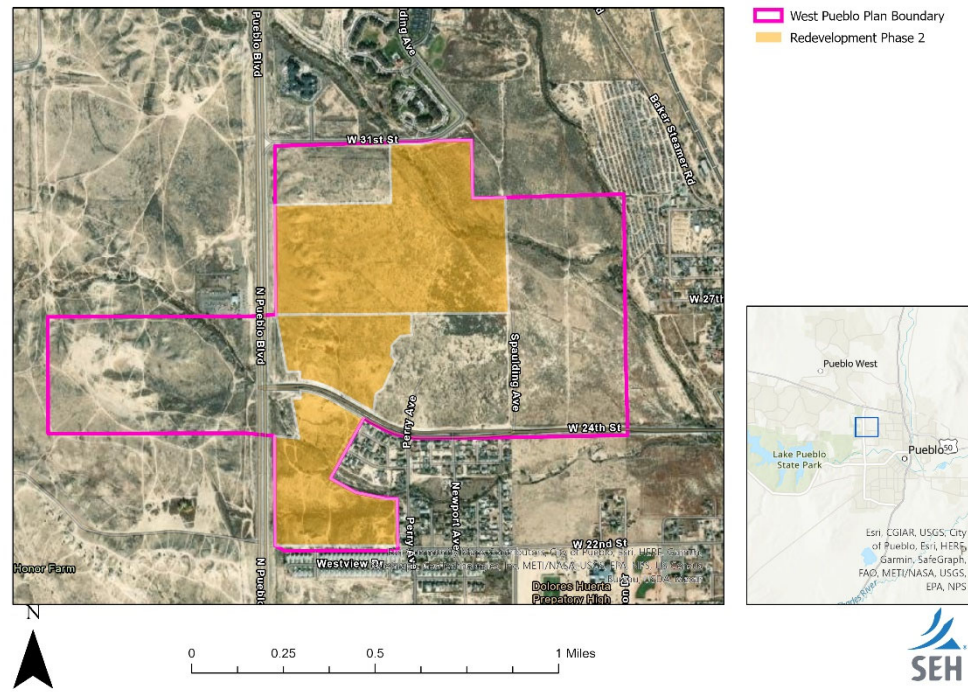
Redevelopment Phase 1 – Summary Map

West Pueblo URA Plan: Redevelopment Phase 1



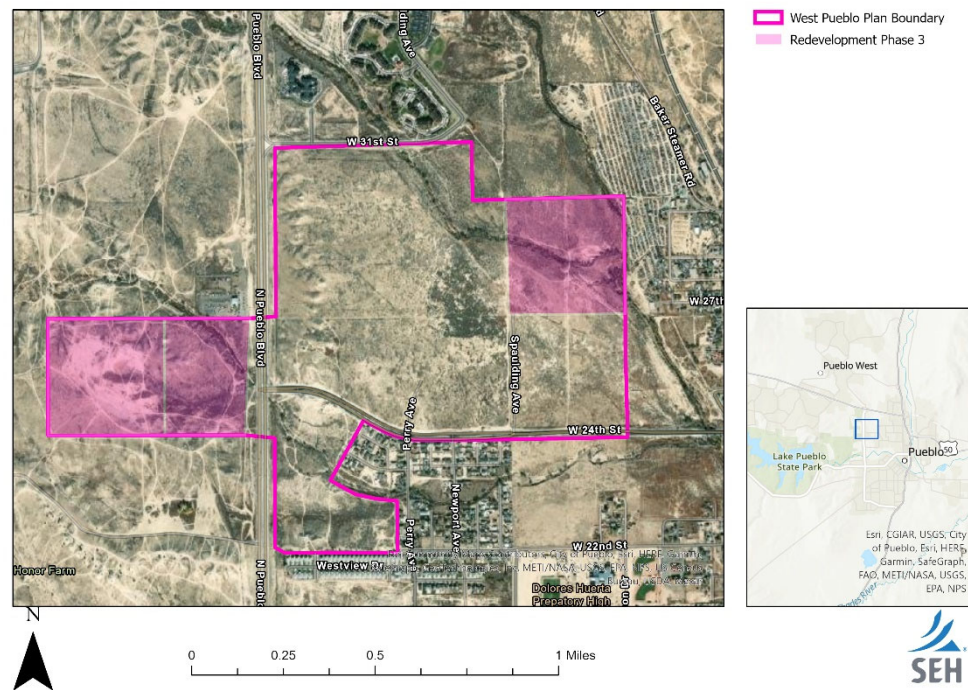
Redevelopment Phase 2 – Summary Map

West Pueblo URA Plan: Redevelopment Phase 2



Redevelopment Phase 3 – Summary Map

West Pueblo URA Plan: Redevelopment Phase 3



Projected Assessment and Phasing

The assessed valuation for each Redevelopment Phase was estimated by this report. All assessment projections assume that future appraisals utilize a sales comparison approach to determine future value. The following table describes the estimated number of years it will take to absorb the developments, its total developable acreage, the total equalized assessed valuation (AV) of all new development⁹, the existing AV of the subject properties, and the Incremental AV (Net) of all new development. The Incremental (Net) AV is used to determine future tax revenue within the Plan area. NET AV also includes 20% market value reduction to account for differences in property valuation when assessed.

Redevelopment Phase 1 (2022 to 2028)				
Number of Parcels	Developable Acreage	Existing AV	New AV	Net AV
3	43.6	\$ 81,349	\$ 15,271,714	\$ 12,152,292
Redevelopment Phase 2 (2029 to 2036)				
Number of Parcels	Developable Acreage	Existing AV	New AV	Net AV
2	68.2	\$ 130,181	\$ 19,296,056	\$ 15,332,700
Redevelopment Phase 3 (2037 to 2046)				
Number of Parcels	Developable Acreage	Existing AV	New AV	Net AV
3	108.2	\$ 82,008	\$ 8,928,775	\$ 7,077,413

Property Tax TIF Projections

This Impact Report estimated the West Pueblo Urban Renewal Plan's future TIF revenue over the next 25 years in accordance with C.R.S. 31-25-107(3.5)I-V. These estimates determine the property tax revenue that is likely to be generated by new developments within the Plan area. This tax revenue is assumed to be the result of the Pueblo Urban Renewal Authority's efforts to remediate blight and attract new investments within the Plan area.

Property tax TIF is estimated by comparing the Plan area's base value against its projected new improvement value. These assessed values each generate tax revenue based on the current millage rate of taxing entities within the Plan area. The base value's property tax revenue is not impacted by urban renewal projects. The new improvement's tax revenue, however, is the result of the urban renewal plan. That revenue is labeled as "increment". The property within the West Pueblo Urban Renewal Plan area has a current assessed value of \$293,538¹⁰. This current assessed value is known as the **Base Value** in tax increment financing.

This report estimates that new improvements within the West Pueblo Urban Renewal Plan area will amount to an additional \$43,496,000 in assessed value. This value is not generated at once but is instead phased in over the life of the Urban Renewal Plan.

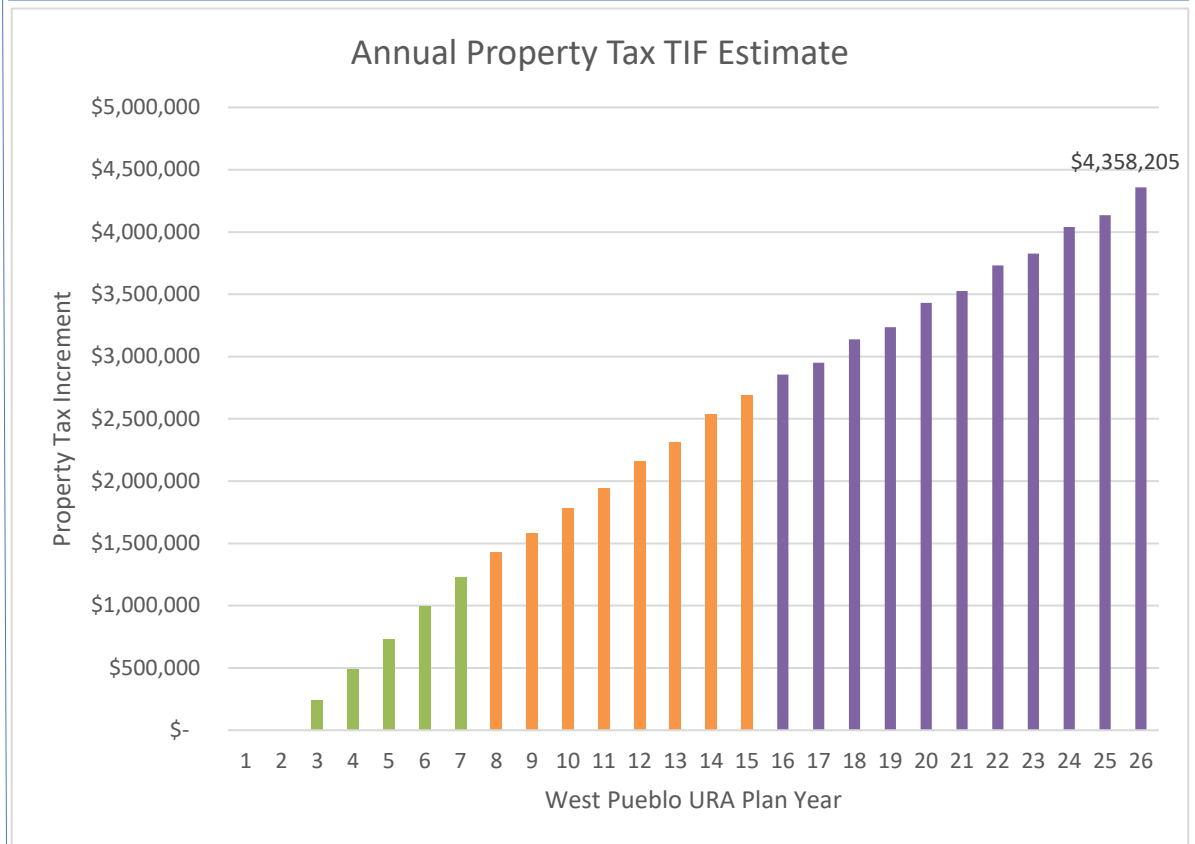
This report models new development according to the phases outlined in the previous section. It then applies the tax districts' millage rates to both existing and new improvements within the plan area. Tax revenue generated by new improvements is incremental revenue. These revenues can be utilized by the Pueblo Urban Renewal Authority for urban renewal activities within the Plan area.

⁹ Equalized Assessed Value is a property's value after its commercial and/or residential equalization ratio has been applied to its market value. The equalized assessed value is also a property's taxable value.

¹⁰ Per Pueblo County Assessor Database, adjusted to account for ag properties.

West Pueblo Urban Renewal Plan TIF Projections

Property TIF Estimates ¹³					
Base Value of Plan Area			\$293,538		
Total New Improvement AV			\$ 43,496,000		
Total TIF Revenue			\$ 58,601,000		
Annual TIF Revenue (25-Year Average)			\$ 2,253,000		
Tax District Estimates		Total Estimated Property Tax TIF			
Tax District 60B		\$ 47,792,472			
Tax District 60CT		\$ 2,361,196			
Tax District 60D		\$ 8,510,793			
			Estimated Tax Increment (25 Years)		
Tax Entity Fund ¹⁴		Millage Rate	Tax District 60B	Tax District 60CT	Tax District 60D
PUEBLO COUNTY		30.199	\$ 14,771,863	\$ 877,793	\$ 3,131,609
CITY OF PUEBLO		15.633	\$ 7,646,893	\$ -	
S.E.WATER CONSV DISTRICT		0.839	\$ 410,397	\$ -	\$ 87,004
LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT		1.503	\$ 735,194	\$ 43,688	\$ 155,860
PUEBLO CITY-COUNTY LIBRARY DISTRICT		5.889	\$ 2,880,609	\$ 171,175	\$ 610,684
SCHOOL DISTRICT 60		43.642	\$ 21,347,516	\$ 1,268,540	\$ 4,525,637
TURKEY CREEK CD		0		\$ -	\$ -



Colors indicate projected redevelopment phases.

¹⁴ The Pikes Peak Metro District has been excluded for the purposes of this report.

Sales Tax TIF Projections

Colorado's Urban Renewal Law permits Urban Renewal Authorities to collect sales tax as a source of incremental taxable revenue. This report assumes that the West Pueblo Urban Renewal Plan will utilize sales tax revenue as a potential source of TIF revenue.

This analysis estimated potential sales tax generation by first estimating the amount new commercial square footage generated throughout redevelopment. This analysis then compared the City of Pueblo's existing commercial square footage to its annual sales tax collections. This helped determine an average sales per square foot multiplier.

This analysis then reviewed the locations of new commercial development within the West Pueblo Urban Renewal Plan area. Locations that were not conducive to retail operations, such as having poor access or being in residential only zones, were excluded from being a potential retail space.

This analysis estimates that all new commercial space will generate approximately \$250 per SF per year. The summary of these inputs and their estimated sales tax generation are listed in the table below.

New Retail Space (25-Years)	313,977 SF
TIF Eligible Sales Tax Rate	3%
Estimated Sales Per SF	\$ 250.00
Estimated Sales Tax Increment (Gross)	\$ 7,248,000
Estimated Sales Tax Increment (Annual Average)	\$916,000
Percent of Annual Sales Tax Collections (City)	1.39%

This report estimates that the West Pueblo Urban Renewal Plan will generate an additional 313,977 square feet of retail space over the next 25-years. Using an estimated sales per square of \$250 PSF and phasing retail commercial development over the next 25 years, this amount space of equates to \$22,313,000 in gross sales tax increment. Annually, this equals an average of \$916,000 in sales tax TIF collected. For comparison, the City of Pueblo collected \$66,114,677 in general sales tax (3% rate) in 2021. This means that projected retail development in the West Pueblo Urban Renewal Plan area should increase the City's sales tax collections by 1.39% annually. This estimate does not include State Sales Tax collections or County Sales Tax collections.

4 Taxing Entity Impacts

Assessing an Urban Renewal Plan's impacts on partnering taxing entities requires careful consideration of the revenue, services and infrastructure needed achieve that plan's goals. These impacts also need to consider the purpose of the Urban Renewal Plan. In addition to remediating blighting conditions, an Urban Renewal Plan typically is designed to bring about a public good, either in the form of a public amenity or infrastructure, or even a type of development. The West Pueblo Urban Renewal Plan area is designed to facilitate a major infrastructure improvements, public facilities, and affordable housing within and near the Plan area.

The Plan area abuts an area that has been selected by Pueblo County to house the County Jail. To service this new facility, however, the County will be required to extend a major thoroughfare from the City of Pueblo's existing limits to Pueblo West. This infrastructure improvement would effectively extend Joe Martinez Boulevard to the Plan area and intersect North Pueblo Boulevard. The West Pueblo Urban Renewal Plan would help fund this infrastructure improvement through TIF. This would in turn support the proposed Jail Facility and spur additional redevelopment throughout the Plan area.

The Plan area would also support a proposed development for attainable and affordable housing by helping fund an extension of Spaulding Avenue and a new fire station within the Urban Renewal Plan area. TIF revenue will support this development, and also open other properties of the Plan area to redevelopment.

These infrastructure improvement, facilities, and proposed developments would help to remediate the blighting conditions identified in the West Pueblo Plan area. This is an Urban Renewal Project's purpose, to alleviate blighting conditions and help attract new investment and public improvements to a specific area of the community.

This stated purpose needs to be weighed against the possible fiscal impacts caused by the Urban Renewal Plan on partnering taxing entities. Conversely, partnering taxing entities need to demonstrate an undue impact caused by the Urban Renewal Plan to justify withholding tax revenue that the Pueblo Urban Renewal Authority generated through its renewal efforts.

Statutory Impacts

C.R.S. 31-25-107(3.5)I-V) lists requirements for Urban Renewal Impact Reports to evaluate potential impacts on effected taxing entities. The statute requires that the report examine County impacts in particular, stating the following:

- An estimate on the county revenue impact, and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure,
- A statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional County infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority,
- Any other estimated impacts of the urban renewal project on county services and revenues.

This section will answer these requirements directly about the West Pueblo Urban Renewal Plan's impacts to Pueblo County. This report will also address the impacts to the Pueblo School District 60, and the other entities that levy a tax within the Plan area.

Assessed Value Comparison

The West Pueblo Urban Renewal Plan is located within three taxing districts, districts 60B, 60CT, and 60D. Each taxing district levies a different mill levy: 60B is 97.70500 mills, 60 CT is 81.233 mills, and 60D is 82.072 mills. Collectively these three tax districts include the following taxing entities: Pueblo County, the City of Pueblo, the Southeast Water Conservation District, the Lower Arkansas Valley Water Conservation District, the Pueblo City-County Library District, and the Pueblo School District 60. Tax District 60CT includes the Turkey Creek Conservation District. However, this district does not levy a mill and is not included as part of this analysis.

The table below illustrates the total assessed value (AV) of property currently within each taxing entity the collects a property tax. The Plan area's estimated incremental assessed value is also included as a percentage of each tax districts AV.

Residential Assessed Value						
West Pueblo URA Plan Incremental Assessed Value	CITY OF PUEBLO	PUEBLO COUNTY	S.E.WATER CONSV DISTRICT	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	PUEBLO CITY-COUNTY LIBRARY DISTRICT	SCHOOL DISTRICT 60
\$9,909,543	\$508,564,043	\$920,438,152	\$848,622,481	\$920,438,152	\$920,438,152	\$518,520,843
<i>Percent of Taxing District</i>	5.1%	2.8%	3.0%	2.8%	2.8%	5.0%
Commercial/Industrial Assessed Value						
West Pueblo URA Plan Incremental Assessed Value	CITY OF PUEBLO	PUEBLO COUNTY	S.E.WATER CONSV DISTRICT	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	PUEBLO CITY-COUNTY LIBRARY DISTRICT	SCHOOL DISTRICT 60
\$36,304,538	\$339,686,160	\$584,740,095	\$523,940,384	\$391,625,889	\$584,740,095	\$362,803,610
<i>Percent of Taxing District</i>	5.2%	3.0%	3.4%	4.5%	3.0%	4.9%

Pueblo County

Revenue Impacts

The West Pueblo Urban Renewal Plan is expected to use Tax Increment Financing to help remediate blight and attract new investment to the project area. The use of future property tax could have an impact on the County's revenues, which is explored in this section.

Pueblo County issues a mill levy of 30.199 in all three districts included within the West Pueblo Urban Renewal Plan area. This mill levy is a major revenue source for the County's operations and funds. According to the Pueblo County 2022 Budget, taxes (which includes property, sales, use, excise, and specific ownership tax) account for 30% of its total revenue collected. Last year

these taxes amounted to \$116 million in revenue and helped to fund most of the County services to residents.

According to Pueblo County's OpenGov website, the total revenue collected in 2021 equaled \$240,723,797. Property tax accounted for 23.6% of the total revenue that year, or \$56,512,423 in property tax collected. To quantify potential revenue impacts to the County, this report compared the projected annual property tax revenue within the West Pueblo Urban Renewal Plan area to the County's property tax revenue. Projected property tax revenue is derived from new improvements in the Plan area, meaning that the Plan area's base assessed value was not included in this comparison.

This Report projected the West Pueblo Urban Renewal Plan area's annual property tax TIF per the County's millage rate and compared it as a percentage to total revenue collections. The West Pueblo Urban Renewal Plan area's property tax increment generated at the County's 30.199 millage rate will account for 1.30% of Pueblo County's annual revenue collections.

Pueblo County	2021 Property Tax Revenue (Actual)	Plan Area Estimated Property Tax TIF (25-Year Annual Average)	Percent of Total
General Fund	\$ 56,915,720	\$ 738,226	1.30%

The West Pueblo Urban Renewal Plan is expected to last 25-years. Over that time, the new improvements incentivized by this Plan and the Pueblo Urban Renewal Authority will begin to accumulate incremental property tax revenue. The incremental property tax represents a revenue stream that can be remitted to the Pueblo Urban Renewal Authority via TIF agreement in support of its remediation and redevelopment efforts in the West Pueblo Urban Renewal Plan area. West Pueblo TIF revenue is also expected to help support County initiatives such as the Joe Martinez Boulevard extension. This report estimates that new improvements within the Plan area account for \$19,194,000 in property tax TIF over 25-years.

Property tax is not the only revenue source generated by this Plan area's redevelopment. The West Pueblo Urban Renewal Plan will seek to attract new commercial development, a portion of which will be sales tax producing. Pueblo County levies a 1% sales tax rate that will not be used for Tax Increment Financing. This means that new commercial development within the West Pueblo Plan area represents a new source of revenue to the County. Over a 25-year horizon, the projected sales tax will amount to \$2,416,000.

The West Pueblo Urban Renewal Plan is not expected to generate significant revenue impacts on Pueblo County's General Fund. The Plan area's new development accounts for only 1.30% of the County's annual property tax revenue collections, a third of which will be offset by sales tax collections. The West Pueblo Urban Renewal Plan will alleviate blight without significantly detracting from the County's expected revenues. **This report does not find a negative revenue impact caused by the West Pueblo Urban Renewal Plan.**

Infrastructure and Service Impacts

The West Pueblo Urban Renewal Plan area is unique in that it includes unincorporated property within its plan area. This is because the Plan area is designed to assist Pueblo County develop new infrastructure and facilities to the West of the Plan area. Normally, an Urban Renewal Plan

area that requires new County infrastructure would need to estimate the cost of that infrastructure and evaluate how much, if any, of the costs can be paid for via TIF. In the West Pueblo Urban Renewal Plan's case, this infrastructure is intended to be supported by TIF revenue, despite that Plan area not directly requiring its construction. In this regard, the West Pueblo Urban Renewal Plan will assist Pueblo County complete infrastructure and facility improvements. The financial assistance provided by TIF will exceed any fiscal impacts caused by the Plan to the County, which is why the County is supportive of including unincorporated property within an Urban Renewal Plan area.

New development within the Plan area is projected to generate 1,407 residential units over 25-years. These residences will be within the City of Pueblo's municipal limits and be served by the City's department of health and human services. Using Colorado State demographer data, this number of households equates to 3,349 new residents. Pueblo County's total population in 2020 was estimated at 168,434 persons. New residents generated because of the West Pueblo Urban Renewal Plan will account for approximately 2% of the County's population. This increase is not likely to generate significant impacts on the County's health or human services.

County Impact Conclusion

This report concludes that the West Pueblo Urban Renewal Plan will not generate adverse fiscal impacts on Pueblo County revenue, infrastructure or services. In fact, the Plan is designed to help assist the County in developing new infrastructure and services that will benefit the public.

Pueblo School District 60

Revenue Impacts

The Pueblo School District 60 is the taxing entity that levies the largest millage rate within the West Pueblo Urban Renewal Plan area. The Pueblo School District 60 millage rate is 43.642. The School District is therefore an important partner to the Pueblo Urban Renewal Authority and vulnerable to the Plan's tax increment financing impacts.

According to the FY 2021-2022 adopted budget, the Pueblo School District 60 collected \$143,381,799 in total program funding. Property tax revenue accounted for 20.4%, or \$29,187,883 of that total. The following table compares these annual tax revenues with the estimated annual incremental property tax revenue generated by the West Pueblo Urban Renewal Plan area.

West Pueblo Urban Renewal Plan Impacts			
Pueblo School District 60 Fund	2019-2020 Property Tax Revenue	Estimated Property Tax TIF (Annual Average)	Percent of Total
Total	\$ 29,187,883	\$ 1,066,903	3.7%

The West Pueblo Urban Renewal Plan is not expected to generate a significant impact to the school district annual revenue. This report estimates that future incremental tax revenue amounts to only 3.7% of the School District's total property tax revenue. Property tax revenue is only 20.4% of the School District's total revenue, meaning that the West Pueblo Urban Renewal Plan's incremental property tax TIF represents 0.74% of all revenue.

Student Population Generation

The West Pueblo Urban Renewal Plan is projected to generate residential and commercial development over the next 25-years. The commercial development will create a negligible impact on the school district. However, residential development leads to additional households and students. This report forecasted potential student generation to quantify that impact.

The Pueblo School District 60 is within the City of Pueblo. The table below summarizes City's demographic data¹². These estimates, including household size and students per household, were used to estimate the number of students the West Pueblo's Urban Renewal Plan could generate over the next 25 years.

Estimated Population Generation	
Pueblo (City) Total Population	111,893
Household Population	108,691
Number of Households	45,704
Persons Per Household	2.38
Number of Students (District 60)	15,134
Students Per Household	0.33
<u>West Pueblo Urban Renewal Plan Development Projections</u>	
Projected Residential Units	1,407
Projected Population	3,349
Projected Students	464

The addition of 464 students over the next 25 years represents 3.07% of the current student population. According to Colorado's Department of Education, the school district has lost 12.52% of its pupil membership over the last 5-years, or 2,165 students. An additional 464 students generated by redevelopment within the West Pueblo Urban Renewal Plan is not a significant impact to the school district. In fact, it could help to reverse an ongoing decline of pupil membership within the Pueblo City 60 school district.

School District Impact Conclusion

The West Pueblo Urban Renewal Plan is not likely to generate significant adverse impacts on Pueblo City School District 60. The estimated student generated by the plan will not significantly raise its pupil membership and may even help to offset a 5-year decline. Its fiscal impacts are also minimal, as projected property tax TIF represents only 3.7% of the district's annual property tax revenue.

Impact Summary on Taxing Entities

This report did not find any substantial fiscal impacts to the taxing entities effected by the West Pueblo Urban Renewal Plan. The projected assessed value and property tax increment of the Plan amounts to a small percentage of each Taxing entities budget.

¹² Colorado State Demographer's Office 2020 County Population and Pupil Counts.

The Plan will not create fiscal, infrastructure or service burdens on the County. Instead, the Plan is being designed to help financially support infrastructure improvements that will benefit the City and County as a whole.

The Plan will not create negative fiscal impacts to the Pueblo City School District 60, as it only represents 3.7% of its annual property tax revenue. The Plan is likely to generate new students, but this increase in pupil membership will only help to offset a 5-year decline in student population.

The Plan will not create negative fiscal impacts to the City of Pueblo. The Plan is expected to generate approximately \$382,000 annually in property tax TIF at the City's mill levy. This amount is unlikely to trigger negative financial burdens for the City. Also, the City of Pueblo could elect to retain all sales tax increment generated by the Plan. Average sales tax generation is estimated at \$916,000 annually, meaning that the Plan would generate 68% more revenue for the City than property tax TIF alone. The West Pueblo Urban Renewal Plan will also remediate blighting conditions and support affordable housing development. These outcomes, coupled with the minimal financial impacts, imply that the Plan's benefits outweigh its costs to the City.

The following table outlines the estimated property tax revenue that will be generated within the plan area for each taxing entity. Generating significant tax increment may prove more troublesome than ensuring that taxing entities receive adequate base revenues, which is why this report recommends that each taxing entity agree to allocate 100% of their potential tax increment revenue to the Pueblo Urban Renewal Authority in support of the West Pueblo Urban Renewal Plan.

West Pueblo Urban Renewal Plan TIF Summary Table, 25-Year Total

Tax Increment Financing Analysis ¹⁶				
Tax Entity Fund	Millage Rate	Estimated Tax Increment (25 Years)		
		60B	60CT	60D
PUEBLO COUNTY	30.199	\$ 14,763,547	\$ 864,493	\$ 3,131,609
CITY OF PUEBLO	15.633	\$ 7,642,589	\$ -	
S.E.WATER CONSV DISTRICT	0.839	\$ 410,166	\$ -	\$ 87,004
LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	1.503	\$ 734,780	\$ 43,026	\$ 155,860
PUEBLO CITY-COUNTY LIBRARY DISTRICT	5.889	\$ 2,878,987	\$ 168,582	\$ 610,684
SCHOOL DISTRICT 60	43.642	\$ 21,335,499	\$ 1,249,320	\$ 4,525,637
TURKEY CREEK CD	0		\$ -	\$ -
25 Year Total		\$ 47,765,569	\$ 2,325,421	\$ 8,510,793

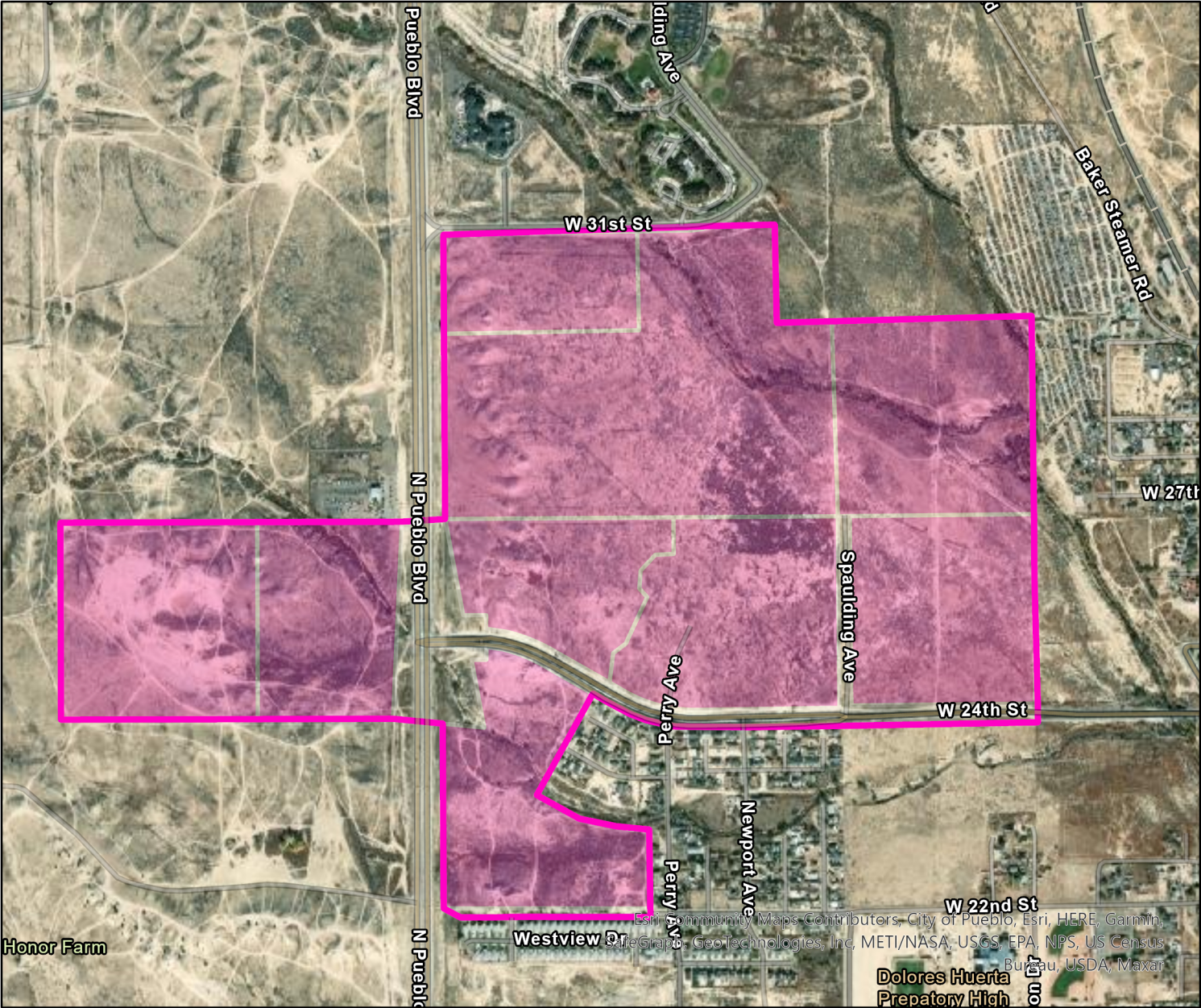
¹⁶ The Pikes Peak Metro District has been excluded for the purposes of this report.

Impact Report Appendix

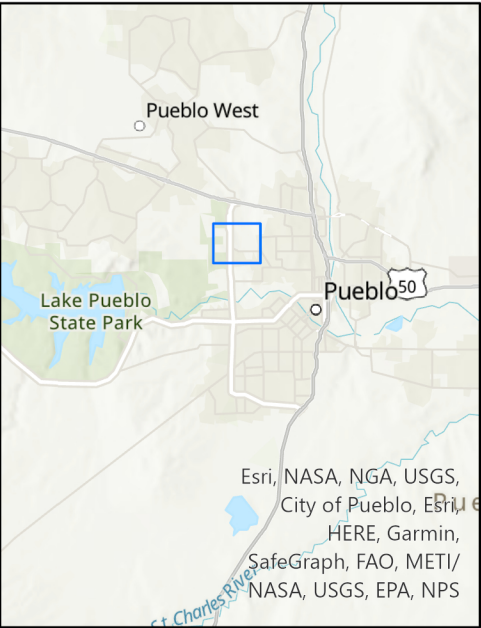
Appendix A

Redevelopment Phasing Maps

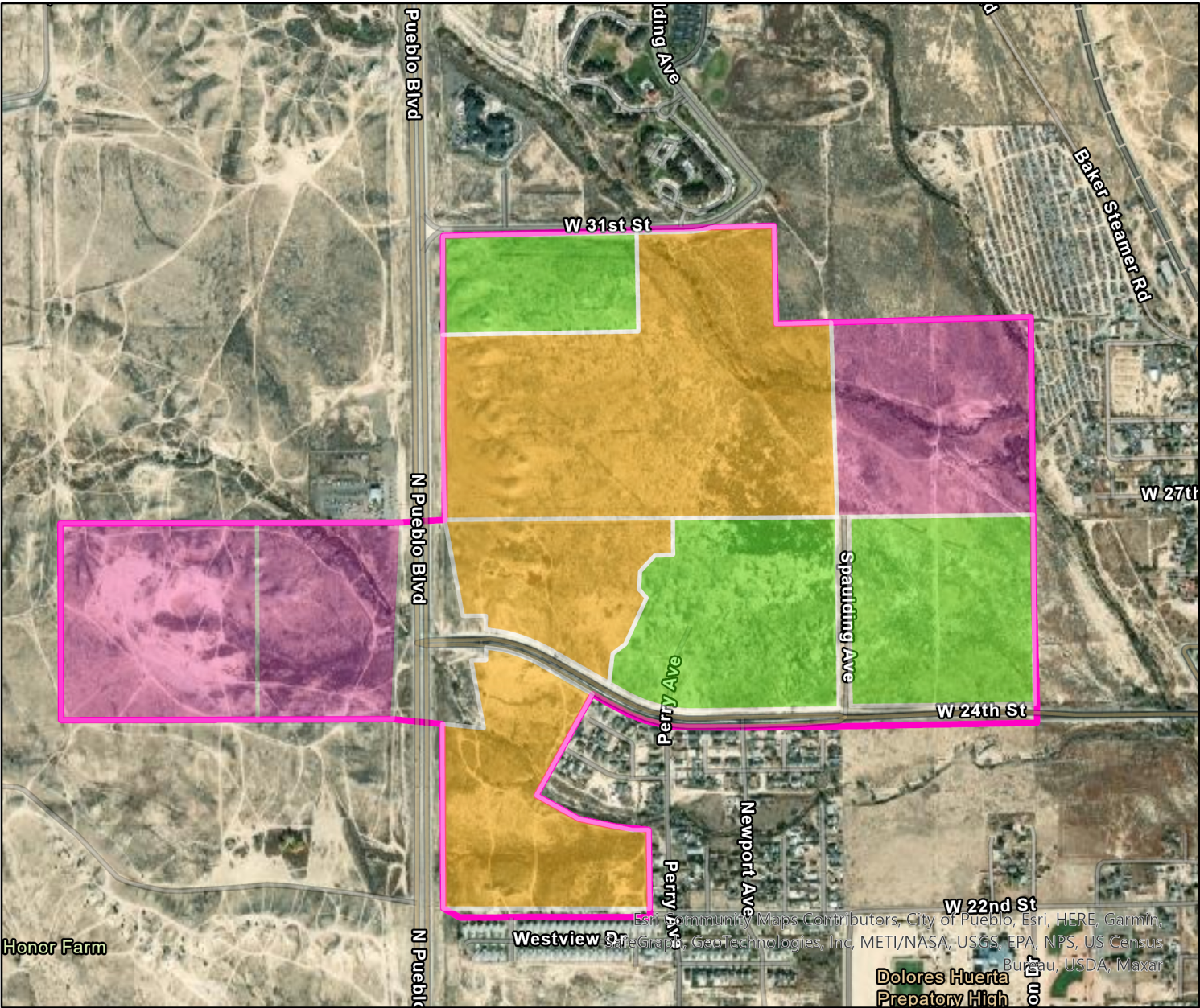
West Pueblo Urban Renewal Plan Impact Report



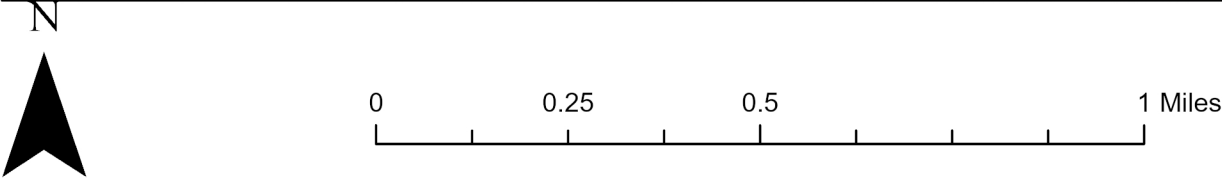
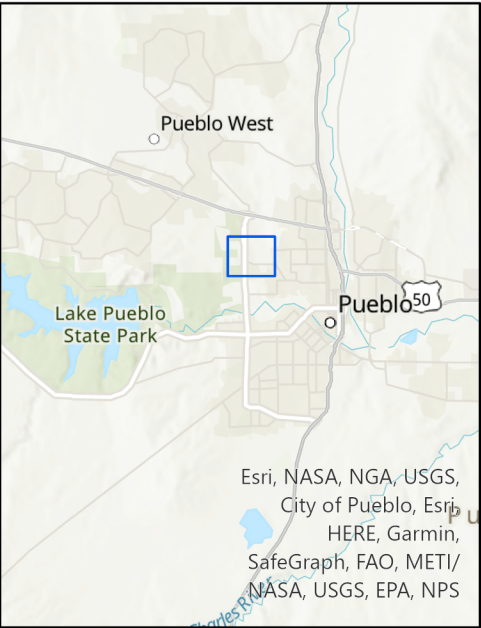
- West Pueblo Plan Boundary
- West Pueblo Plan Parcels



West Pueblo URA Plan: Redevelopment Phases



- West Pueblo Plan Boundary
- Redevelopment Phase 1
- Redevelopment Phase 2
- Redevelopment Phase 3



Appendix B

Tax Increment Financing Pro Forma

West Pueblo URA Plan		Combined Annual Proforma																												
	PHASE	Final Assessment																												
		2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047			
Absorption Schedule																														
Phase 1	Residential Units Commercial SF			161 3,023	161 3,023	161 3,023	161 3,023	161 3,023																						
Phase 2	Residential Units Commercial SF								52 48,559	52 48,559	52 48,559	52 48,559	52 48,559	52 48,559	52 48,559	52 48,559														
Phase 3	Residential Units Commercial SF																		19 22,437	19 22,437	19 22,437	19 22,437	19 22,437	19 22,437	19 22,437	19 22,437	19 22,437	19 22,437		
Total Residential Units		-	-	161	321	482	642	803	855	908	960	1,013	1,065	1,117	1,170	1,222	1,241	1,259	1,278	1,296	1,315	1,333	1,352	1,370	1,389	1,407	1,407			
Total Commercial SF		-	-	3,023	6,046	9,069	12,092	15,115	63,674	112,232	160,791	209,350	257,908	306,467	355,025	403,584	426,021	448,458	470,895	493,332	515,769	538,206	560,642	583,079	605,516	627,953	627,953			
Project Assessed Value																														
Phase 1																														
Phase 2																														
Phase 3																														
Estimated Increment																														
Annual NET AV (Assessed Value)		\$ -	\$ -	\$ 2,430,458	\$ 2,430,458	\$ 2,430,458	\$ 2,430,458	\$ 2,430,458	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ 1,916,587	\$ -			
TIF Mill Levy (60B)	97.70%	\$ -	\$ -	\$ 237,468	\$ 237,468	\$ 237,468	\$ 237,468	\$ 237,468	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ 105,551	\$ -			
TIF Mill Levy (60CT)	81.23%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -			
TIF Mill Levy (60D)	82.07%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ 68,635	\$ -				
Total		\$ -	\$ -	\$ 237,468	\$ 237,468	\$ 237,468	\$ 237,468	\$ 237,468	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ 174,187	\$ -			
Inflation Factor	3%																													
TIF Mill Levy (60B)	97.70%	\$ -	\$ -	\$ 237,468	\$ 489,184	\$ 726,652	\$ 993,043	\$ 1,230,511	\$ 1,376,144	\$ 1,481,695	\$ 1,634,864	\$ 1,740,415	\$ 1,901,345	\$ 2,006,896	\$ 2,175,821	\$ 2,281,372	\$ 2,376,717	\$ 2,402,836	\$ 2,501,825	\$ 2,527,945	\$ 2,630,686	\$ 2,656,806	\$ 2,763,414	\$ 2,789,533	\$ 2,900,123	\$ 2,926,242	\$ 3,014,030			
TIF Mill Levy (60CT)	81.23%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,776	\$ 71,551	\$ 107,327	\$ 143,103	\$ 178,879	\$ 214,654	\$ 250,430	\$ 286,206	\$ 321,981	\$ 357,757	\$ 357,757			
TIF Mill Levy (60D)	82.07%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 68,635	\$ 137,271	\$ 205,906	\$ 274,542	\$ 343,177	\$ 411,813	\$ 480,448	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083			
Total		\$ -	\$ -	\$ 237,468	\$ 489,184	\$ 726,652	\$ 993,043	\$ 1,230,511	\$ 1,444,780	\$ 1,618,966	\$ 1,840,770	\$ 2,014,957	\$ 2,244,522	\$ 2,418,709	\$ 2,656,269	\$ 2,830,456	\$ 2,961,576	\$ 3,023,471	\$ 3,158,235	\$ 3,220,131	\$ 3,358,648	\$ 3,420,544	\$ 3,562,927	\$ 3,624,822	\$ 3,771,187	\$ 3,833,083	\$ 3,920,870			
Total NET AV (Inflation Adjusted)		\$ -	\$ -	\$ 2,430,458	\$ 5,006,744	\$ 7,437,203	\$ 10,163,691	\$ 12,594,149	\$ 14,946,059	\$ 16,862,646	\$ 19,342,611	\$ 21,259,198	\$ 23,871,059	\$ 25,787,647	\$ 28,535,361	\$ 30,451,949	\$ 32,094,481	\$ 32,802,222	\$ 34,515,262	\$ 35,223,004	\$ 37,008,667	\$ 37,716,409	\$ 39,576,875	\$ 40,284,616	\$ 42,222,128	\$ 42,929,869	\$ 44,217,765			
Estimated Base																														
Existing Taxable Value		\$ 293,538	\$ 302,344	\$ 302,344	\$ 311,414	\$ 311,414	\$ 320,757	\$ 320,757	\$ 330,379	\$ 330,379	\$ 340,291	\$ 340,291	\$ 350,499	\$ 350,499	\$ 361,014	\$ 361,014	\$ 371,845	\$ 371,845	\$ 383,000	\$ 383,000	\$ 394,490	\$ 394,490	\$ 406,325	\$ 406,325	\$ 418,515	\$ 418,515	\$ 431,070			
Inflation Factor	3%																													
Incremental Property Tax Value		\$ -	\$ (8,806)	\$ 2,421,652	\$ 4,988,868	\$ 7,419,326	\$ 10,136,472	\$ 12,566,930	\$ 14,909,217	\$ 16,825,805	\$ 19,295,858	\$ 21,212,445	\$ 23,814,098	\$ 25,730,685	\$ 28,467,885	\$ 30,384,472	\$ 32,016,174	\$ 32,723,915	\$ 34,425,800	\$ 35,133,541	\$ 36,907,715	\$ 37,615,456	\$ 39,464,087	\$ 40,171,829	\$ 42,097,151	\$ 42,804,892	\$ 44,080,233			
Project Sales Tax																														
Annual Sales Per SF	\$250																													
Retail SF		-	-	1,512	1,512	1,512	1,512	1,512	24,279	24,279	24,279	24,279	24,279	24,279	24,279	24,279	-	-	-	-	-	-	-	-	-	-	-			
Sales Tax %	3.0%																													
Total Retail SF		-	-	1,512	3,023	4,535	6,046	7,558	31,837	56,116	80,396	104,675	128,954	153,233	177,513	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792			
Estimated Annual Sales Tax		-	-	11,336	22,673	34,009	45,346	56,682	238,777	420,872	602,967	785,061	967,156	1,149,251	1,331,345	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440			
Incremental Sales Tax		-	-	11,336	22,673	34,009	45,346	56,682	238,777	420,872	602,967	785,061	967,156	1,149,251	1,331,345	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440	1,513,440			
Colorado Smelter TIF Estimates		Plan Yr -->	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26		
Property Tax																														
Total Incremental Taxable Value		\$ -	\$ -	\$ 2,421,652	\$ 4,988,868	\$ 7,419,326	\$ 10,136,472	\$ 12,566,930	\$ 14,909,217	\$ 16,825,805	\$ 19,295,858	\$ 21,212,445	\$ 23,814,098	\$ 25,730,685	\$ 28,467,885	\$ 30,384,472	\$ 32,016,174	\$ 32,723,915	\$ 34,425,800	\$ 35,133,541	\$ 36,907,715	\$ 37,615,456	\$ 39,464,087	\$ 40,171,829	\$ 42,097,151	\$ 42,804,892	\$ 44,080,233			
TIF Mill Levy (60B)	97.70%	\$ -	\$ -	\$ 237,468	\$ 489,184	\$ 726,652	\$ 993,043	\$ 1,230,511	\$ 1,376,144	\$ 1,481,695	\$ 1,634,864	\$ 1,740,415	\$ 1,901,345	\$ 2,006,896	\$ 2,175,821	\$ 2,281,372	\$ 2,376,717	\$ 2,402,836	\$ 2,501,825	\$ 2,527,945	\$ 2,630,686	\$ 2,656,806	\$ 2,763,414	\$ 2,789,533	\$ 2,900,123	\$ 2,926,242	\$ 3,014,030			
TIF Mill Levy (60CT)	81.23%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,776	\$ 71,551	\$ 107,327	\$ 143,103	\$ 178,879	\$ 214,654	\$ 250,430	\$ 286,206	\$ 321,981	\$ 357,757	\$ 357,757			
TIF Mill Levy (60D)	82.07%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 68,635	\$ 137,271	\$ 205,906	\$ 274,542	\$ 343,177	\$ 411,813	\$ 480,448	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083	\$ 549,083			
Annual TIF Estimate		\$ -	\$ -	\$ 237,468	\$ 489,184	\$ 726,652	\$ 993,043	\$ 1,230,511	\$ 1,444,780	\$ 1,618,966	\$ 1,840,770	\$ 2,014,957	\$ 2,244,522	\$ 2,418,709	\$ 2,656,269	\$ 2,830,456	\$ 2,961,576	\$ 3,023,471	\$ 3,158,235	\$ 3,220,131	\$ 3,358,648	\$ 3,420,544	\$ 3,562,927	\$ 3,624,822	\$ 3,771,187	\$ 3,833,083	\$ 3,920,870			
Discount Rate	7%																													
NPV	\$19,356,886.36																													
Sales Tax																														
Retail SF		-	-	1,512	3,023	4,535	6,046	7,558	31,837	56,116	80,396	104,675	128,954	153,233	177,513	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792	201,792			
Estimated Annual Sales Tax		\$ -	\$ -	\$ 11,336	\$ 22,673	\$ 34,009	\$ 45,346	\$ 56,682	\$ 238,777	\$ 420,872	\$ 602,967	\$ 785,061	\$ 967,156	\$ 1,149,251	\$ 1,331,345	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440			
Sales Tax TIF %	100%																													
Estimated Sales Tax TIF		\$ -	\$ -	\$ 11,336	\$ 22,673	\$ 34,009	\$ 45,346	\$ 56,682	\$ 238,777	\$ 420,872	\$ 602,967	\$ 785,061	\$ 967,156	\$ 1,149,251	\$ 1,331,345	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440	\$ 1,513,440			
Discount Rate	7%																													
NPV	\$7,248,217.36																													



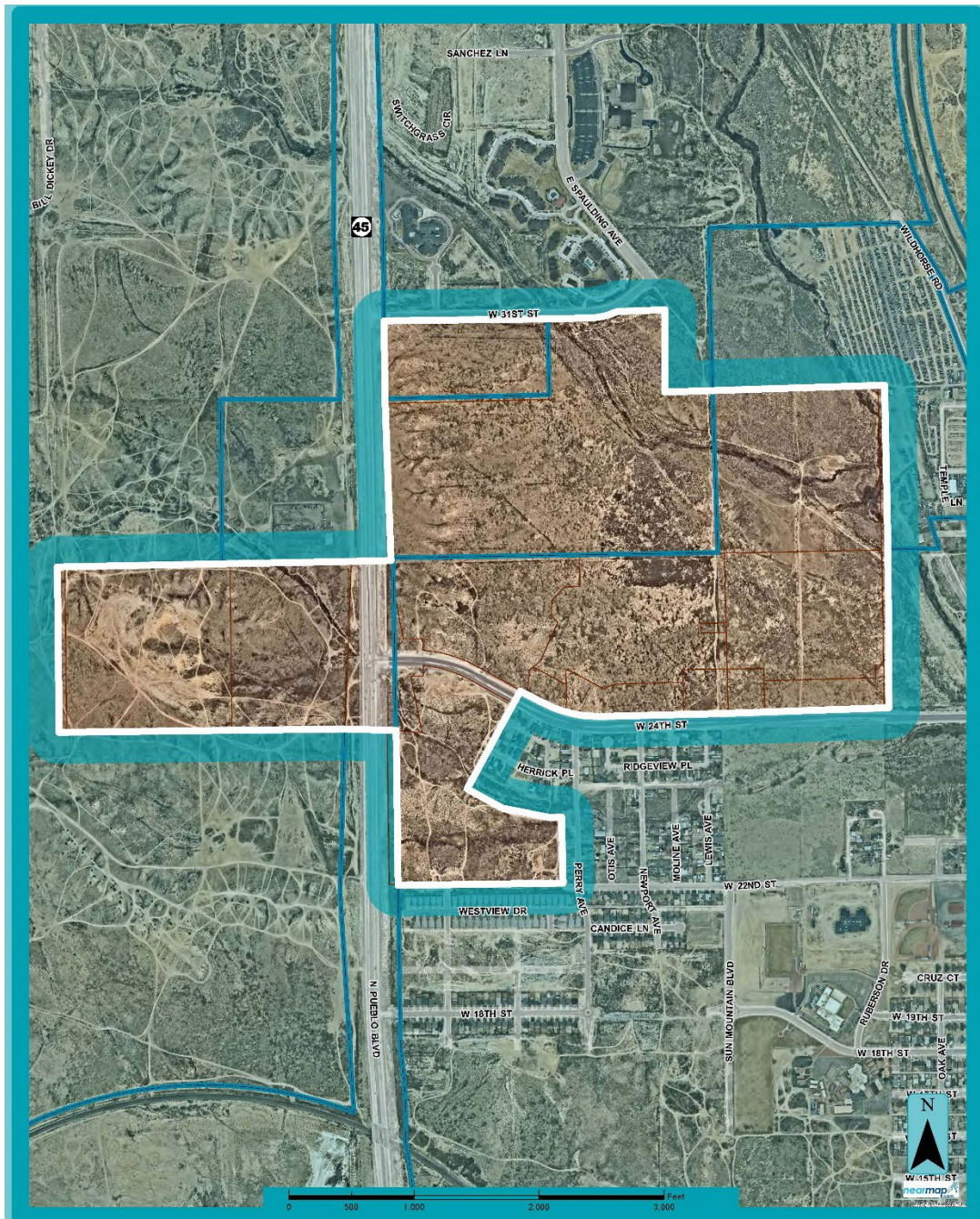
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WEST PUEBLO URBAN RENEWAL PLAN

August 25, 2022

Prepared by:
SEH, Inc.,
Pueblo Urban Renewal Authority

I. DEFINITIONS

The terms used in this Urban Renewal Plan shall have the following meanings.

Act means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, of the Colorado Revised Statutes.

Area or **Urban Renewal Area** means the areas of the City and County included within the boundaries of this Urban Renewal Plan as depicted in Exhibit A and described in Exhibit B.

Authority means the Urban Renewal Authority of Pueblo, Colorado.

City means the City of Pueblo, Colorado.

City Planning means the Department of Planning & Community Development of the City of Pueblo, Colorado.

City Comprehensive Plan means the Pueblo Comprehensive plan adopted in 2002, as amended to date.

City Consolidated Plan means the City of Pueblo 2020-2024 Consolidated Plan, approved June 14, 2021, by Ordinance No. 9951.

County means Pueblo County, Colorado.

Neighborhood Plan means the Westside Neighborhood Plan adopted in 2004.

Plan or **Urban Renewal Plan** means this urban renewal plan as it may be amended in the future.

Project or **Urban Renewal Project** means all activities and undertakings described in this Plan.

Pueblo Regional Comprehensive Plan or **Comprehensive Plan** means the regional policy guide for unincorporated areas and communities in the County and the City dated September 2022.

II. INTRODUCTION

This Plan implements a key component of the Intergovernmental Agreement by and among the City, the County, the Authority, the Board of Water Works of Pueblo, and the Pueblo West Metropolitan District dated as of January, 2022 (the “IGA”). The IGA contemplates that the City Council of the City and the County Commissioners will consider approval of the Plan as required by the Act, including the legislative findings and approvals required by Sections 31-25-107 and 112.5, C.R.S. As of its effective date, this Plan includes unincorporated territory outside of the City boundaries that is contiguous with that portion of the Area within the City limits as authorized by Section 112.5 of the Act. The Plan will become effective upon the last to occur of (1) approval of the Plan by the City Council in accordance with Section 107 of the Act and (2) approval of the Plan by the County Commissioners as required by Section 112.5 of the Act.

The purpose of this Plan is to implement those provisions of the Comprehensive Plan and the City Strategic Plan that apply to the Urban Renewal Area. The provisions of this Plan are intended to help provide important services to the Area, eliminate and prevent conditions of blight, attract private investment, utilize underdeveloped land, and leverage public investment and funding mechanisms to promote redevelopment and rehabilitation of the area by private enterprise, and, where necessary, provide necessary public infrastructure to serve the Area.

This Urban Renewal Plan has been proposed for consideration by the City Council of the City and the County Commissioners pursuant to the applicable provisions of the Act. The administration of the Project and the implementation of the Plan shall be the responsibility of the Authority.

III. URBAN RENEWAL AREA BOUNDARY

An urban renewal plan area has been created that includes properties that are within municipal limits as well as parcels in unincorporated Pueblo County. The plan area consists of eight parcels. Five parcels are within the city limits and three are within the unincorporated county. The total area of the proposed plan area is 385 acres, with eight parcels making up 354.6 acres.

IV. SUMMARY OF STATUTORY CRITERIA

On May 2, 2022, a conditions survey report was delivered to the Authority Board of Commissioners that summarized a blight study of the area described as the West Pueblo Urban Renewal Plan. Relevant conditions were researched, documented, photographed, and compared with the blight factors pursuant to the Act. The result of the survey is included in a document entitled "West Pueblo Conditions Survey" (the Conditions Survey) dated May 2, 2022, consisting of 26 pages, related exhibits, a description of existing conditions, and numerous photographs. The Conditions Survey is incorporated herein in its entirety by this reference.

The Conditions Survey shows that the following factors listed in the Act are present in the Area and that these conditions qualify the Area as a "blighted area" as defined in the Act:

- Predominance of defective or inadequate street layout.
- Faulty lot layout in relation to adequacy, accessibility, size or usefulness.
- Deterioration of site or other improvements.
- Unusual topography or inadequate public improvements or utilities.
- The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

V. DESCRIPTION OF URBAN RENEWAL PROJECT

This Plan will be implemented as part of a comprehensive program to eliminate and prevent blight in the Urban Renewal Area. The Authority, the City, and the County with the cooperation of private enterprise and other public bodies, will undertake a program to eliminate the conditions of blight identified in the Conditions Survey while supporting the Pueblo Regional Comprehensive Plan, the City Comprehensive Plan, the City's Consolidated Plan, the Westside Neighborhood Plan, and the Pueblo community's remediation and redevelopment goals.

A. Urban Renewal Plan Goals and the Plan's Relationship to Local and Regional Objectives

1. Goals of the Plan

This Plan has been adopted to achieve the following goals in the Area:

- a) To encourage "renewal" throughout the surveyed area by attracting additional investment within the project boundary.
- b) To alleviate blight within the boundaries of the project Area.
- c) To leverage tax increment financing to help attract new commercial and residential investments within the Plan area that will alleviate blighting conditions.
- d) To leverage tax increment financing to support the development of attainable and/or affordable housing within the Plan area.
- e) To leverage tax increment financing to assist with the funding of County infrastructure and facilities that will help advance the remediation and redevelopment goals of the Plan area.

- f) To leverage tax increment financing to assist with the Funding of City infrastructure and facilities that will help advance the remediation and redevelopment goals of the Plan area.
- g) To improve the streetscapes in a way that promotes on-street bike and pedestrian travel while also enhancing lighting, sidewalks, pedestrian safety, parking, signage, landscaping, bike racks and bus shelters.
- h) To invest in cultural and community spaces.

2. **Relationship to the Pueblo Regional Comprehensive Plan**

The Plan conforms with and is designed to implement the following strategies detailed in the Pueblo Regional Comprehensive Plan:

- a) The Plan will support housing options to meet the needs of existing and future residents of all ages, abilities, and income levels. The Plan will help to target new residential development within its boundaries.
- b) The Plan will help preserve and expand the supply of workforce and affordable housing within the region, including working with non-profit housing partners to produce new affordable units.
- c) The Plan will support and promote a fiscally and environmentally responsible pattern of growth. The Plan will support compact, mixed-use development that will be concentrated in a new growth area and that leverages funding tools such as tax increment financing.
- d) The Plan will help expand transportation connections to, from and within the region. The Plan will help fund County and City surface infrastructure improvements to remediate blight and facilitate new development.

3. **Relationship to Westside Neighborhood Plan**

The Plan conforms with and is designed to implement the following strategies detailed in the Westside Neighborhood Plan:

- a) The Plan will improve the physical image of the Westside by facilitating the “Neighborhood Identity Initiative”. The Plan will advance redevelopment at the 24th Street and Pueblo Boulevard Gateway. This Plan may also support the creation of a Gateway feature.
- b) The Plan will improve the quality and stability of Westside housing.
- c) The Plan will increase access to commercial goods and services.
- d) The Plan will advance the “Housing Initiative” goal of redeveloping “Larger vacant land opportunities north of 22nd Street” that will incorporate housing for mixed-income residents.

B. Land Use Regulations and Building Requirements

The Plan will provide a comprehensive and unified plan to promote and encourage high quality development and redevelopment of the Urban Renewal Area by cooperative efforts of the City, the County, private enterprise and public bodies.

Notwithstanding anything in the Plan to the contrary, the development and use of the property within (a) the portion of the Urban Renewal Area within the County at the time of any development or building application related to land area, land use, design building requirements, timing or procedures applicable to the property, shall be subject to all applicable County development and building requirements and (b) the portion of the Urban Renewal Area within the City boundaries at the time of any development or building application related to land area, land use, design building requirements, timing or procedures applicable to the property, shall be subject to the Pueblo Municipal Code, Pueblo County Land Use Code and secondary codes therein adopted by reference, and other applicable standards and regulations of the City of Pueblo ("City Regulations") and Pueblo County ("County Regulations"). Permitted uses for properties in the Urban Renewal Area shall be those uses allowed in the City of Pueblo Land Use Code for annexed parcels and uses allowed in the Pueblo County Land Use Code for unincorporated parcels.

VI. PROJECT ACTIVITIES

The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

A. Land Acquisition

To carry out this Plan, the Authority may exercise any and all of its rights and powers under the Act and any other applicable law, ordinance or regulation. The Authority may acquire any interest in property by any manner available. The Authority may acquire property in the Area for the following reasons: To eliminate or prevent conditions of blight; to carry out one or more objectives of the Plan; to assemble property for redevelopment by private enterprise; for needed public improvements; and for any other lawful purpose authorized by the Plan, the Act or any other applicable law.

Acquisition of property by eminent domain is not authorized unless the City Council with respect to property within the City and the County Commissioners with respect to property within the County approves, by majority vote, the use of eminent domain by the Authority in accordance with the Act and other applicable laws.

B. Relocation

If acquisition of property displaces any individual, family, or business concern, the Authority may assist such party in finding another location, and may, but is not obligated to, make relocation payments to eligible residents and businesses in such amounts and under such terms and conditions as it may determine and as may be required by law.

C. Demolition, Clearance, and Site Preparation

The Authority may demolish and clear those buildings, structures, and other improvements from property it acquires if such buildings, structures, and other improvements are not to be rehabilitated in accordance with this Plan. The Authority may provide rough and finished site grading and other site preparation services as part of a comprehensive redevelopment program.

D. Property Management

During such time as any property is acquired by the Authority, for disposition for redevelopment, such property shall be under the management and control of the Authority and may be rented or leased by it pending disposition for redevelopment or rehabilitation. Notwithstanding the foregoing, the Authority may acquire property, develop, construct, maintain, and operate thereon buildings, and facilities devoted to uses and purposes as the Authority deems to be in the public interest.

E. Public Improvements

The Authority will cooperate with the City and the County and other public bodies to install, repair or replace necessary public infrastructure including, but not limited to, public streets, ADA accessible routes, stormwater improvements outside the scope of the City Storm Water Enterprise, park and recreation amenities and multi-use recreational trails in the Area.

F. Land Disposition, Redevelopment and Rehabilitation

The Authority may dispose of property it acquires by means of a reasonable competitive bidding procedure it establishes in accordance with the Act and pursuant to redevelopment agreements between the Authority and such purchasers.

The Authority may also enter into owner participation agreements with property owners in the Area for the development, redevelopment, or rehabilitation of their property. Such agreements will provide for such participation and assistance as the Authority may elect to provide to such owners.

The Authority may develop, construct, maintain, and operate buildings and facilities devoted to uses and purposes as the Authority deems to be in the public interest.

All such redevelopment, owner participation and other agreements shall contain, at a minimum, provisions requiring:

1. Compliance with the Plan and, if adopted by the Authority, the Design Guidelines and Standards, and, as applicable, City codes and ordinances and County codes and policies.
2. Covenants to begin and complete development, construction, or rehabilitation of both public and private improvements within a period of time deemed to be reasonable by the Authority.
3. The financial commitments of each party (but nothing herein shall obligate the Authority to make any such financial commitment to any party or transaction).

G. Cooperation Agreements

For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City, County or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location and construction of public improvements; and any other matters required to carry out this Project, including streamlining of these processes. It is recognized that cooperation with the City, County, other municipalities and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within and outside of the Area to properly and efficiently carry out the goals and objectives of this Plan.

H. Other Project Undertakings and Activities

Other Project undertakings and activities deemed necessary by the Authority to carry out the Plan in the Area may be undertaken and performed by the Authority or pursuant to agreements with other parties or public bodies in accordance with the authorization of the Act and any and all applicable laws.

VII. PROJECT FINANCING

The Authority is authorized to finance activities and undertakings under this Plan by any method authorized by the Act or any other applicable law, including without limitation, appropriations, loans or advances from the City or County; federal loans and grants; state loans and grants; interest income; pay as you go arrangements; annual appropriation agreements; agreements with public and private parties or entities; sale of securities; loans, advances and grants from any other available source.

Any and all financing methods legally available to the City, the County, the Authority, any special district or other public body, any private developer, redeveloper or owner may be used to finance in whole or in part any and all costs, including without limitation, the cost of public improvements described or anticipated in the Plan or in any manner related or incidental to the development of the Urban Renewal Area. Such methods may be combined to finance all or any part of activities and undertakings throughout the Urban Renewal Area. Any financing method authorized by the Plan or by any applicable law, including without limitation, the Act, may be used to pay the principal of and interest on and to establish reserves for indebtedness (whether funded, refunded, assumed or

otherwise) incurred by the Authority or the City or the County or special district to finance activities and undertakings authorized by the Act and this Plan in whole or in part.

The Authority is authorized to issue notes, bonds or any other financing instruments or documents in amounts sufficient to finance all or part of the Urban Renewal Plan. The Authority is authorized to borrow funds and to create indebtedness in carrying out this Plan. The principal, interest, and any premiums due on or in connection with such indebtedness may be paid from any funds available to the Authority.

The Project may be financed by the Authority under the tax allocation financing provisions of the Act. Under the tax allocation method of financing the Project, property taxes levied after the effective date of the approval of this Plan upon taxable property in the Urban Renewal Area each year by or for the benefit of each public body that levies property taxes in the Area, shall be divided for a period not to exceed twenty-five (25) years after the effective date of the adoption of this tax allocation provision, as follows:

Base Amount

That portion of the taxes which are produced by the levy at the rate fixed each year by or for such public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of the Plan or, as to an area later added to the Urban Renewal Area, and the effective date of the modification of the Plan shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

Increment Amount

That portion of said property taxes in excess of such base amount shall be allocated to and, when collected, paid into a special fund of the Authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by (whether funded, refunded, assumed or otherwise) the Authority for financing or refinancing, in whole or in part, the Project.

Unless and until the total valuation for assessment of the taxable property in the Urban Renewal Area exceeds the base valuation for assessment of the taxable property in the Urban Renewal Area, all of the taxes levied upon taxable property in the Urban Renewal Area shall be paid into the funds of the respective public bodies.

When such bonds, loans, advances and indebtedness, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds of the respective public bodies.

The increment portion of the taxes, as described in this subparagraph 2, may be irrevocably pledged by the Authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances and indebtedness incurred by the Authority to finance the Project as authorized by the Act.

VIII. CHANGES IN APPROVED PLAN

This Plan may be modified pursuant to the provisions of the Act governing such modifications, including Section 31-25-107, C.R.S.

IX. MINOR VARIATIONS

The Authority may in specific cases allow minor variations from the provisions of the Plan if it determines that a literal enforcement of the provisions of the Plan would constitute an unreasonable limitation beyond the intent and purpose of the Plan.

EXHIBIT A LEGAL DESCRIPTION

This Urban Renewal Area contains approximately 385 acres. The location and area boundaries may be generally described as:

Partially within the city limits of the City of Pueblo;

AND

Partially within unincorporated Pueblo County;

AND

Bound to the north by W 31st St;

AND

Bound to the east by Wildhorse Creek and the eastern borders of Parcel Numbers 522000008, 522430217;

AND

Extending west along W 24th St;

AND

Extending around Parcel Number 522300002;

AND

Bound to the south by W 22nd St.;

AND

Extending North along North Pueblo Boulevard;

AND

Extending west along the southern border of Parcel Number 521000019;

AND

Extending west, north and then east along the border of Parcel Number 521000020;

AND

Extending east along the northern border of Parcel Number 521000019;

AND

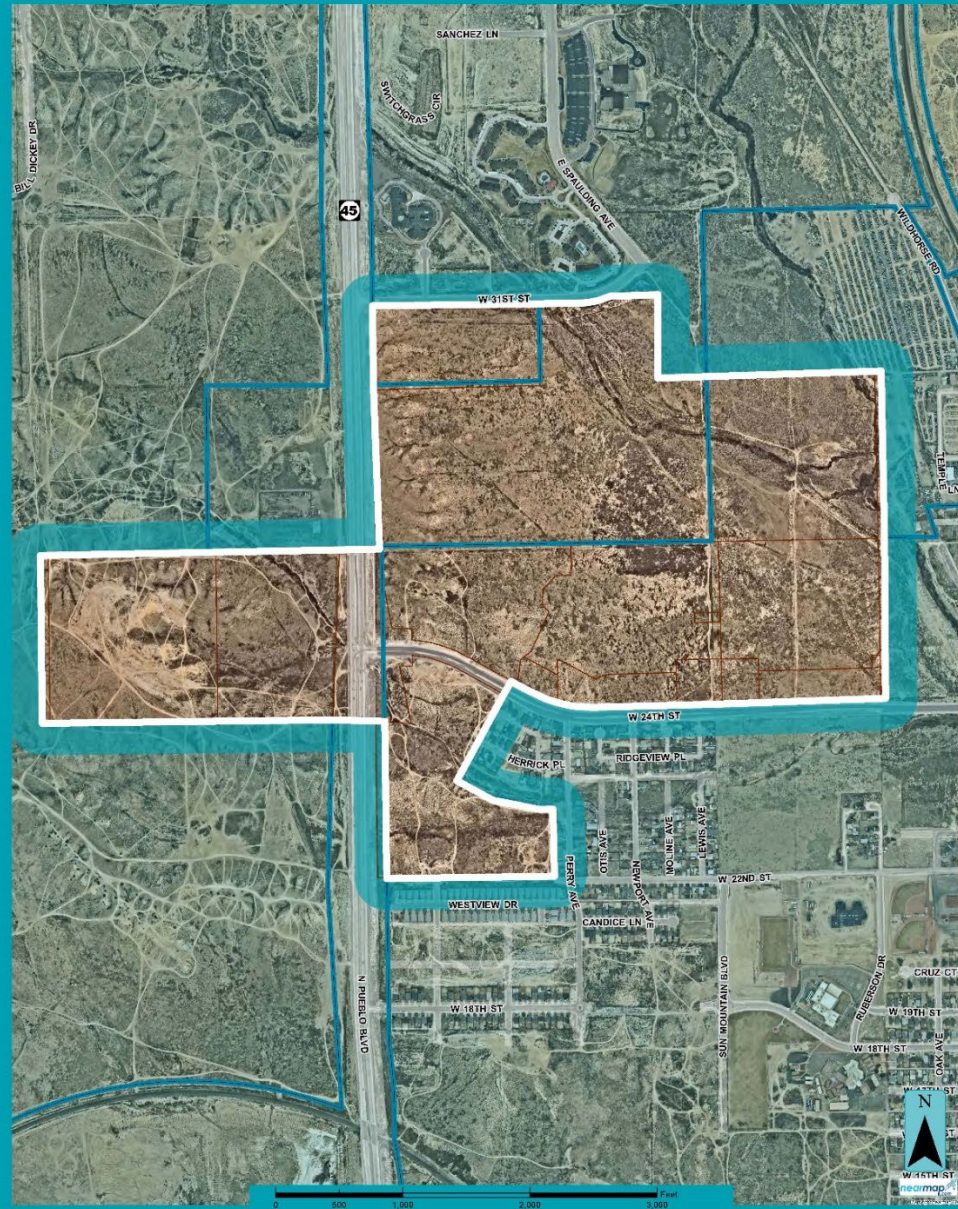
Continuing north on N Pueblo Blvd until reconnecting to the northern border at W 31st St.

AND

Including all adjacent streets and rights of way.

EXHIBIT B

WEST PUEBLO PROJECT AREA



- Legend
- West Pueblo Project Area
 - Parcels
 - City Limits





TO: Jerry Pacheco, Pueblo Urban Renewal Authority
FROM: Andrew Arnold, Pioneer Development Company
DATE: July 27th, 2024

RE: West Pueblo Urban Renewal Plan Conditions Survey

Dear Jerry,

This letter is in reference to the proposed West Pueblo Urban Renewal Plan and its eligibility for Urban Renewal treatment. Specifically, this letter's purpose is to state that the blighted area factors, as defined by C.R.S. 31-25-103.2, and catalogued in the May 2nd, 2022 Conditions Survey Study are still present within the proposed Urban Renewal Plan's boundaries.

On May 2nd, 2022, I submitted a Conditions Survey study to the Pueblo Urban Renewal Authority (PURA) that analyzed statutorily defined blighted area factors within the proposed West Pueblo Urban Renewal Plan area. This Plan area included 365-acres and approximately eight (8) parcels. The Conditions Survey identified five (5) of the eleven (11) statutorily defined factors listed in C.R.S. 31-25-103.2, meaning the West Pueblo Urban Renewal Plan area is eligible for Urban Renewal treatment. These conditions focus on the area's lack of public infrastructure and vacancy, namely defective street networks, inadequate public improvements, steep and undulating topography, and faulty lot layouts, and underutilization and vacancy. I completed this report while working for Short Elliott Hendrickson, Incorporated (SEH, Inc) as their primary economic development project manager for the company's western region.

Two years after this study was submitted, the Pueblo Urban Renewal Authority and the City of Pueblo now are seeking to officially establish the West Pueblo Urban Renewal Plan. My new company, Pioneer Development Company, serves as PURA's urban renewal and economic development consultant, and I've been asked to submit this letter stating whether the proposed Plan area's blighting factors are still present, or have been substantially mitigated since 2022.

The West Pueblo Urban Renewal Plan still qualifies for Urban Renewal treatment. The five blighting factors identified in 2022 remain present within the proposed Plan area. To my knowledge, meaningful development remains stalled within this area. The County Jail project is starting to move forward, with minor dirt work and foundations being poured. However, this grading and foundation work does not mitigate the area's overall lack of public infrastructure and vacancy. The purpose of the West Pueblo Urban Renewal Plan is to remediate these blighting factors, and without that Plan and its incentives in place, it is unlikely that the properties in this area can remove the current conditions arresting sound development.

If you have any questions or need additional details regarding this opinion, please do not hesitate to reach out to me. Thank you for the opportunity to work with you, PURA, and the Pueblo Community.



Andrew Arnold
Founder | Principal
Pioneer Development Company
Durango, Colorado
856.625.6564
andrew@pioneerdevelopmentcompany.com



Pueblo Urban Renewal Authority

West Pueblo URA Plan: Conditions Survey

The City of Pueblo, Colorado

166107 | May 2, 2022



Building a Better World
for All of Us®

Engineers | Architects | Planners | Scientists



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for All of Us®

May 2, 2022

Pueblo Urban Renewal Authority
The City of Pueblo, Colorado

Dear Pueblo Urban Renewal Authority Board of Commissioners,

The following conditions survey report is intended to assist the Pueblo Urban Renewal Authority (PURA) with identifying and cataloguing conditions that may be arresting sound development from occurring throughout a specific area of the City. This area, tentatively named “West Pueblo”, is being considered for an urban renewal project.

The proposed West Pueblo Urban Renewal Plan will encompass approximately 385-acres. This acreage includes property within the Pueblo City limits as well as unincorporated parcels. There are eight parcels within the proposed West Pueblo Urban Renewal Plan area that total 354.6-acres. The remaining 31-acres includes public right of way as part of North Pueblo Boulevard and West 24th Street. The properties in the area are currently vacant.

This report has been prepared based upon the application of Colorado’s Urban Renewal Law under C.R.S. 31-25 Part I, more specifically §§ 101 to 116 (the “Act”). The report includes a description of each blighting factor for identification pursuant to Act and an identification of those factors observed, identified and found to exist within the proposed plan area. Blighting factors have also been mapped to illustrate the location of these observed conditions.

Based upon our field observations and analysis, this report finds that the surveyed area meets the Act’s statutory minimum of blighting factors required to designate the proposed West Pueblo Urban Renewal Plan as an urban renewal project eligible for urban renewal activities.

Sincerely,

Andrew Arnold, AICP
Economic Development Planner
Short Elliott Hendrickson, Incorporated (SEH®)

CC: Jerry Pacheco and Cherish Deeg

Executive Summary

The West Pueblo Urban Renewal Plan Conditions Survey:

A conditions survey report is required by Colorado's Urban Renewal Law to examine the existence of specific conditions that contribute to making an area within the community "blighted", and therefore eligible for urban renewal treatment. The conditions survey is the first step in the process of either establishing an Urban Renewal Authority within a municipality or creating an urban renewal plan for a specific geographical area of that municipality.

An urban renewal plan area, also known as an urban renewal project, is defined by state statute to mean "a slum area, or blighted area, or combination thereof, which the local governing body designates as appropriate for an urban renewal project" (C.R.S. 31-25-103). The process to designate an urban renewal plan is organized under Colorado Urban Renewal Law (C.R.S. 31-25-101 to 116).

For an urban renewal plan to be established and adopted, a specific geographic area within the community must be found to exhibit certain conditions. These conditions are known as "blighted area factors" and these factors must be cataloged before urban renewal projects and activities can commence. The surveying of an area for the presence of blighting factors is known as a conditions survey, a report that carefully analyzes a geographic area to determine the existence of factors that, "substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare." (C.R.S. 31-25-103.2).

The conditions survey does not create a new Urban Renewal Plan or Urban Renewal project. The conditions survey is merely a starting point for that process, one that is required before the Pueblo Urban Renewal Authority can designate a specific plan area, evaluate its fiscal impacts and potential tax increment generation, and adopt its Urban Renewal Plan. The conditions survey's purpose is to evaluate the proposed URA plan area and determine if it meets the statutorily required threshold of blighted area factors. Colorado's Urban Renewal Law defines eleven factors, four of which must be identified before an Urban Renewal Project or Plan can be established and adopted¹.

The proposed project area was carefully analyzed and surveyed with background research and an in-person field visit. Observations were taken during this field visit that identified the presence of statutorily defined blighting factors throughout the area. These observations were supplemented with a careful analysis of assessed property throughout pueblo county. This report thoroughly reviewed both City and County planning documents, as well as assessment information that could help identify blighting factors that were not easily observable during the site visit.

This conditions survey's conclusion is that the proposed West Pueblo Urban Renewal Plan area exhibits the necessary number of blighting factors to make it eligible for an urban renewal project or plan area according to state statute. This conditions survey identified six (5) blighting factors within the area, listed in the table below:

West Pueblo URA Plan Conditions Survey - Blighted Area Factors Cataloged	
Blighted Area Factor (C.R.S. 31-25-103.2 List Label)	Definition
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 11 (k.5)	The existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or substantial Physical Underutilization or Vacancy of Sites, Buildings, or other Improvements

¹ Exceptions include unanimous consent by all impacted property owners and the use of eminent domain.

Contents

1	The West Pueblo Urban Renewal Plan Summary	1
	Survey Boundary Description.....	1
	Survey Boundary Statistics	1
	Taxing Districts Present	3
2	Methodology.....	4
3	Evaluation of Blighting Factors	5
	Blighted Area Factors Defined:	5
3.1	Factor Two – Predominance of Defective or Inadequate Street Layout ..	6
3.2	Factor Three – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness	8
3.3	Factor Five – Deterioration of Site or Other Improvements	10
3.4	Factor Six – Unusual Topography or Inadequate Public Improvements or Utilities.....	12
3.5	Factor Eleven – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements ..	14
4	Conclusion	16
	Conditions Survey Maps	17
	Appendix A.....	A-1
	Appendix B.....	B-1

Pueblo Urban Renewal Authority

West Pueblo URA Plan: Conditions Survey

Prepared for the PURA Board of Commissioners

1

1.1

The West Pueblo Urban Renewal Plan Summary

Survey Area

The West Pueblo Urban Renewal Plan’s proposed boundary encompasses 385-acres². This area includes municipal and unincorporated property. The area includes eight parcels, five within the city limits and three within the county. The approximate parcel acreage is 354.6-acres. The area also includes public right-of-way that may benefit from urban renewal treatment.

Survey Boundary Description

The proposed West Pueblo Urban Renewal Plan targets an area in need of reinvestment and redevelopment. The survey boundary is unique in that it includes properties that are within municipal limits as well as parcels in unincorporated Pueblo County. The proposed plan area is 385-acres in size, with eight parcels making up 354.6 acres. North Pueblo Boulevard forms the spine of the area, bisecting it into eastern and western sections. The eastern section is the larger of the two, and it includes vacant property from West 22nd Street to West 31st Street. The Western section includes two unincorporated parcels.

The properties in the survey boundary are currently undeveloped. The Pueblo County Assessor’s database lists zero building improvement values for these properties. Their assessments range from commercial, to vacant to residential. There are currently no agricultural assessments on these properties, and no obvious agricultural operations. In the surrounding areas, residential neighborhoods can be found to the north and south of the project boundary, and commercial operations are located east and west of the project area. There are also plans to extend public infrastructure, such as Spaulding Avenue, through the survey boundary.

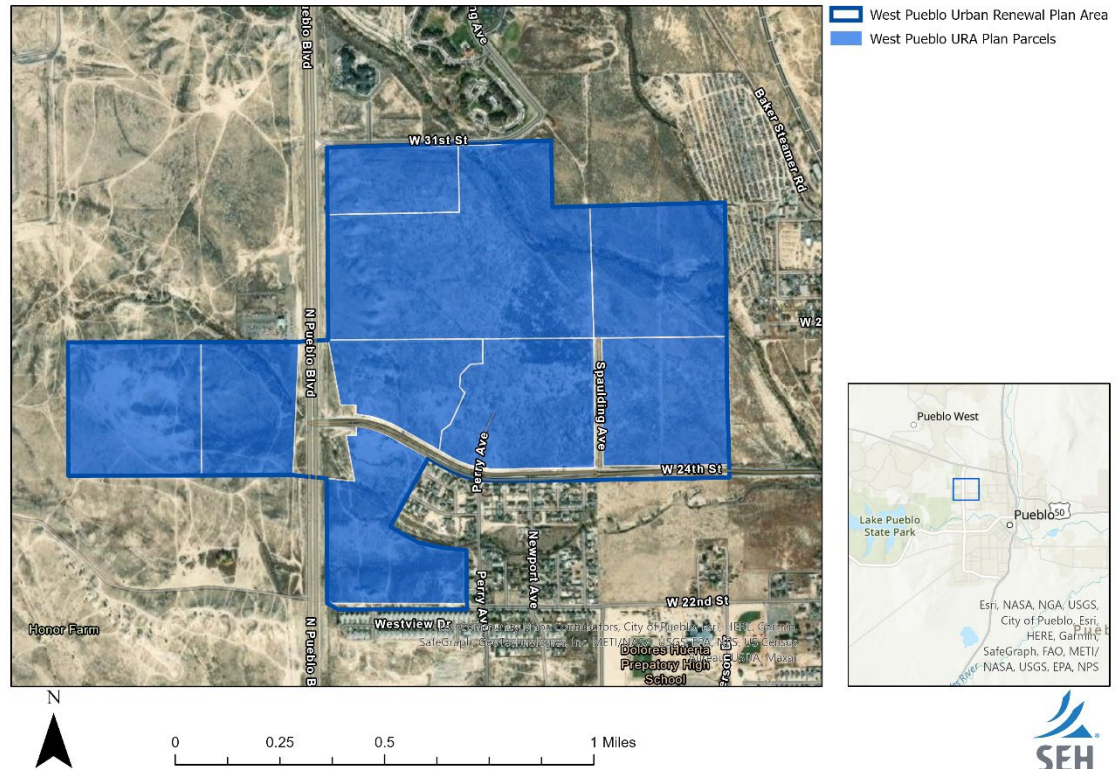
This conditions survey carefully evaluated the proposed plan area for blighted area factors that may be arresting sound development. The fact that this area is largely undeveloped, despite its proximity to a major arterial and development activity in its immediate vicinity, indicates that blighted area factors could be present.

Survey Boundary Statistics

West Pueblo URA Survey Boundary	Totals
Number of Total Acres	385
Parcel Acreage	354.6
Number of Parcels	8

² Acreage estimate includes Public Right of Way

West Pueblo Urban Renewal Plan Area Conditions Survey Map

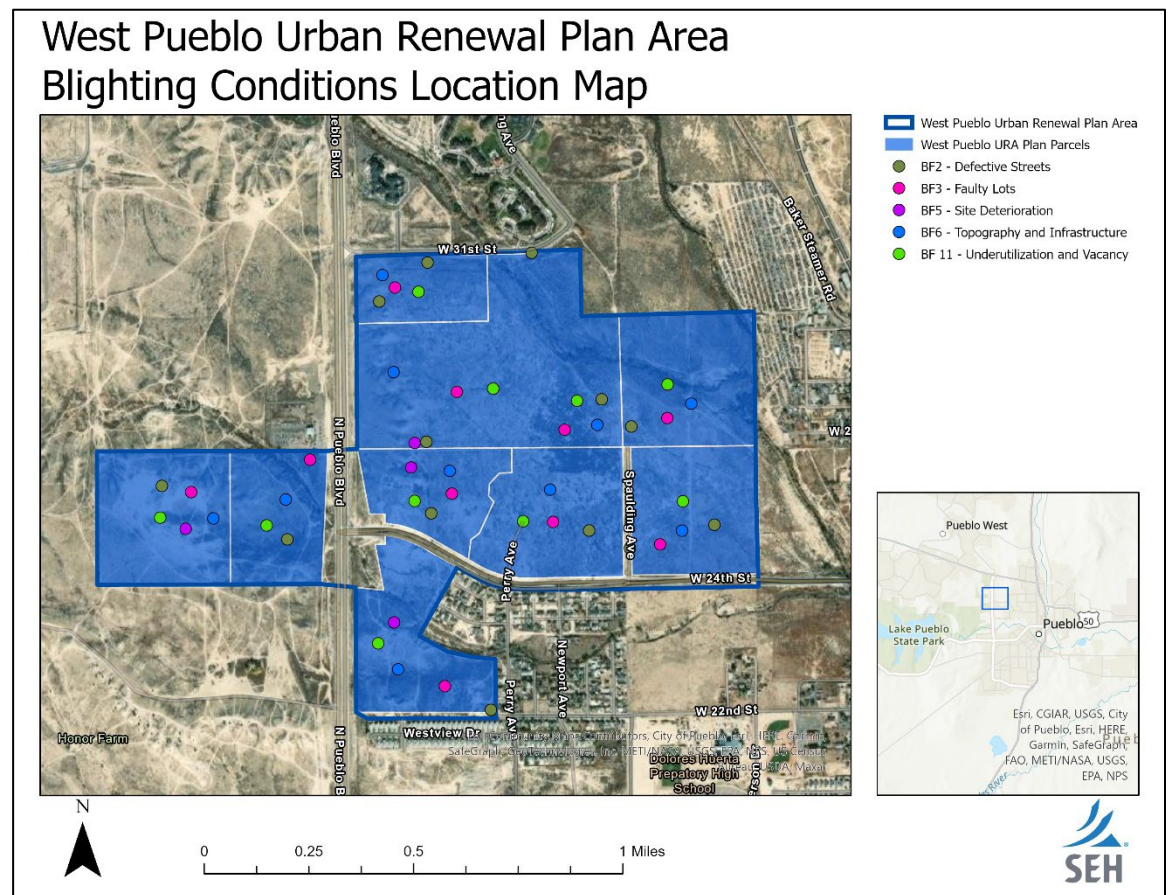


1.2 Zoning Districts

The proposed West Pueblo Urban Renewal Plan area includes 6 City of Pueblo zoning districts. Each zoning district regulates the land uses on their respective parcels according to the City of Pueblo's Comprehensive Plan and municipal code. These zoning districts will regulate the redevelopment that will be permitted throughout the West Pueblo Urban Renewal project. The location of these zoning districts throughout the survey boundary is illustrated in the map below:

2 Methodology

This Conditions Survey utilized a holistic methodology in determining whether blighting factors exists within the proposed West Pueblo Urban Renewal Plan survey boundary. This methodology included a detailed literature review of adopted plans and reports, an analysis of County Assessor records and GIS databases, and a multi-day field visit. Field work was supplemented by GIS technology that recorded and documented potential blighting factors in real time. Maps were created for each blighting factor identified within the survey area, illustrating which parcels contain, or are in proximity to, statutorily defined blighting factors. These maps represent the layered information gathering approach used in this report to ensure that each blighting factor was thoroughly analyzed.



It is important to note that conditions surveys evaluate an area in its entirety for the presence of blighting factors and are not intended to declare individual properties or separate areas as blighted³. The maps included in this report illustrate the location and clustering of individual blighting factors as a means of representing this survey's findings. In order for a survey area to be declared blighted, it must exhibit four or more blighted area factors⁴. It is the combination of factors within an area that makes that area eligible for urban renewal activities.

³ Unless that individual property is in fact the entirety of the URA Plan area.

⁴ Exceptions include property owner consent and eminent domain. A survey area where property owners' consent to inclusion may only require one blighting factor. In order to use eminent domain, five blighting factors must be found.

3 Evaluation of Blighting Factors

Defining “Blighting Factors”

Colorado Revised Statutes 31-25-103 states that for an Urban Renewal Plan area to be established, there must exist certain conditions known as “blighting area factors”. State statute defines eleven separate factors for blight. The law indicates that if four or more of these factors are found in an area of the municipality, that area may be declared blighted and qualify for urban renewal treatment.

Blighted Area Factors Defined:

- a) Slum, deteriorated, or deteriorating structures
- b) Predominance of defective or inadequate street layout
- c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d) Unsanitary or unsafe conditions
- e) Deterioration of site or other improvements
- f) Unusual topography or inadequate public improvements or utilities
- g) Defective or unusual conditions of title rendering the title nonmarketable;
- h) The existence of conditions that endanger life or property by fire or other causes
- i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
- j) Environmental contamination of buildings or property
- k) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

These eleven factors can also be thought as “conditions”, and the presence of at least four of these conditions can satisfy the state statute defining an area blighted. In addition to this list, C.R.S. 31-25-103(2) lists a twelfth condition. This final condition only applies when there is unanimous agreement among affected property owners that their properties can be included in an Urban Renewal Area. In this rare occurrence, only one blighting factor from the list of eleven needs to be identified to declare the area blighted.

State statute allows for some flexibility in defining what each blighting factor represents. For the purpose of this conditions survey, each blighting factor will be unpacked to describe various real world “conditions” that would indicate the presence of said factor. The presence of a condition within the survey boundary alone is not enough to make that area eligible for urban renewal activities. Rather, it is the culmination of four or more blighting factors which indicates that renewal activities should be applied within the proposed project area.

Identifying blighting conditions throughout this proposed project area required an objective analysis. The following sections outline the blighted area factors that this analysis found to be present within the survey area. Blighted area factors that were not identified were excluded from this report.

3.1 Factor Two – Predominance of Defective or Inadequate Street Layout

Description:

This factor refers to street conditions that negatively impact sound development, redevelopment, or threaten safety. Conditions that would justify the inclusion of this factor in an area may include:

- Inadequate street widths, lack of streets, dead ends or overall faulty layouts that impede vehicular access and internal circulation
- Streets that exhibit high degrees of traffic or accidents
- Streets that are in need of repair or reconstruction
- Poor emergency access or active transportation

Findings:

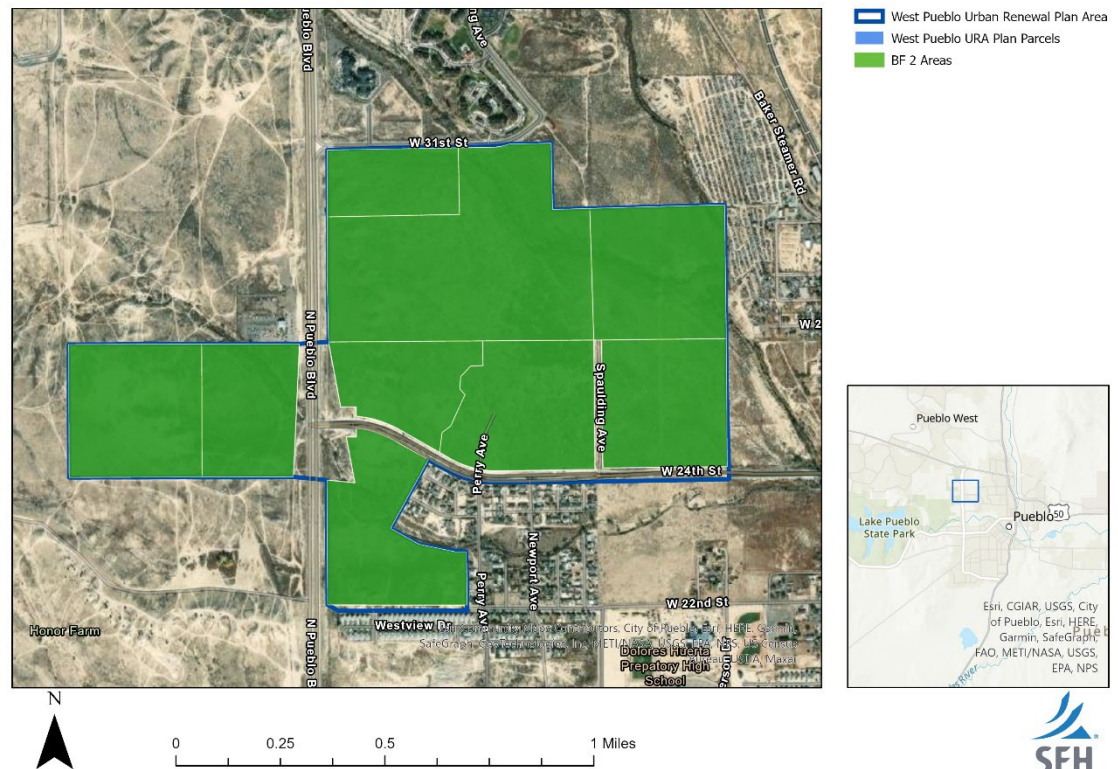
The survey boundary includes large parcels that lack surface transportation infrastructure. The only paved streets within the survey boundary are segments of Pueblo Boulevard and West 24th Street. The properties within the boundary lack internal street networks, as well as active transportation infrastructure. The missing street network represents a barrier to sound development throughout the survey area, and evidence of this blighted area factor.

The properties within the survey boundary average 44.3 acres. These are large parcels that require significant internal street networks to facilitate sound development, multimodal transportation, and emergency access. The only roads found within the properties are deteriorating dirt roads in need of reconstruction.

The Pueblo County GIS indicates that streets have been planned within certain portions of the survey boundary, however, these streets remain undeveloped. Examples include West 22nd street, which abruptly terminates at the survey boundary, Perry Avenue, and Spaulding Avenue. The fact that these street networks have been planned, but not constructed, is further evidence of this blighted area factor.

Access is a significant concern with the boundary's westernmost parcels. These properties lack access to North Pueblo Boulevard, a major arterial. The speed limit on North Pueblo makes any future connection to these properties challenging. The incomplete street networks and poor access found throughout the survey boundaries underscored the this factor's inclusion in the report.

Blighting Factor 2 - Defective Streets



3.2 Factor Three – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

Description:

This factor refers to shapes, layout and sizes of lots that complicate sound development and the usefulness of the property. This factor shares similarities with Blighting Factor One (1).

Conditions that would justify the inclusion of this factor in an area may include:

- Narrow or odd shaped lots
- Impractical lot layouts
- Lot configurations that yield unproductive conditions on the land as exhibited by misuse or nonuse

Findings:

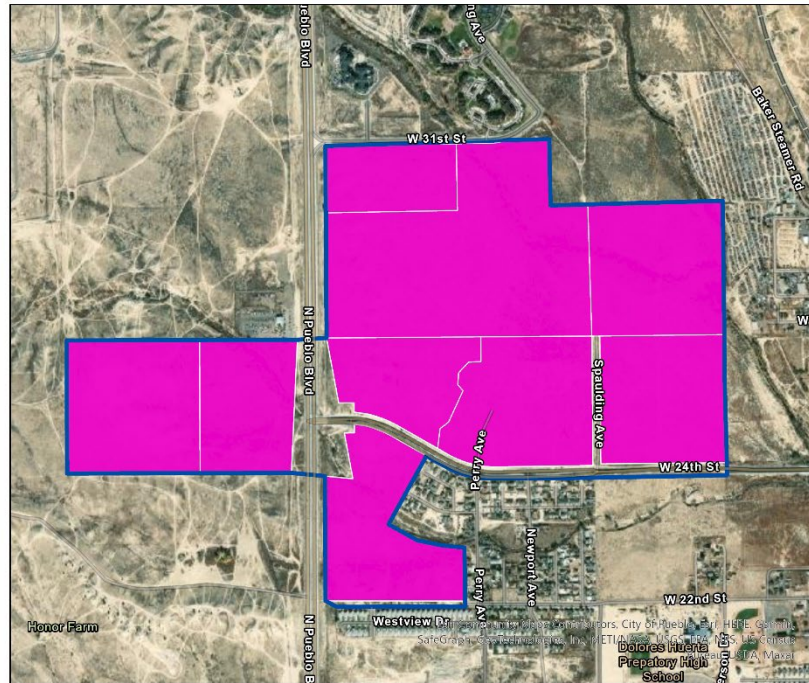
The conditions survey found evidence of this blighted area factor in each parcel throughout the survey boundary. The obvious condition exhibited by these properties are impractical lot layouts which yield unproductive conditions.

The surveyed parcels averaged 44.3 acres in size. Parcels this large typically are used for agricultural uses. However, the Pueblo County Assessor does not classify any of the parcels in the area as an agricultural use. Despite their A-1 Agricultural zoning, the three parcels in the survey boundary zoned as such are assessed as either residential or vacant. In addition, the properties in the survey boundary all lack building improvements according to the Assessor's database. This assessment indicates that the parcels are not being utilized.

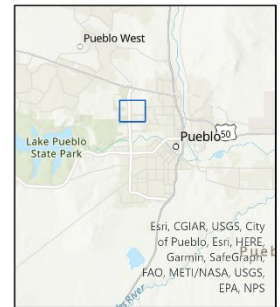
The non-use of property is evidence of this blighted area factor. In addition to narrow or odd shaped lots, there were also lots that this report deemed impractical due to their large size. The size of these lots, along with their vacancy and site deterioration, indicates the presence of conditions outlined under this blighted area factor.

The large number of impractical, large, vacant and underutilized lots throughout the survey boundary indicates that this blighted area factor is present.

Blighting Factor 3 - Faulty Lots



- West Pueblo Urban Renewal Plan Area
- West Pueblo URA Plan Parcels
- BF 3 Areas



0 0.25 0.5 1 Miles



3.3 Factor Five – Deterioration of Site or Other Improvements

Description:

This factor is similar to factor two (2) and four (4), in that its focus is on the deterioration of structures and infrastructure. The decline of public infrastructure is an example of this factor. Private land and/or structures that have fallen into disrepair or are damaged also exhibit this factor. Conditions that would justify the inclusion of this factor in an area may include:

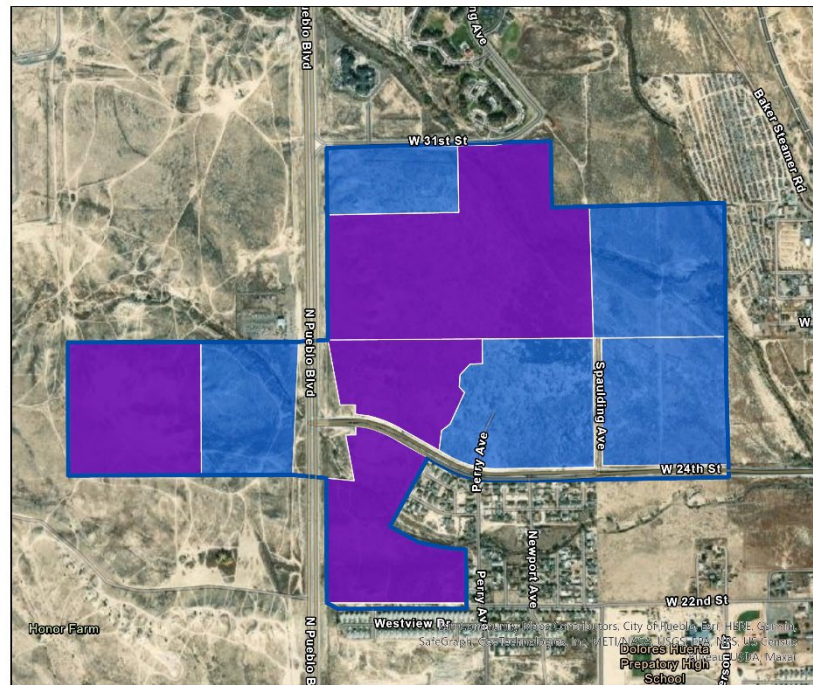
- Poor condition of streets or sidewalks
- Signage, such as billboards, that has fallen into disrepair
- Neglected landscaping
- Damaged or missing public utilities
- Abundance of trash, debris or noxious weeds

Findings:

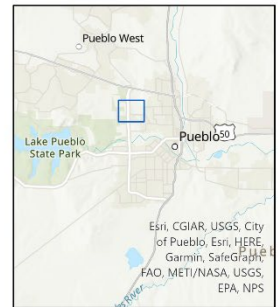
The conditions survey identified concentrated incidences of this factor in parcels within the survey boundary. These observations were located within parcels nearest to North Pueblo Boulevard. Neglected landscaping and the deterioration of existing dirt roads and fencing were frequent observations throughout the survey boundary. The parcels are largely overrun with weeds and neglected landscaping. In specific areas, especially within properties lining North Pueblo Boulevard, trash and debris were identified during the field work.

The deterioration of roads, such as the dirt roads found within the parcels adjacent to Pueblo Boulevard and the planned Spaulding Avenue, also provided evidence of this blighting factor. The conditions identified in Factor 2 provide a similar justification for including Factor 5 within this report.

Blighting Factor 5 - Site Deterioration



- West Pueblo Urban Renewal Plan Area
- West Pueblo URA Plan Parcels
- BF5 Areas



3.4 Factor Six – Unusual Topography or Inadequate Public Improvements or Utilities

Description:

This factor refers to unusual topography or lack of public infrastructure that have the effect of arresting sound development in a study area. Areas that exhibit steep grades which cause development to be incompatible or unprofitable would fall under this factor. Properties that are lacking public infrastructure, or are served by deteriorating public infrastructure, would also fall under this factor. This factor shares aspects of factors two (2), four (4) and five (5). Conditions that justify the inclusion of this factor in an area may include:

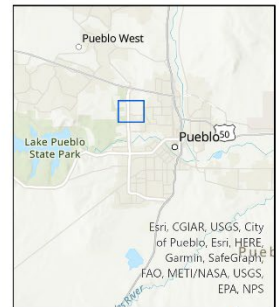
- Steep slopes or unusual terrain
- Overhead utilities in need of repair
- Deteriorating parking lots, street surfaces, sidewalks
- Poor storm water drainage facilities
- Lack of central sewer or water
- Broken or inadequate street lighting

Findings:

The conditions survey analysis found multiple examples of this blighting factor throughout the survey boundary. Observed conditions included steep topography and a lack of public infrastructure throughout the survey area.

Field observations identified parcels lining North Pueblo Blvd as exhibiting steep topography. These properties exhibited unusual terrain that is challenging for development. These challenges are compounded by the lack of public infrastructure throughout the survey area. As mentioned in the Factor 2 and Factor 5 findings, the properties within the survey boundary lack internal street networks, active transportation infrastructure, street lighting and wet utilities. This combination of missing public infrastructure and utilities, contributes to arresting sound development from occurring throughout the survey boundary.

The overall vacancy exhibited throughout the survey area, as well as the relatively low assessment values of these properties, underscores the fact that missing utilities, infrastructure, and unusual topography create an environment that makes development difficult in this area. This environment is evidence that blighted area factor 6 is present in the survey boundary.



3.5 Factor Eleven – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

Description:

This factor references a broad category of health, safety and welfare factors. The common conditions for this factor to be present are instances where high levels of municipal service are required, substantial physical underutilization of property is exhibited, or high levels of vacancy are common. Vacancy can include land, buildings, or tenancy. This factor shares similarities with many of the factors on this list. Conditions that would justify the inclusion of this factor in an area include:

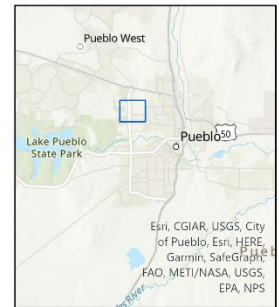
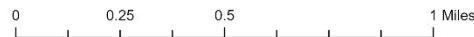
- Numerous vacant buildings or property throughout the area
- Evidence of underutilized buildings

Findings:

This report's real estate analysis identified multiple examples of this factor within the survey area. 100% of the parcels within the survey boundary have no building improvement value, according to the Pueblo County Assessor's database. In addition to lacking any building improvements, the land is not currently being used for agricultural purposes. In fact, 42% of the area's acreage is currently classified as "Vacant" by the County assessor's office. This classification indicates that the land within the survey boundary is currently underutilized.

The properties within the survey boundary exhibit the conditions that underscore Blighted Area Factor 11. These properties are vacant, despite being neighbors to substantial development north and south of the survey boundary. The assessment of these properties, as well as planned right-of-way improvements such as Perry Avenue, Spaulding Avenue, Joe Martinez Boulevard, and even West 22nd Street, are all examples of how the area is currently being underutilized relative to community needs. The survey boundary is in proximity to major arterials, and within a short drive of interstate US-50. This should contribute to new development. Instead, the current properties lack building improvements and are even assessed at a commercial rate due to their vacancy.

This level of vacancy and underutilization points to the existence of blighted area factors arresting sound development from taking root. These conditions justify the inclusion of blighted area factor 11.



4 Conclusion

This conditions survey catalogs the presence of statutorily defined blighting factors within the proposed West Pueblo Urban Renewal Plan area. This report was designed to assist the Pueblo Urban Renewal Authority (PURA) in determining whether this area is 1) eligible for urban renewal projects and activities, and 2) that the proposed boundary is drawn as narrowly as possible.

This conditions survey identified five blighted area factors as defined by Colorado's Urban Renewal Law, within the survey boundaries of the proposed area. The presence of six blighted area factors meets the requirements outlined in C.R.S. 31-25-103(2), in which at least four blighted area factors must be present for that area to be declared "blighted" and therefore eligible to be designated as an Urban Renewal Plan area.

The proposed boundary also meets the statutory recommendation of "being drawn as narrowly as possible". The five blighting factors were not clustered in one vicinity but spread across the entirety of the survey boundary. This is especially true of the underutilization observed and researched throughout the proposed project area. The high levels of vacancy and low assessment values indicate that blight is arresting sound development from taking place throughout the survey boundary.

This conditions survey finds that the proposed West Pueblo Urban Renewal Plan can be declared a "blighted area" as defined by Colorado's Urban Renewal Law and therefore qualifies for urban renewal treatment.

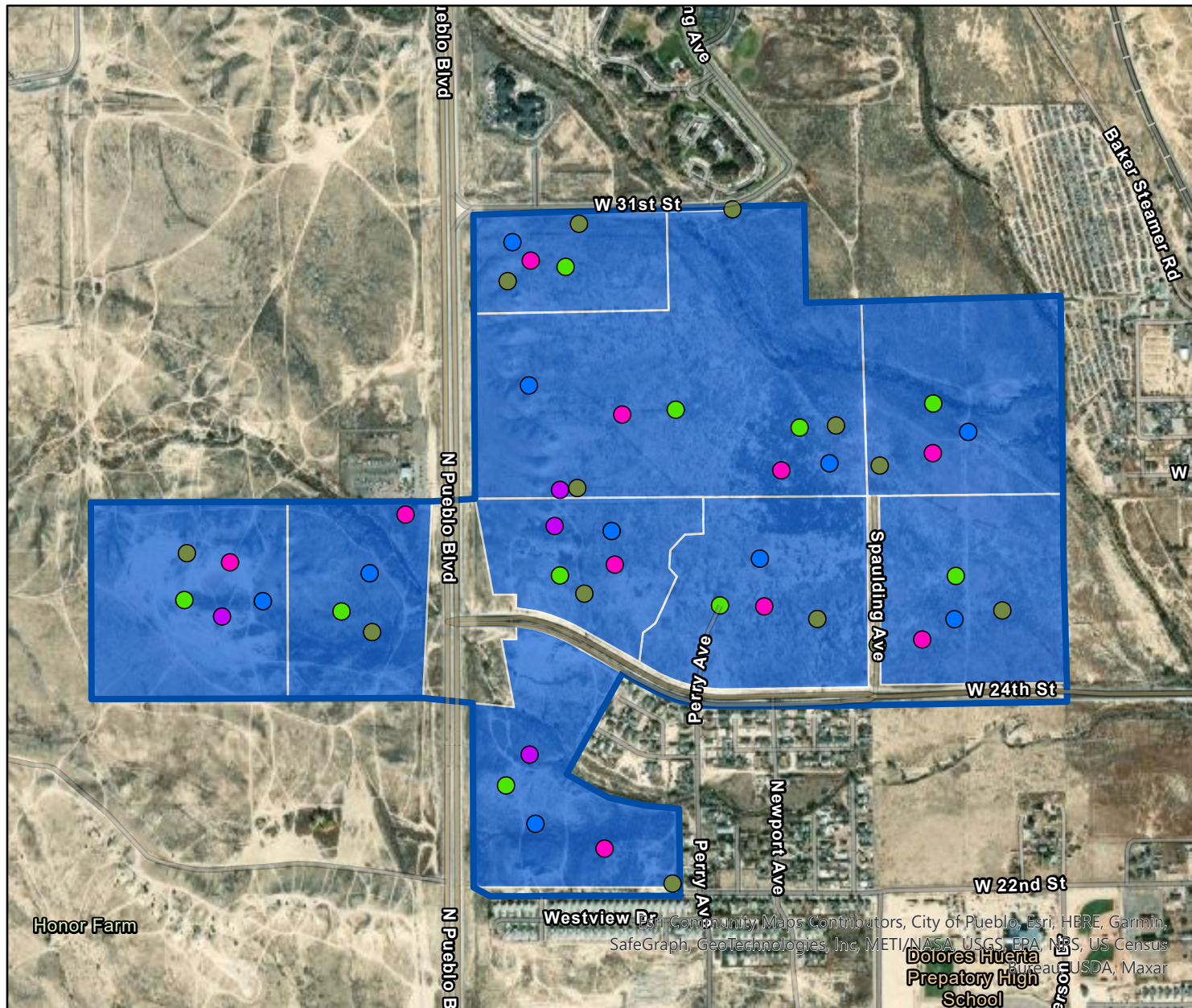
Conditions Survey Maps

Appendix A

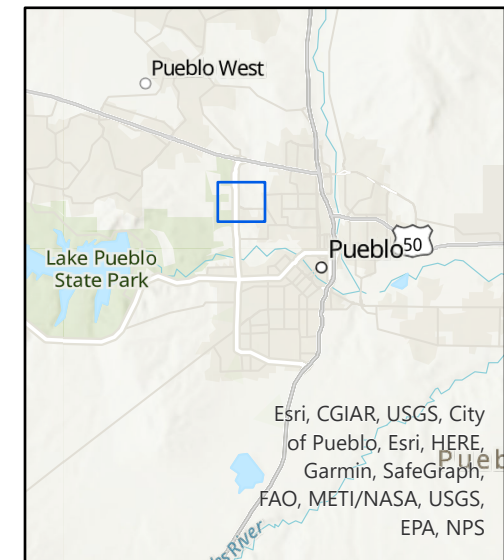
Survey Boundary Map

West Pueblo Urban Renewal Plan Area

Blighting Conditions Location Map



- West Pueblo Urban Renewal Plan Area
- West Pueblo URA Plan Parcels
- BF2 - Defective Streets
- BF3 - Faulty Lots
- BF5 - Site Deterioration
- BF6 - Topography and Infrastructure
- BF 11 - Underutilization and Vacancy



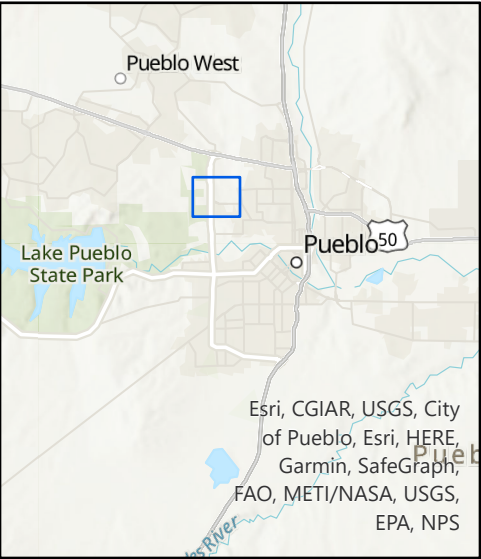
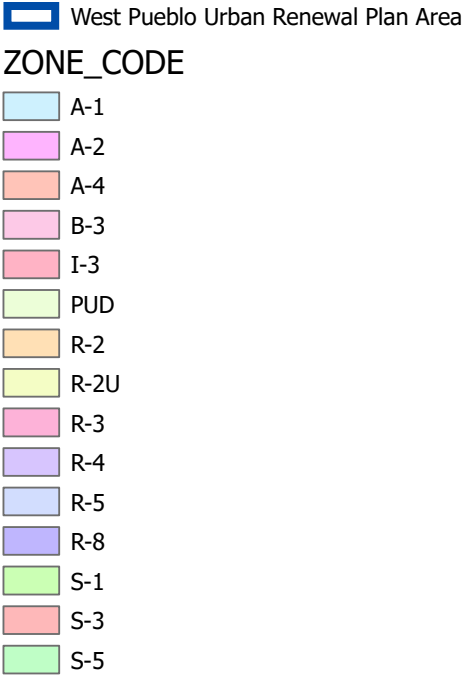
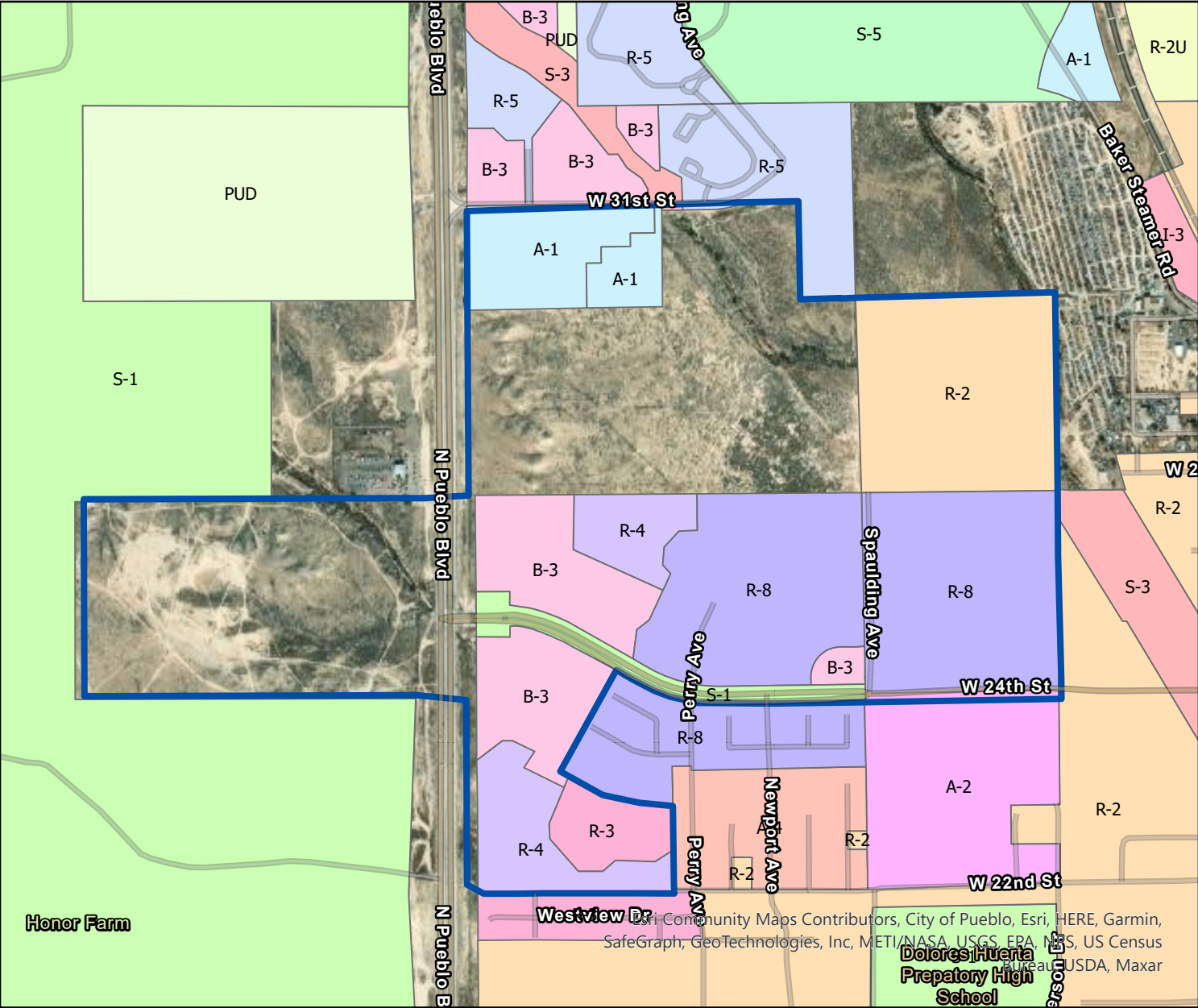
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Appendix B

Conditions Survey Field Work Map

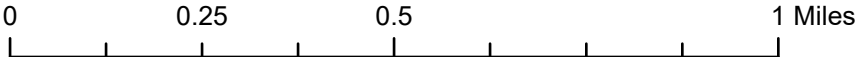
West Pueblo Urban Renewal Plan Area

City Zoning Districts Map



City of Pueblo, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, Maxar

Dolores Huerta
Preparatory High
School





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TITLE

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PUEBLO URBAN RENEWAL AUTHORITY IN PUEBLO COLORADO, FINDING THAT AN AREA OF THE CITY OF PUEBLO IS A BLIGHTED AREA AND APPROPRIATE FOR AN URBAN RENEWAL PROJECT AND APPROVING THE URBAN RENEWAL PLAN FOR THE WEST PUEBLO URBAN RENEWAL PROJECT

RECOMMENDATION

Approve Resolution 2023-24 at the September, 2023 regular meeting of the PURA Board of Commissioners.

BACKGROUND

On March 2, 2022, by Ordinance 10128 the City of Pueblo approved an Intergovernmental Agreement (IGA) with the Pueblo Urban Renewal Authority (PURA), Pueblo County, the Board of Water Works and Pueblo West Metropolitan District. Which directed PURA to conduct a study to determine whether the area described as the West Pueblo Urban Renewal Project is a slum, blighted area, or a combination thereof, and to notify owners of property in the area that they are subjects of such study.

PURA contracted with a consultant firm, Short Elliott Hendrickson, who researched, documented, photographed, and compared with the blight factors pursuant to the Urban Renewal Act. The Conditions Survey found that five (5) blight factors exist. Four blight factors are required as a prerequisite to adoption of an urban renewal plan and establishment of an urban renewal project area.

Based upon the conditions identified in the Conditions Survey, an Urban Renewal Plan has been prepared to address said conditions.

FINANCIAL IMPACT

None.

RESOLUTION NO. 2023-24

A RESOLUTION OF THE PUEBLO URBAN RENEWAL AUTHORITY, BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, FINDING THAT AN AREA OF THE CITY OF PUEBLO IS A BLIGHTED AREA AND APPROPRIATE FOR AN URBAN RENEWAL PROJECT AND APPROVING THE URBAN RENEWAL PLAN FOR THE WEST PUEBLO URBAN RENEWAL PROJECT

WHEREAS, pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and Pueblo County (the “County”) have agreed it is in the public interest to jointly undertake the West Pueblo Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to the “West Pueblo Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”); and

WHEREAS, pursuant to a contract with the Pueblo Urban Renewal Authority (the “Authority”) the consultant firm, Short Elliott Hendrickson (the “Consultant”), has prepared a Conditions Survey of the area (the “Area”) described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of “blighted area” in the Act; and

WHEREAS, there was presented to the Board of Commissioners of the Authority a Conditions Survey prepared by the Consultant entitled “West Pueblo URA Plan: Conditions Survey” (the “Survey”) originally dated May 2, 2022, and updated as of August 26, 2023, which describes in detail the conditions in the Area and is incorporated herein by this reference; and

WHEREAS, the Area included in the Plan contains real property in unincorporated Pueblo County that is contiguous to a portion of the Area within the municipal limits of the City as authorized by Section 31-25-112.5 of the Act; and

WHEREAS, to the extent that the Area may contain land that the Pueblo County Assessor has classified as agricultural for the purposes of levying and collecting property taxes at any time during the five-year period prior to the date of approval of the Plan, each public body that levies an ad valorem property tax on such agricultural land has consented in writing to inclusion of the agricultural land within the Area in the Plan (the County will consent by approving the Plan); and

WHEREAS, cooperation with the City and the County to carry out the Plan will support community and regional goals and provide needed public facilities, infrastructure, housing, and provide needed traffic improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, AS FOLLOWS:

Section 1. Based on a review of the Survey and in accordance with the Act, the Board of Commissioners finds and determines that the Area is a “blighted area” as defined in Section 31-

25-103(2) of the Act and by reason of the presence of the following factors the Area substantially impairs or arrests the sound growth of the City, retards the provision of housing accommodations, constitutes an economic and social liability, and is a menace to the public health, safety, morals or welfare in its present condition and use. The Board of Commissioners finds and determines that the following factors exist in the Area:

- a. Predominance of defective or inadequate street layout.
- b. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.
- c. Deterioration of site or other improvements.
- d. Unusual topography or inadequate public improvements or utilities.
- e. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

Section 2. The Urban Renewal Plan has been duly reviewed and considered and is hereby approved.

Section 3. The Executive Director and staff of the Authority are hereby authorized and directed to submit the Survey, the Plan, all other agreements, notices and project documents incidental to and associated with the Plan and the Project, and this resolution to the City Council and the Pueblo County Commissioners for appropriate action in accordance with the Act.

Section 4. The Executive Director and staff of the Authority are directed to take or cause to be taken all actions necessary or reasonably required or desirable to facilitate approval of the Plan and the Project in accordance with this resolution.

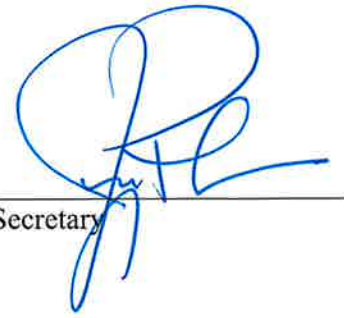
ADOPTED this 12th day of September 2023.

PUEBLO URBAN RENEWAL AUTHORITY

By: 
Chairman

Attest:

By:


Secretary



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE COLORADO SMELTER URBAN RENEWAL PLAN

SUMMARY:

This Ordinance makes certain legislative findings that approves the Colorado Smelter Urban Renewal Plan and establishes the Colorado Smelter Urban Renewal Area.

PREVIOUS COUNCIL ACTION:

City Council approved/directed the Pueblo Urban Renewal Authority (PURA) to conduct a conditions survey on January 24, 2022.

BACKGROUND:

PURA mailed notice of the conditions survey to all affected property owners on February 24, 2022. PURA notified all affected taxing entities of the proposed urban renewal project on September 8, 2022. As a result of negotiations with neighborhood representatives, the large boundaries of the study area have been reduced to a more manageable proposed boundary attached to the proposed plan.

After notice by PURA and negotiations that followed, all taxing entities who levy property taxes in the proposed urban renewal area have executed TIF agreements, which PURA approved on April 11, 2023.

FINANCIAL IMPLICATIONS:

None. Future property tax increment revenues are based on increased valuations that will not exist but for the redevelopment in the proposed plan area.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission advised that the proposed project is in conformity with the City's Comprehensive Plan and recommended approval at their

meeting on July 10, 2024.

STAKEHOLDER PROCESS:

Neighborhood representatives have approved the revised boundaries of the proposed plan. Affected taxing entities and PURA have all signed a master TIF agreement.

ALTERNATIVES:

None.

RECOMMENDATION:

The PURA Board of Commissioners recommends approval of this Ordinance.

ATTACHMENTS:

1. PURA resolution approving TIF agreements with taxing entities
2. The Colorado Smelter Conditions Survey, as updated on July 27, 2024
3. The Colorado Smelter Impact Report
4. The Colorado Smelter Urban Renewal Plan

ORDINANCE NO.

AN ORDINANCE MAKING CERTAIN LEGISLATIVE FINDINGS AND APPROVING THE COLORADO SMELTER URBAN RENEWAL PLAN

WHEREAS, by Resolution No. 14796, the City Council of Pueblo (the “City Council”) authorized and directed the Pueblo Urban Renewal Authority to study and area generally described as the Bessemer, Eilers Heights and Grove areas (collectively, the “Area”) of Pueblo (the “City”) to assess if blighting factors exist in the Area and, if appropriate, recommend that the City Council consider one or more redevelopment plans to remove any such conditions of blight; and

WHEREAS, the Consultant prepared, and the Authority has approved, the Colorado Smelter Urban Renewal Plan for the (the “Plan”), a copy of which has been approved as to form by the City Attorney and is attached hereto and incorporated herein; and

WHEREAS, the aforesaid Plan is a matter of public record in the custody of the City Clerk and is available for public inspection during business hours of the City; and

WHEREAS, notice of the public hearing on the Plan was published as required by Section 31-25-107(3), C.R.S., at least thirty days prior to the public hearing; and

WHEREAS, written notice of the public hearing was mailed or delivered to each property owner, business, and resident of the area included in the Plan (the “Urban Renewal Area”) informing them of the public hearing at least thirty days prior to the public hearing; and

WHEREAS, the Pueblo Planning and Zoning Commission has determined that the Plan complies with the Pueblo Regional Comprehensive Development Plan (the “Comprehensive Plan”), which is the general plan for the development of the City as a whole; and

WHEREAS, the Plan contains provisions that allocate property tax increment revenues derived from the levies of taxing entities that levy property taxes in the Urban Renewal Area included in the Plan (the “Taxing Entities”), and

WHEREAS, the Authority has delivered to the Taxing Entities (1) the notice of the public hearing, (2) the Plan, and (3) a copy of an impact report (the “Impact Report”) prepared by the Consultant that describes the burdens and benefits of the Plan on the revenues and services of such Taxing Entities; and

WHEREAS, based on the Impact Report, the Authority has reached agreement with the Taxing Entities regarding estimated impacts on services of the Taxing Entities associated solely with the Plan as required by Section 31-25-107(9.5) of the Act; and

WHEREAS, on September 9, 2024, the City Council conducted a public hearing and reviewed said Plan pursuant to the procedural and notice requirements of the City Charter, and the Act, and the City Council having considered the evidence presented in support of and in opposition to the Plan, the Survey, the City’s Comprehensive Plan, and staff recommendations and so having considered the legislative record and given appropriate weight to the evidence. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Urban Renewal Area described in the Plan is found and declared to be a blighted area as defined in the Act. This is a legislative finding by the City Council based upon the Survey and other evidence presented to City Council.

SECTION 2.

The boundaries of the Urban Renewal Area have been drawn as narrowly as the City Council determines feasible to accomplish the planning and development objectives of the Plan. The Urban Renewal Area described in the Plan does not include any of the area included in the boundaries of the South Santa Fe Urban Renewal Project.

SECTION 3.

The Plan, Impact Report, and notice of the public hearing have been submitted to the Taxing Entities, including the Board of County Commissioners of Pueblo County, Colorado, (the "County") together with the information required by Sections 31-25-107(3.5) and (9.5) of the Act. The Plan will remediate conditions of blight in the Urban Renewal Area.

SECTION 4.

The Taxing Entities have reached agreement with the Authority regarding estimated impacts on services of the Taxing Entities associated solely with the Plan as required by Section 31-25-107(9.5) of the Act.

SECTION 5.

Pueblo City Schools (School District No. 60) has been permitted to participate in an advisory capacity with respect to the inclusion in the Plan of the tax allocation provisions authorized by Section 31-25-107(9) of the Act.

SECTION 6.

It is not expected that any relocation of individuals and families will be required in connection with the Plan, but to the extent that any such relocation may be required, a feasible method exists for the relocation of individuals and families in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families.

SECTION 7.

It is not expected that any relocation of business concerns will be required in connection with the Plan, but to the extent that any such relocation may be required, a feasible method exists for the relocation of such business concerns in the Urban Renewal Area or in other areas that are not generally less desirable with respect to public utilities and public and commercial facilities.

SECTION 8.

The City Council has taken reasonable efforts to provide written notice of the public hearing prescribed by Section 31-25-107(4)(c) of the Act to all property owners, residents, and

owners of business concerns in the proposed Urban Renewal Area at their last known addresses at least thirty days prior to the public hearing on the Plan.

SECTION 9.

Section 31-25-107(4)(d) of the Act does not apply because no more than 120 days have passed since the commencement of the only public hearing on the Plan.

SECTION 10.

Section 31-25-107(4)(e) of the Act does not apply because the City Council did not fail to previously approve this Plan.

SECTION 11.

The Plan conforms with the Pueblo Regional Comprehensive Development Plan, which is the general plan for the development of the City of Pueblo as a whole.

SECTION 12.

The Plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area described in the Plan by private enterprise.

SECTION 13.

The entire Urban Renewal Area is within the corporate limits of the City. Construction and maintenance of public improvements and provision of services in the Urban Renewal Area will be the primary responsibility of the City, the Authority, and private enterprise. Any impacts on the services or revenues of the Taxing Entities will be offset by new revenues not now being collected by the Taxing Entities and directly produced as a result of the Plan and subsequent redevelopment of the Urban Renewal Area and adjacent property outside of the Urban Renewal Area.

SECTION 14.

The Urban Renewal Area described in the Plan does not consist of open land within the meaning of Sections 31-25-107(5) and (6) of the Act. Therefore, the findings and determinations set forth in such sections of the Act do not apply and are not required.

SECTION 15.

The Authority is not authorized to acquire property through the exercise of eminent domain.

SECTION 16.

The Colorado Smelter Urban Renewal Plan has been duly reviewed and considered and is hereby approved. The Authority is hereby authorized to take any and all actions pursuant to the Act to carry out the Plan.

SECTION 17.

This Ordinance shall become effective upon final passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



TITLE

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PUEBLO URBAN RENEWAL AUTHORITY IN PUEBLO COLORADO, FINDING THAT AN AREA OF THE CITY OF PUEBLO IS A BLIGHTED AREA AND APPROPRIATE FOR AN URBAN RENEWAL PROJECT AND APPROVING THE URBAN RENEWAL PLAN FOR THE COLORADO SMELTER URBAN RENEWAL PROJECT

RECOMMENDATION

Approve Resolution 2024-20 at the May 14, 2024 regular meeting of the PURA Board of Commissioners.

BACKGROUND

On January 24, 2022, by Resolution 14796 the City of Pueblo directed PURA to conduct a study to determine whether the area described as the Colorado Smelter Urban Renewal Project area is a slum, blighted area, or a combination thereof, and to notify owners of property in the area that they are subjects of such study.

PURA contracted with a consultant firm, Short Elliot Hendrickson, who researched, documented, photographed, and compared with the blight factors pursuant to the Urban Renewal Act. The Conditions Survey found that ten (10) blight factors exist. Four blight factors are required as a prerequisite to adoption of an urban renewal plan and establishment of an urban renewal project area.

Based upon the conditions identified in the Conditions Survey, an Urban Renewal Plan has been prepared to address said conditions.

FINANCIAL IMPACT

PURA has spent \$51,710 in consultant fees for Condition Survey, Impact Report and Plan documents.

RESOLUTION NO. 2024-20

A RESOLUTION OF THE PUEBLO URBAN RENEWAL AUTHORITY, BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO, FINDING THAT AN AREA OF THE CITY OF PUEBLO IS A BLIGHTED AREA AND APPROPRIATE FOR AN URBAN RENEWAL PROJECT AND APPROVING THE URBAN RENEWAL PLAN FOR THE COLORADO SMELTER URBAN RENEWAL PROJECT

WHEREAS, pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), the City of Pueblo (the “City”) and the Pueblo Urban Renewal Authority (the “Authority”) have agreed it is in the public interest to undertake the Colorado Smelter Urban Renewal Project (the “Urban Renewal Project” or “Project”) pursuant to “The Colorado Smelter Urban Renewal Plan” (the “Urban Renewal Plan” or “Plan”); and

WHEREAS, pursuant to a contract with the Authority, Short Elliot Hendrickson (the “Consultant”), has prepared a Conditions Survey of the area (the “Area”) described in Exhibit A, attached to and incorporated herein, to determine if the Area contains factors included in the definition of “blighted area” in the Act; and

WHEREAS, there was presented to the Board of Commissioners of the Authority a Conditions Survey prepared by the Consultant entitled “Colorado Smelter Urban Renewal Plan Conditions Survey” (the “Survey”) dated April 5, 2022, which describes in detail the conditions in the Area and is incorporated herein by this reference; and

WHEREAS, the Plan will support community and regional goals and provide needed public facilities, infrastructure, and affordable and attainable housing.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, AS FOLLOWS:

Section 1. Based on a review of the Survey and in accordance with the Act, the Board of Commissioners finds and determines that the Area is a “blighted area” as defined in Section 31-25-103(2) of the Act and by reason of the presence of the following factors the Area substantially impairs or arrests the sound growth of the City, retards the provision of housing accommodations, constitutes an economic and social liability, and is a menace to the public health, safety, morals or welfare in its present condition and use. The Board of Commissioners finds and determines that the following factors exist in the Area:

- a. Slum, deteriorated, or deteriorating structures.
- b. Predominance of defective or inadequate street layout.
- c. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness.
- d. Unsanitary or unsafe conditions.
- e. Deterioration of site or other improvements.
- f. Unusual topography or inadequate public improvements or utilities.

- g. Conditions that endanger life or property by fire or other causes.
- h. Buildings that are Unsafe or Unhealthy or unhealthy for persons to live or work in.
- i. Environmental contamination of buildings or property.
- j. The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.

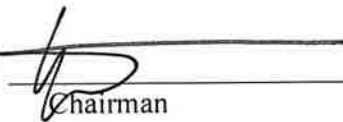
Section 2. The Urban Renewal Plan has been duly reviewed and considered and is hereby approved.

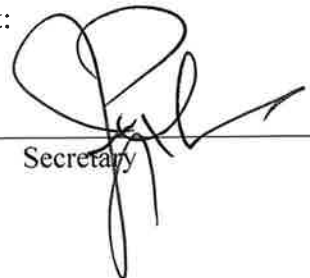
Section 3. The Executive Director and staff of the Authority are hereby authorized and directed to submit the Survey, the Plan, all other agreements, notices and project documents incidental to and associated with the Plan and the Project, and this resolution to the City Council for appropriate action in accordance with the Act.

Section 4. The Executive Director and staff of the Authority are directed to take or cause to be taken all actions necessary or reasonably required or desirable to facilitate approval of the Plan and the Project in accordance with this resolution.

ADOPTED this 14th day of May 2024.

PUEBLO URBAN RENEWAL AUTHORITY

By: _____
Chairman

Attest:
By: _____
Secretary



TO: Jerry Pacheco, Pueblo Urban Renewal Authority
FROM: Andrew Arnold, Pioneer Development Company
DATE: July 27th, 2024

RE: Smelter Urban Renewal Plan Conditions Survey

Dear Jerry,

This letter is in reference to the proposed Smelter Urban Renewal Plan and its eligibility for Urban Renewal treatment. Specifically, this letter's purpose is to state that the blighted area factors, as defined by C.R.S. 31-25-103.2, and catalogued in the April 5th, 2022 Conditions Survey Study are still present within the proposed Urban Renewal Plan's boundaries.

On April 5th, 2022, I submitted a Conditions Survey study to the Pueblo Urban Renewal Authority (PURA) that analyzed statutorily defined blighted area factors within the proposed Smelter Urban Renewal Plan area. This Plan area included 2,642 acres and approximately 4,343 parcels. The Conditions Survey identified ten (10) of the eleven (11) statutorily defined factors listed in C.R.S. 31-25-103.2, meaning the Smelter Urban Renewal Plan area is eligible for Urban Renewal treatment. These conditions notably included environmental contamination, as the Smelter Superfund site is located within the conditions survey boundaries. I completed this report while working for Short Elliott Hendrickson, Incorporated (SEH, Inc) as their primary economic development project manager for the company's western region.

Two years after this study was submitted, the Pueblo Urban Renewal Authority and the City of Pueblo now are seeking to officially establish the Smelter Urban Renewal Plan. My new company, Pioneer Development Company, serves as PURA's urban renewal and economic development consultant, and I've been asked to submit a letter stating whether the proposed Plan area's blighting factors are still present, or have been substantially mitigated since 2022.

I can definitively say that the Smelter Urban Renewal Plan still qualifies for Urban Renewal treatment. The ten blighting factors identified in 2022 remain present within the proposed Plan area, and in some cases have worsened. The purpose of the Smelter Urban Renewal Plan is to remediate these blighting factors, and without that Plan and its incentives in place, it is unlikely that these properties can remove the current conditions arresting sound development throughout the area.

If you have any questions or need additional details regarding this opinion, please do not hesitate to reach out to me. Thank you for the opportunity to work with you, PURA, and the Pueblo Community.



Andrew Arnold
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Pueblo Urban Renewal Authority

Colorado Smelter URA Plan: Conditions Survey

The City of Pueblo, Colorado

165646 | April 5, 2022



Building a Better World
for All of Us®

Engineers | Architects | Planners | Scientists



Building a Better World
for All of Us®

April 5, 2022

Pueblo Urban Renewal Authority
The City of Pueblo, Colorado

Dear Pueblo Urban Renewal Authority Board of Commissioners,

The following conditions survey report is intended to assist the Pueblo Urban Renewal Authority (PURA) with identifying and cataloguing conditions that may be arresting sound development from occurring throughout a specific area of the City. This area is named the “Colorado Smelter Urban Renewal Plan” area, which is a reference to Pueblo’s ongoing work with the “Colorado Smelter Revitalization Plan” (CSRP). The proposed urban renewal plan area encompasses a significant portion of the CSRP, including both operable units (OU1 and OU2) of the EPA’s superfund site around the former smelter facility and slag pile. The area also includes the Bessemer, Eilers Heights/Bojon Town and Grove Neighborhoods. In total, Colorado Smelter Urban Renewal Plan area includes 4,343 parcels, an estimated 69.27 miles of roads, and approximately 2,642 acres. The conditions survey evaluates this area in its entirety.

This report has been prepared based upon the application of Colorado’s Urban Renewal Law under C.R.S. 31-25 Part I, more specifically §§ 101 to 116 (the “Act”). The report includes a description of each blighting factor for identification pursuant to Act and an identification of those factors observed, identified and found to exist within the proposed plan area. Blighting factors have also been mapped to illustrate the location of these observed conditions.

Based upon our field observations and analysis, this report finds that the surveyed area meets the Act’s statutory minimum of blighting factors required to designate the proposed Colorado Smelter Urban Renewal Plan as an urban renewal plan area eligible for urban renewal activities.

Sincerely,

Andrew Arnold, AICP
Economic Development Planner
Short Elliott Hendrickson, Incorporated (SEH®)

CC: Jerry Pacheco and Cherish Deeg

Executive Summary

The Colorado Smelter Urban Renewal Plan Conditions Survey:

A conditions survey report is required by Colorado's Urban Renewal Law to examine the existence of specific conditions that contribute to making an area within the community "blighted", and therefore eligible for urban renewal treatment. The conditions survey is the first step in the process of either establishing an Urban Renewal Authority within a municipality or creating an urban renewal plan for a specific geographical area of that municipality.

An urban renewal plan area, also known as an urban renewal project, is defined by state statute to mean "a slum area, or blighted area, or combination thereof, which the local governing body designates as appropriate for an urban renewal project" (C.R.S. 31-25-103). The process to designate an urban renewal plan is organized under Colorado Urban Renewal Law (C.R.S. 31-25-101 to 116).

For an urban renewal plan to be established and adopted, a specific geographic area within the community must be found to exhibit certain conditions. These conditions are known as "blighted area factors" and these factors must be cataloged accordingly before urban renewal projects and activities can commence. The process of surveying an area for the presence of blighting factors is part of conducting a conditions survey, a report that carefully analyzes a geographic area to determine the existence of factors that, "substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare." (C.R.S. 31-25-103.2)

The conditions survey does not create a new Urban Renewal Plan or Urban Renewal Project. The Conditions Survey is merely a starting point for that process, one that is required before the Pueblo Urban Renewal Authority can designate a specific plan area, evaluate its fiscal impacts and potential tax increment generation, and adopt its Urban Renewal Plan. The conditions survey's purpose is to evaluate the proposed URA plan area and determine if it meets the statutorily required threshold of blighted area factors. Colorado's Urban Renewal Law defines eleven factors, four of which must be identified before an Urban Renewal Project or Plan can be established and adopted.

The proposed project area was carefully surveyed during a week-long field visit. Observations were taken during this field visit that identified the presence of statutorily defined blighting factors throughout the area. These observations were supplemented with background research on the survey area. This report thoroughly reviewed both City and County planning documents, as well as assessment information that could help identify blighting factors that were not easily observable during the site visits.

The conditions survey also carefully reviewed the Colorado Smelter Revitalization Plan (CSRP). The CSRP was created in response to the 2014 EPA Superfund designation of the former smelter facility and slag pile. The plan represents a multi-agency collaboration between the EPA, the City of Pueblo, as well as state and local entities to strategically target investment and revitalization in the area and its surrounding neighborhoods. The proposed urban renewal plan area is intended to support the CSRP's investment and revitalization goals. Blighted area factors that relate to the EPA Superfund site, or blighted area factors arresting the goals outlined in the CSRP, were specified by this report.

The conditions survey's conclusion is that the proposed Colorado Smelter Urban Renewal Plan area exhibits the necessary number of blighting factors to make it eligible for an urban renewal project or plan area according to state statute. This conditions survey identified ten (10) blighting factors within the area, listed in the table below:

Executive Summary (continued)

Colorado Smelter URA Plan Conditions Survey - Blighted Area Factors Cataloged	
Blighted Area Factor # (C.R.S. 31-25-103.2 List Label)	Definition
Factor 1 (a)	Slum, Deteriorated or Deteriorating Structures
Factor 2 (b)	Predominance of Defective or Inadequate Street Layout
Factor 3 (c)	Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness
Factor 4 (d)	Unsanitary or Unsafe Conditions
Factor 5 (e)	Deterioration of Site or Other Improvements
Factor 6 (f)	Unusual Topography or Inadequate Public Improvements or Utilities
Factor 8 (h)	The Existence of Conditions that Endanger Life or Property by Fire or other Causes
Factor 9 (i)	Buildings that are Unsafe or Unhealthy or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
Factor 10 (j)	Environmental Contamination of Buildings or Property
Factor 11 (k.5)	The existence of Health, Safety, or Welfare Factors Requiring High Levels of Municipal Services or substantial Physical Underutilization or Vacancy of Sites, Buildings, or other Improvements

Contents

1	The Colorado Smelter Urban Renewal Plan Area Summary	1
1.1	Survey Area	1
1.2	Zoning Districts	3
1.3	Current Assessment of Survey Area	4
2	Methodology.....	5
3	Evaluation of Blighting Factors	6
	Blighted Area Factors Defined:	6
3.1	Factor One – Slum, Deteriorated or Deteriorating Structures	7
3.2	Factor Two – Predominance of Defective or Inadequate Street Layout ..	9
3.3	Factor Three – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness	11
3.4	Factor Four – Unsanitary or Unsafe Conditions.....	13
3.5	Factor Five – Deterioration of Site or Other Improvements	15
3.6	Factor Six – Unusual Topography or Inadequate Public Improvements or Utilities.....	17
3.7	Factor Eight – The Existence of Conditions that Endanger Life or Property by Fire or other Causes.....	19
3.8	Factor Nine – Buildings that are that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities	21
3.9	Factor Ten – Environmental Contamination of Buildings or Property ...	23
3.10	Factor Eleven – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements ..	25
4	Conclusion	27
	Conditions Survey Maps	28
	Appendix A.....	A-1
	Appendix B.....	B-1
	Appendix C.....	C-1

Pueblo Urban Renewal Authority

Colorado Smelter URA Plan: Conditions Survey

Prepared for the PURA Board of Commissioners

1 The Colorado Smelter Urban Renewal Plan Area Summary

1.1 Survey Area

The Colorado Smelter Urban Renewal Plan's proposed boundary encompasses 2,642-acres¹ within the City of Pueblo that includes 4,343 individual parcels. This survey area has been strategically drawn to include parcels that are included in Colorado Smelter Revitalization Plan (CSRP), the EPA Superfund site's Operable Unit 1 and Operable Unit 2, as well as additional parcels that need or will likely attract new investment or reinvestment. The area also includes public right-of-way that may benefit from urban renewal treatment.

Survey Boundary Description

The proposed Colorado Smelter Urban Renewal Plan targets an area in need of environmental remediation, reinvestment, and redevelopment. The survey boundary is within Pueblo's City Limits and encompasses the Bessemer, Eilers Heights/Bojon Town and Grove neighborhoods, the Runyon Sports complex and Lake, as well as residential and commercial areas to the west and south of Bessemer. The survey boundary begins where Santa Fe Avenue crosses the Union Pacific/BSNF railroad lines. The survey boundary extends around the historic Gove neighborhood, stretching east from the Arkansas River to Gruma Drive. The boundary continues south, outlining the Bessemer neighborhood and the Runyon Sports complex and lake. The eastern edge of the survey boundary reaches Salt Creek before turning west along Northern Avenue, and then continuing south on I-25 until terminating past JJ Raigoza Park. The western edge of the survey boundary extends beyond the Bessemer neighborhood to the west, following Washington Street to West Summit Avenue, East Adams Avenue, and then eventually moving south along Lake Avenue. The boundary moves around to exclude the Saint Mary Corwin Hospital, before again heading south along Wyoming Avenue, encompassing the final neighborhood blocks adjacent to the unpaved Streater Avenue and connecting with its eastern edge near JJ Raigoza Park.

The survey boundary was strategically drawn to include a combination of public amenities, key transportation corridors and historic neighborhoods that are impacted by the former smelter facility's and slag pile's environmental contamination. These areas are part of the EPA's Superfund site, specifically Operable Unit 1 and Operable Unit 2. This proposed urban renewal area is intended to parallel these environmental remediation efforts, providing an additional tool to alleviate forms of blight including, but not limited to, the environmental contamination of soils throughout the area. These are areas of Pueblo that, to date, have struggled to attract new investment and initiate redevelopment.

¹ Acreage estimate includes Public Right of Way e.g. Roads and Alleys

The goal of the Colorado Smelter Urban Renewal Plan is to encourage “renewal” throughout this surveyed area by attracting additional investment within the project boundary. Alleviating blight will also help to advance the three “revitalization themes” outlined in the CSRP, specifically:

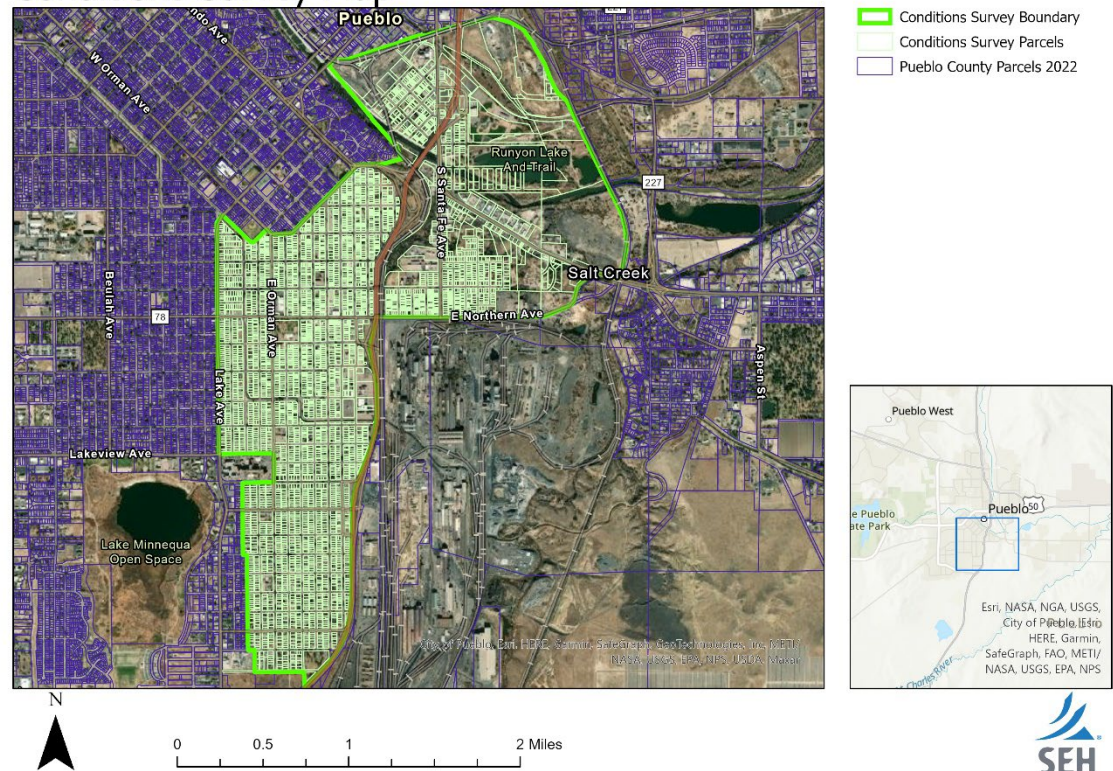
1. Connectivity and Cultural Heritage
2. Thriving Neighborhoods
3. Vibrant Commercial

This conditions survey carefully evaluated blighted area factors that have a propensity to arrest development which would help advance each revitalization theme. The goals of the Colorado Smelter Urban Renewal Plan are closely aligned with the community vision contained in the CSRP, which is why the survey boundary closely adheres the CSRP’s scope.

Survey Boundary Statistics

Colorado Smelter URA Survey Boundary	Totals
Number of Total Acres	2,642
Parcel Acreage	1,846
Number of Parcels	4,343

Colorado Smelter Urban Renewal Plan Area Conditions Survey Map



1.2 Zoning Districts

The Colorado Smelter Urban Renewal Plan survey boundary includes 18 City of Pueblo zoning districts. Each zoning district regulates the land uses on their respective parcels according to the City of Pueblo's Comprehensive Plan and municipal code. These zoning districts will regulate the redevelopment that will be permitted throughout the Colorado Smelter Urban Renewal project.

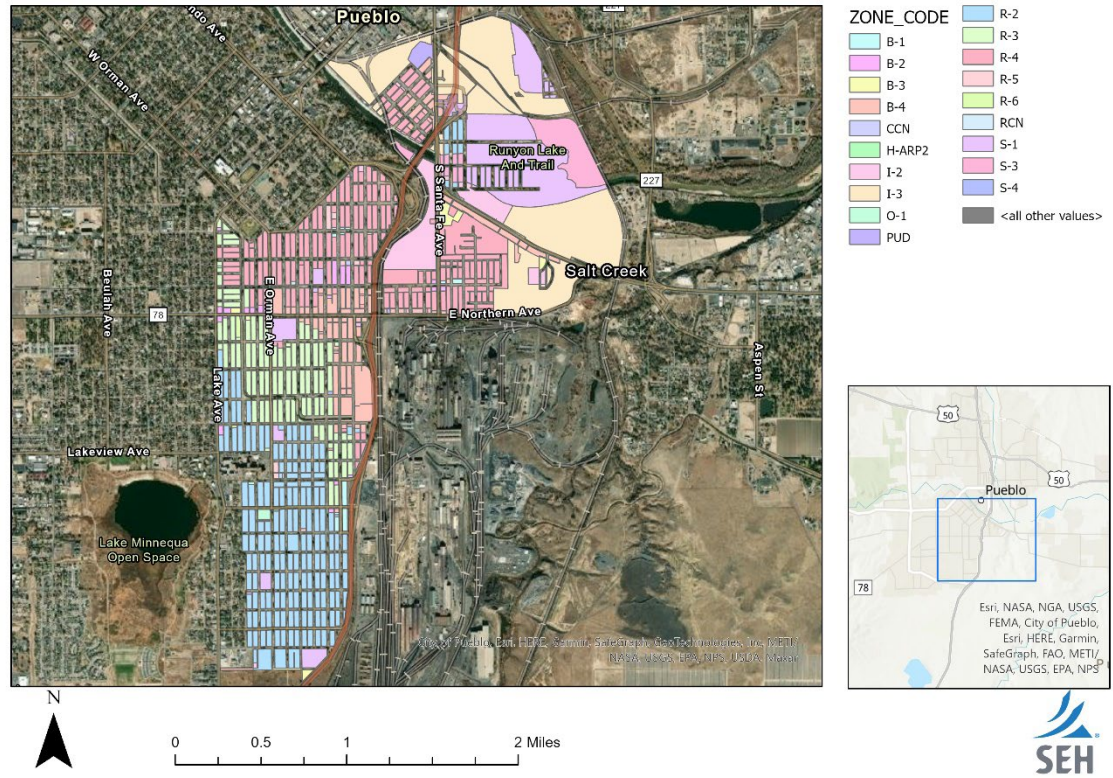
A summary of each zoning district's acreage, number of parcels, and assessed value has been included in the table below. The location of these zoning districts throughout the survey boundary is illustrated in the map below.

Zoning Districts Statistics

Zoning District Statistics			
Zoning District Code	Number of Parcels	Estimated Acreage	Estimated Assessed Value
R-4	1,506	333.8	\$ 11,066,677
R-3	848	169.6	\$ 6,223,611
B-4	382	130.9	\$ 6,966,134
S-1	51	211.5	\$ 15,420
R-2	1,277	336.7	\$ 11,537,264
B-2	66	16.2	\$ 1,083,108
I-2	35	77.1	\$ 815,190
I-3	81	442.0	\$ 1,299,280
B-3	14	12.7	\$ 335,620
S-3	16	81.1	\$ -
R-5	13	6.7	\$ 234,630
B-1	38	9.7	\$ 458,368
R-6	4	2.3	\$ 76,350
S-4	2	0.7	\$ 5,340
RCN	1	0.3	\$ 21,090
O-1	3	3.5	\$ 457,480
CCN	3	0.9	\$ 89,670
PUD	2	9.3	\$ 231,200

Source - Pueblo County GIS and Assessor

City of Pueblo Zoning Districts Map



1.3 Current Assessment of Survey Area

The survey area includes 4,343 parcels. The total equalized assessed value of these parcels, according to the Pueblo County Assessor's database, is \$40,916,432. Using the 2021 certified assessment the City of Pueblo and the total taxable value of the proposed URA area, the Colorado Smelter Urban Renewal Plan survey boundary represents 3.2% of the City's total taxable value.

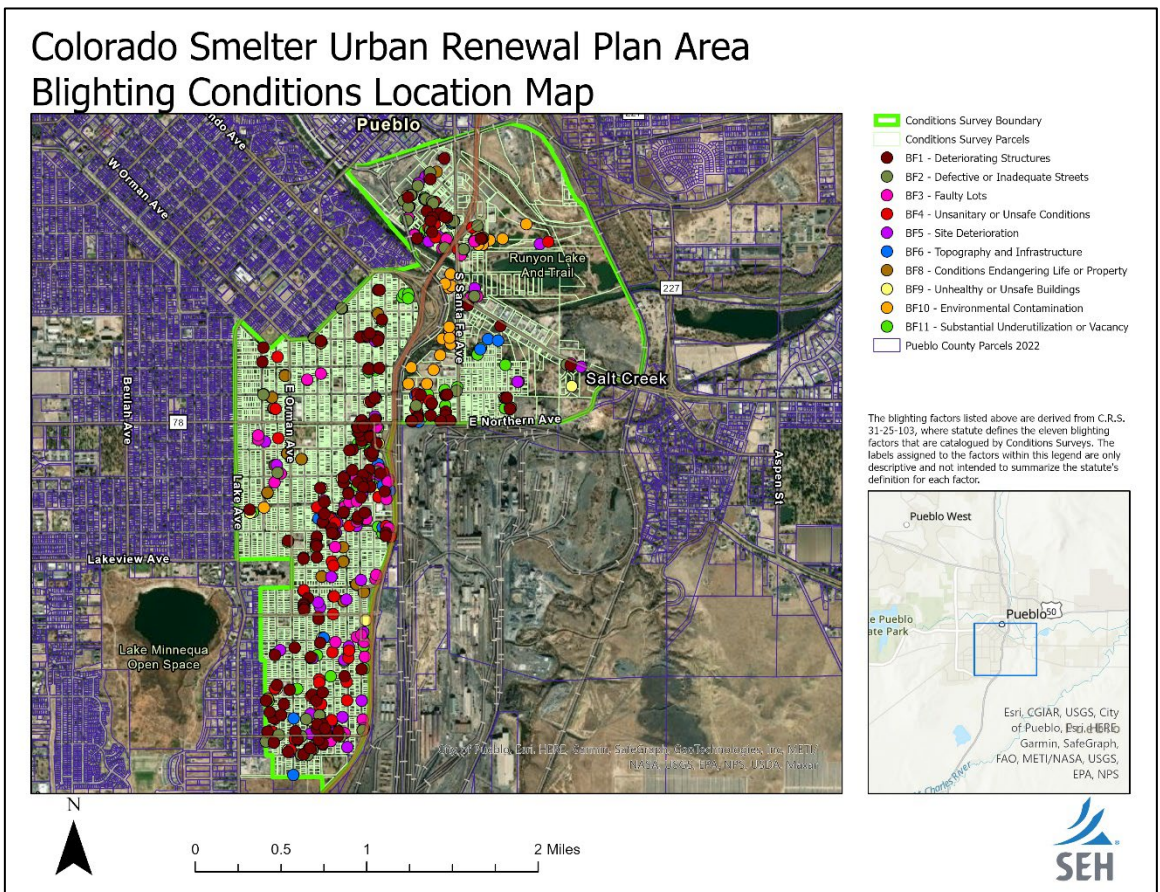
The survey boundary encompasses properties that are taxed according to four Pueblo County taxing districts, 60B, 60BV, 60BE, 60BM. All four districts levy the same millage rate of 97.705. The number of parcels, estimated acreage and assessed value according to each Taxing District within the survey boundary is recorded in the following table.

Taxing Districts Present

Tax District Statistics				
Tax District Code	Mill Levy	Number of Parcels	Estimated Acreage	Estimated Assessed Value
60B	97.705	4,037	1464.4	\$38,393,964
60BV	97.705	96	145.6	\$1,074,750
60BE	97.705	208	232.7	\$1,447,718
60BM	97.705	1	3.7	\$0

2 Methodology

This Conditions Survey utilized a holistic methodology in determining whether blighted area factors exists within the proposed Colorado Smelter Urban Renewal Plan survey boundary. This methodology included a detailed literature review of adopted plans and reports (such as the Colorado Smelter Revitalization Plan 2020), an analysis of County Assessor records and GIS databases, and a multi-day field visit. Field work was supplemented by GIS technology that recorded and documented potential blighting conditions in real time. Maps were created for each blighted area factor identified within the survey boundary, illustrating which parcels contain, or are in proximity to, statutorily defined blighting factors. These maps represent the layered information gathering approach used in this report to ensure that each blighted area factor was thoroughly analyzed.



It is important to note that conditions surveys evaluate an area in its entirety for the presence of blighted area factors and are not intended to declare individual properties or separate areas as blighted². The maps included in this report illustrate the location and clustering of individual blight factors as a means of representing this survey's findings. In order for the surveyed area to be declared blighted, it must exhibit four or more blighted area factors³. It is the combination of factors within an area that makes it eligible for urban renewal activities.

² Unless that individual property is in fact the entirety of the URA Plan area.

³ The exceptions include properties that are owned by a single property owner and eminent domain. A survey area with a singular owner may only require one blighting factor. In order to use eminent domain, five blighting factors must be found.

3 Evaluation of Blighting Factors

Defining “Blighting Factors”

Colorado Revised Statutes 31-25-103 states that for an Urban Renewal Plan area to be established, there must exist certain conditions known as “blighted area factors”. State statute defines eleven of these factors. The law indicates that if four or more of these factors are found in an area of the municipality, that area may be declared blighted and qualify for urban renewal treatment.

Blighted Area Factors Defined:

- a) Slum, deteriorated, or deteriorating structures
- b) Predominance of defective or inadequate street layout
- c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d) Unsanitary or unsafe conditions
- e) Deterioration of site or other improvements
- f) Unusual topography or inadequate public improvements or utilities
- g) Defective or unusual conditions of title rendering the title nonmarketable;
- h) The existence of conditions that endanger life or property by fire or other causes
- i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
- j) Environmental contamination of buildings or property
- k) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

These eleven factors can also be thought as “conditions”, and the presence of at least four of these conditions can satisfy the state statute defining an area blighted. In addition to this list, C.R.S. 31-25-103(2) lists a twelfth condition. This final condition only applies when there is unanimous agreement among affected property owners that their properties can be included in an Urban Renewal Area. In this rare occurrence, only one blighted area factor from the list of eleven needs to be identified to declare the area blighted.

State statute allows for some flexibility in defining the conditions each factor represents. For the purpose of this conditions survey, each blighting factor will be unpacked to describe various real world “conditions” that would indicate the presence of said factor. The presence of a condition within the survey boundary alone is not enough to make that area eligible for urban renewal activities. Rather, it is the culmination of four or more blighted area factors which indicate that renewal activities should be applied within the proposed project area.

Identifying blighting conditions throughout this proposed project area required an objective analysis. The following sections outline the blighted area factors that this analysis found to be present within the survey boundary. Blighted area factors that were not identified were excluded from this report.

3.1 Factor One – Slum, Deteriorated or Deteriorating Structures

Description:

This factor refers to the current condition of structures in the survey area as a whole. When the physical condition of structures in an area foment negative perceptions and a corresponding decline in values, it typically signals the existence of this factor. Conditions that are evidence of this factor in an area may include:

- A deterioration of the building elements, such as cladding, fenestration, roofing, overhangs, fascia and soffit, or the foundation of a structure
- A deterioration of outside elements such as fencing, gates, fire escapes, outdoor lighting, loading areas, gutters and downspouts
- Vacant lots or high vacancy rates in the offices/businesses/apartments are evidence this factor exists in an area
- Decline in property value over time

Findings:

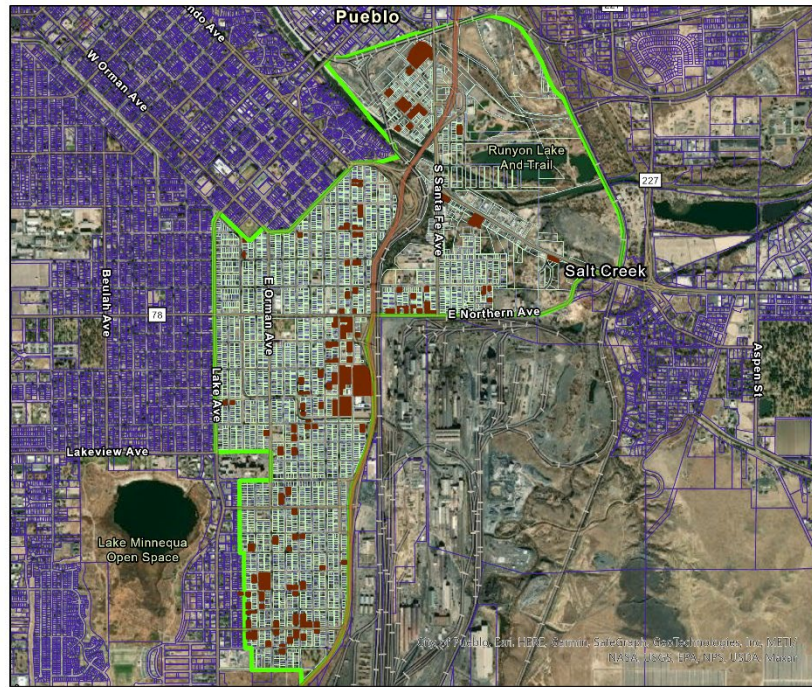
The conditions that underscore this factor were prevalent throughout the surveyed area. The conditions survey identified significant structural deterioration throughout the survey boundary's residential neighborhoods and commercial corridors. Vacancy, in the form of vacant lots and vacant storefronts, was frequently catalogued throughout the survey area also. Structural deterioration and vacancy contribute to declines in property value, especially where these conditions are proximal to neighboring properties.

Clusters of these conditions were observed throughout the survey boundary. These clusters were found along commercial corridors, such as East and West Northern Avenue, East Evans Ave and East Abriendo Avenue, and along Santa Fe drive. Observations included vacant commercial lots, such as the large parking lots surrounding the Steelworks Museum, as well as vacant storefronts and businesses. The later observation was especially pronounced along the segment of Northern Avenue from East Evans Ave to East Abriendo Ave. Commercial buildings surveyed in this area exhibited broken or boarded up windows, deteriorating roofing, fencing, and other façade elements. There was multiple "for rent" signs in commercial windows, in addition to overtly abandoned properties throughout the survey boundary. Santa Fe drive exhibited numerous abandoned properties.

The structural deterioration and vacancy observed in commercial corridors was also found within the survey boundary's residential neighborhoods. These residential observations were less clustered, but by no means less frequent. Residential properties in the Bessemer, Grove and Eilers Heights/Bojon Town neighborhoods were found to exhibit significant deterioration of their building elements. Residential properties south of Bessemer, especially between Indiana and Illinois Avenue, were frequently found to be abandoned, or even condemned.

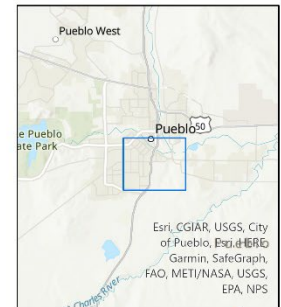
It should be noted that many residential properties throughout the survey area appeared well maintained and free from the conditions identified by this report. However, the frequency that these conditions were found scattered throughout the survey boundary contributed to overall "negative perceptions", which leads to under investment and a subsequent decline in property value. Structural deterioration in a neighborhood or commercial center also impedes two of the CSRP's goals: "thriving neighborhoods" and "vibrant commercial".

Blighting Factor 1 - Deteriorating Structures



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF1 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



3.2 Factor Two – Predominance of Defective or Inadequate Street Layout

Description:

This factor refers to street conditions that negatively impact sound development, redevelopment, or threaten safety. Conditions that are evidence of this factor in an area may include:

- Inadequate street widths, lack of streets, dead ends or overall faulty layouts that impede vehicular access and internal circulation
- Streets that exhibit high degrees of traffic or accidents
- Streets that are in need of repair or reconstruction
- Poor emergency access or active transportation

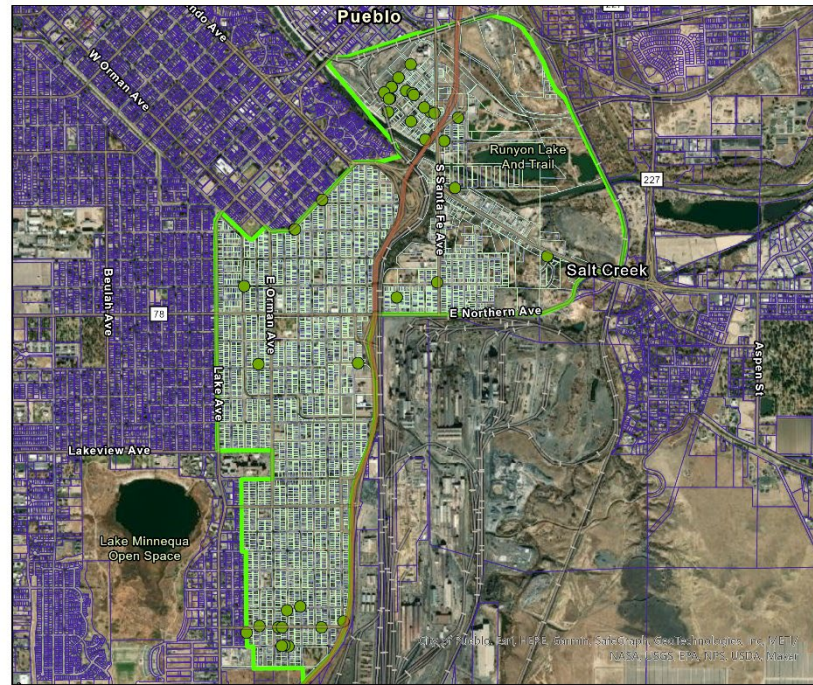
Findings:

In analyzing the presence of this factor within the survey boundary, the conditions survey first evaluated surface transportation infrastructure conditions. These conditions included alligator cracking of the street surface, frost heaves in the roadway, deteriorating parking lots, and missing or inadequate sidewalks. These observations were ubiquitous throughout the survey boundary. Parking lots had fallen into disrepair around the Steelworks Museum and commercial corridors adjacent to Northern Avenue. Sidewalks were haphazard and often missing, especially throughout the Bessemer neighborhood and the neighborhoods to its south. In general, pavement conditions were poor throughout the surveyed area.

This blighted area factor also exhibits conditions that are not as easily observable as poor pavement conditions. Examples include poor emergency access, inadequate street layouts, and the necessity for surface infrastructure improvements. Each of these examples were identified within the survey boundary. Interstate-25 cuts throughout the historic neighborhoods of Bessemer, Grove and Eilers Heights/Bojon Town, leaving many of their original streets as dead ends. This is an inadequate street layout, one that could be improved with alleyways or active transportation infrastructure that improve neighborhood connectivity. If alleyways did exist, they were frequently deteriorated and in need of repair or reconstruction. These repairs would in turn improve emergency access throughout the survey area. There were also unfinished streets within the survey boundary, such as Streater Avenue at the very southern limit of the proposed URA boundary.

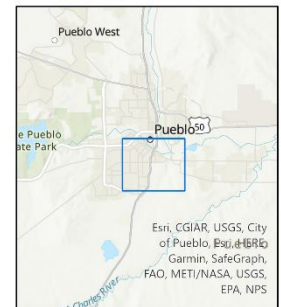
Incomplete active transportation networks and dangerous traffic conditions were the predominant observation found throughout the survey area. Sidewalk infrastructure was incomplete, existing around some city blocks only to disappear completely around others. Bike lanes were infrequent in the survey area, with the only notable bike lane designation existing around the St. Mary Corwin Hospital on East Orman Avenue. This report also evaluated traffic conditions with crash data and background research to supplement its on site observations. The CSRP and its recorded City Council Meetings spoke at length about the dangerous traffic conditions that exist along Santa Fe Avenue, Santa Fe Drive, and Northern Avenue, and the need for improved connectivity between residential areas. These arterials often lacked pedestrian infrastructure, such as designated pedestrian crossings, protected bike lanes, or even pedestrian refuges. This lack of active transportation infrastructure supported this blighting factor's inclusion in the report.

Blighting Factor 2 - Defective or Inadequate Streets



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF2 - Defective or Inadequate Streets
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



0 0.5 1 2 Miles



3.3 Factor Three – Faulty Lot Layout in Relation to Size, Adequacy, Accessibility, or Usefulness

Description:

This factor refers to shapes, layout and sizes of lots that complicate sound development and the usefulness of the property. This factor shares similarities with Blighting Factor One (1).

Conditions that would justify the inclusion of this factor in an area may include:

- Narrow or odd shaped lots
- Impractical lot layouts
- Lot configurations that yield unproductive conditions on the land as exhibited by misuse or nonuse

Findings:

The Conditions Survey identified parcels throughout the survey area that exhibit conditions that constitute a faulty lot layout. In some cases, an impractical lot layout is one that is non-conforming to the existing zoning code. The City of Pueblo's zoning code lists minimum lot areas that range from 3,000SF to 20,000SF depending upon the zoning designation. Using GIS data, the conditions survey identified 198 lots with a land area less than 1/10th an acre, making many of these lots nonconforming. This is an example of an impractical lot layout, and evidence of this blighted area factor. This observation was also identified in the CSRP, when it acknowledged that the existence of these impractical lot layouts could impede its goal of creating "thriving neighborhoods".⁴

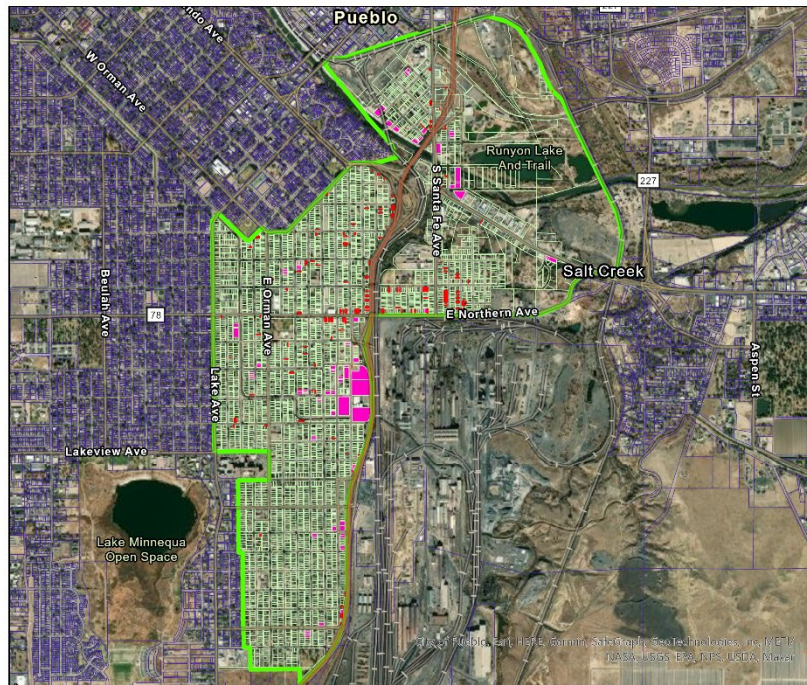
Vacant or underutilized lots provided additional evidence of this factor. Impractical lot layouts lead to the misuse or nonuse of the parcels, which is exhibited by their vacancy, low floor-area ratios, or relatively low assessed values. Vacant parcels, both large and small, were identified throughout the survey boundary. Many of these parcels were irregularly shaped, such as the lots lining the Bessemer Canal or those adjacent to the interstate or major arterials. The narrow and irregular shape of these lots may be a contributing factor to their vacancy and high land values relative to building improvement values. The nonuse observed on these lots is evidence of this blighting factor within the survey area.

In addition to narrow or odd shaped lots, there were also lots that this report deemed impractical due to their large size. These lots were clustered around the Steelworks Museum. The size of these lots, along with their vacancy and deterioration, indicates the presence of conditions outlined under this blighted area factor.

The large number of non-conforming lots, odd shaped lots, vacant and underutilized lots throughout the survey boundary indicates that this blighted area factor is present.

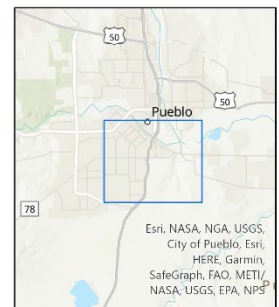
⁴ Colorado Smelter Revitalization Plan (CSRP) 2020, page 7.

Blighting Factor 3 - Faulty Lots



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF 3 Areas
- Small Lots (>4300SF)
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



0 0.5 1 2 Miles



3.4 Factor Four – Unsanitary or Unsafe Conditions

Description:

This factor refers to a multitude of unsafe or hazardous conditions. The commonality is that these conditions contribute to hazards that could have an adverse effect on the health, safety or wellbeing of the public. This factor shares similarities to conditions one (1), five (5), eight (8), nine (9) and ten (10). Conditions that would justify the inclusion of this factor in an area may include:

- Floodplain or flood prone areas
- Poor storm water drainage areas
- Cracked or uneven sidewalks
- Hazardous materials
- Dangerous traffic or pedestrian conditions
- High crime statistics
- Facilities prone to fire dangers
- Environmental contamination
- Inadequate utility systems
- Water scarcity and lack of water and sewer infrastructure
- Evidence of vandalism or homelessness
- Steep topography
- Trash, debris and noxious weeds

Findings:

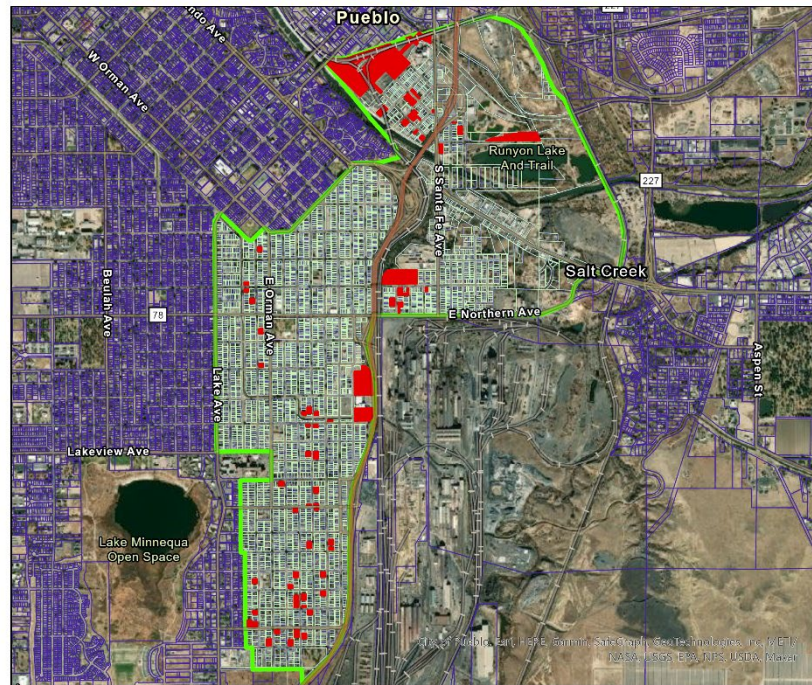
The range of conditions listed made it possible to find multiple examples of this blighted area factor within the survey boundary. The most significant example identified involved dangerous traffic or pedestrian conditions. Prior to conducting field work, this conditions survey researched traffic and pedestrian conditions throughout the survey boundary. This research included reviewing past city council meetings as well as analyzing CDOT's Online Transportation Information System (OTIS). In one of the City Council meetings discussing the Colorado Smelter Revitalization Plan (CSRP), the participants cited Santa Fe Avenue as a dangerous traffic corridor. The reasons centered on frequent speeding and even racing down this arterial. The field work supported these statements. Santa Fe Avenue and Santa Fe Drive were found to be dangerous arterials for pedestrian crossings and overall traffic circulation.

The high daily volume of traffic contributes to these dangerous intersections and pedestrian conditions. According to CDOT's OTIS database, Annual Average Daily Traffic (AADT) counts on Santa Fe Avenue where it crosses the Union Pacific/BSNF railroads are 12,000. This number increases sharply as one drives south toward I-25, peaking at 17,000 AADT just south of the I-25 on-ramp. These large AADT counts are located within the Grove neighborhood and at the entrance ways to both the Bessemer and Eilers Heights/Bojon Town neighborhoods. The comments made by city council and the public, coupled with these high traffic counts, support including this intersection as part of the unsafe conditions within the survey boundary.

Additional conditions identified throughout the survey boundary included flood hazard areas in the Grove and Bessemer neighborhoods, cracked and broken sidewalks throughout the residential areas, steep topography around portions of Eilers Heights and Bessemer, and evidence of homelessness and vandalism along Northern Avenue.

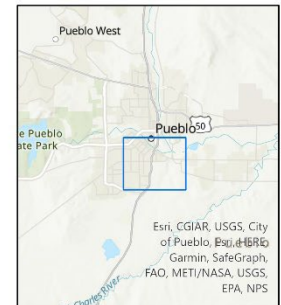
Environmental contamination was also considered part of this blighted area factor. Although factor 10 delves into greater detail about environmental conditions and hazardous materials in the survey area, the fact that a significant portion of the proposed urban renewal plan area is an existing EPA Superfund sites supports the inclusion of this factor.

Blighting Factor 4 - Unsafe or Unsanitary Conditions



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF4 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



0 0.5 1 2 Miles



3.5 Factor Five – Deterioration of Site or Other Improvements

Description:

This factor is similar to factor two (2) and four (4), in that its focus is on the deterioration of structures and infrastructure. The decline of public infrastructure is an example of this factor. Private land and/or structures that have fallen into disrepair or are damaged also exhibit this factor. Conditions that would justify the inclusion of this factor in an area may include:

- Poor condition of streets or sidewalks
- Signage, such as billboards, that has fallen into disrepair
- Neglected landscaping
- Damaged or missing public utilities
- Abundance of trash, debris or noxious weeds

Findings:

The conditions survey identified concentrated incidences of this factor throughout the survey boundary. There is an abundance of neglected landscaping around Runyon Lake, throughout the Grove, Bessemer and Eilers Heights/Bojon Town, and throughout the southernmost, residential portions of the survey boundary. The Bessemer canal was also identified by the field work as an area exhibiting this condition. Trash and debris were found within the canal throughout its course through the survey boundary. This neglect to maintain the canal represents a decline in public infrastructure, and a missed opportunity to beautify a critical piece of infrastructure throughout the survey boundary. Similar neglected opportunities were found along the Arkansas River, where trails and landscaping were absent.

Signage was frequently found in disrepair, or altogether missing, along surveyed commercial corridors. These incidences foment negative perceptions that indicate this blighted area factor presence. Large billboards lining I-25 were vacant or visibly damaged. The commercial corridors along Santa Fe Avenue and Drive, Northern Avenue, and East Evans and East Abriendo exhibited numerous businesses with damaged or missing signage. The deterioration of signage contributes to overall perceptions that these areas have fallen into disrepair. It also impedes the CSRP's goal to create "Vibrant Commercial" centers along the Northern Avenue and the Santa Fe corridors⁵.

As described in factor 2, surface transportation infrastructure's poor condition in the survey boundary validated its inclusion in this condition survey. Sidewalks and road surfaces in need of repair or reconstruction were ubiquitous throughout the survey boundary. Trash and debris, especially within properties identified as vacant, condemned, or deteriorating, was also identified and cataloged by this report.

⁵ Colorado Smelter Revitalization Plan (CSRP) 2020, page 9.

The map displays the Salt Creek area in Pueblo, Colorado. A green line outlines the proposed 150-foot wide right-of-way for the E Northern Avenue transit corridor. The corridor runs east-west, starting from the intersection of E Organ Ave and E Northern Ave, extending eastward past the intersection with S Santa Fe Ave, and then turning south to follow the edge of Lake Minnequa Open Space. The map shows a dense grid of streets in the urban area, with major roads like W Organ Ave, E Organ Ave, E Northern Ave, and S Santa Fe Ave labeled. Other features include Lake Minnequa Open Space, Runyon Lake And-Trail, and the Salt Creek area. A scale bar at the bottom indicates distances up to 2 miles, and a north arrow is located in the bottom left corner.

Pueblo West

Pueblo State Park

Pueblo, CO

Arkansas River

Esri, CGIAR, USGS, City of Pueblo, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS



3.6 Factor Six – Unusual Topography or Inadequate Public Improvements or Utilities

Description:

This factor refers to unusual topography or lack of public infrastructure that have the effect of arresting sound development in a study area. Areas that exhibit steep grades which cause development to be incompatible or unprofitable would fall under this factor. Properties that are lacking public infrastructure, or are served by deteriorating public infrastructure, would also fall under this factor. This factor shares aspects of factors two (2), four (4) and five (5). Conditions that justify the inclusion of this factor in an area may include:

- Steep slopes or unusual terrain
- Overhead utilities in need of repair
- Deteriorating parking lots, street surfaces, sidewalks
- Poor storm water drainage facilities
- Lack of central sewer or water
- Broken or inadequate street lighting

Findings:

The conditions survey analysis found multiple examples of this blighting factor throughout the survey boundary. The most pronounced condition identified were deteriorating parking lots. The surveyed properties included the large parking lots lining East Abriendo Ave and surrounding the Steelworks Museum. These parking lots often exhibited deteriorated pavement, missing striping, and had broken curbs and rebar sticking out of the parking surfaces. The aged nature of these parking features was pronounced and easily observable.

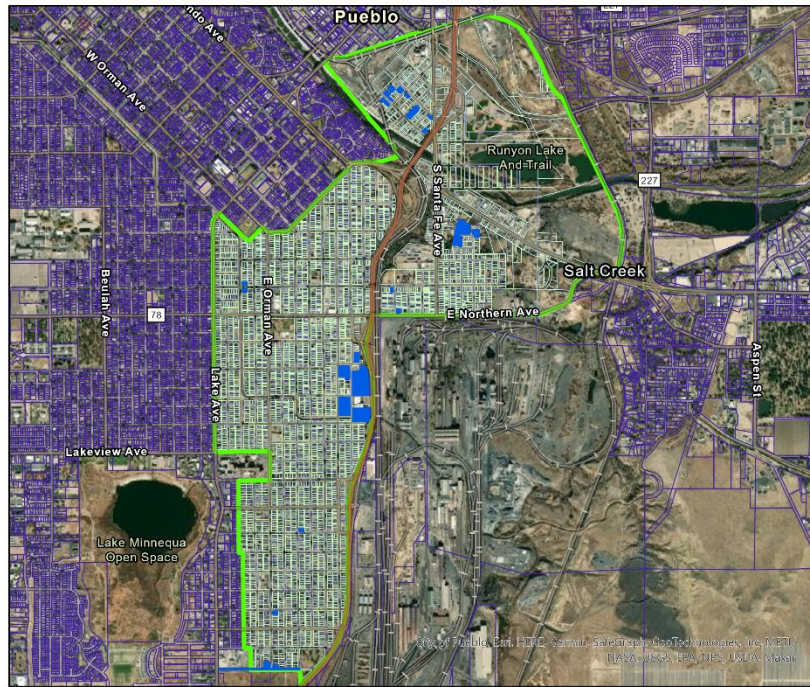
Field observations noted that most parking aprons, especially those belonging to commercial properties on Northern Avenue, were in poor condition. These aprons exhibited potholes, alligator cracking, and poor storm water drainage. Many of these properties had standing water collecting in their ingress/egress.

In addition to parking lots and aprons, street surfaces and sidewalks were frequently found to be damaged or deteriorating throughout the survey boundary. As mentioned in factor 2 and factor 4, sidewalks were damaged or missing throughout the Grove, Eilers Heights/Bojon Town, and Bessemer neighborhoods. Streets, especially alleyways, were in need of repair and reconstruction. Notable alleyways exhibiting this condition were found in the Grove and Bessemer neighborhoods, especially near the Runyon Sports complex.

Steep topography was also observed in parts of Eilers Heights/Bojon Town and the Bessemer neighborhoods. The residential parcels in the northeast end of Bessemer and also along Hill Place and Topeka Avenue exhibited steep grades that made development challenging or impossible in those areas. Vacant parcels were identified where these steep grades began.

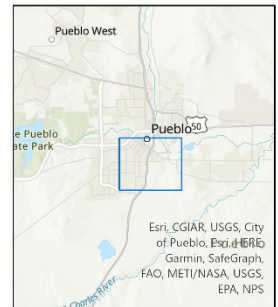
The combination of deteriorating road surfaces, parking lots, and sidewalks along with steep topography and underutilized lots, supports the inclusion of this factor within the conditions survey.

Blighting Factor 6 - Topography and Infrastructure



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF6 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



3.7 Factor Eight – The Existence of Conditions that Endanger Life or Property by Fire or other Causes

Description:

This factor refers to conditions that can endanger lives or property, including buildings that are structurally unsafe, but it also focuses on natural hazards. This factor shares similarities with factors two (2), four (4) five (5) and eleven (11). Conditions that are evidence of this factor in an area may include:

- Buildings or property not in compliance with current fire codes
- Buildings or property not in compliance with building codes
- Areas that are in a floodplain or flood prone area
- Areas near burn scares, in debris fans or prone to dangerous mud flow
- Areas that exhibit a high crime rate
- Areas with buildings or land that violates environmental regulations (this can range from findings of asbestos or brownfield sites.)

Findings:

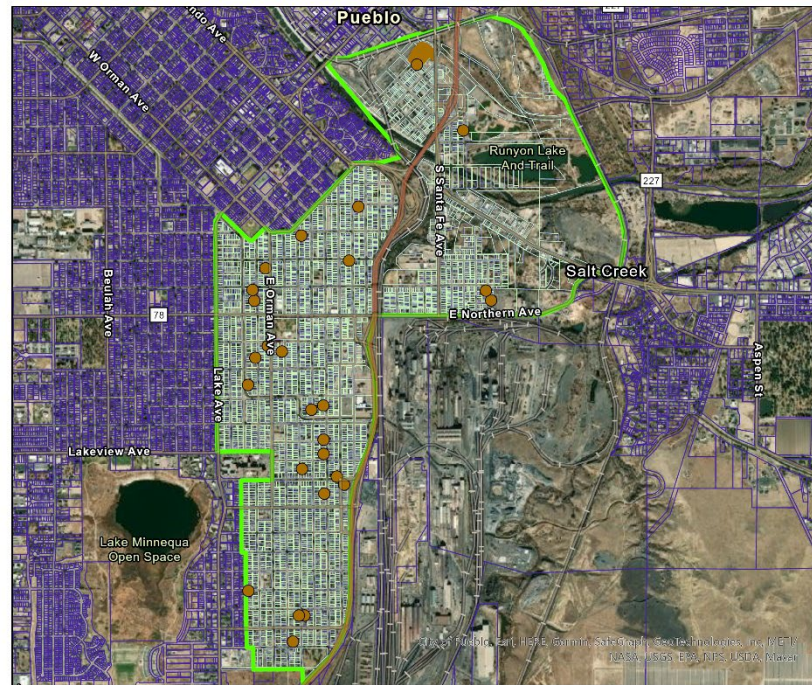
In order to identify conditions that endanger life or property, this analysis focused on properties located within the current EPA Superfund site (Operable Units 1 and 2), as well as structural deterioration that could jeopardize a building's integrity. Although there are large areas of the survey boundary within the FEMA designated 500-year floodplain, there are no residential or commercial property within the 100-year floodplain or regulatory floodway.

In 2014 the EPA designated the City's former smelter site and slag pile, as well as the neighborhoods surrounding it, as a Superfund site. This designation also led to the Colorado Smelter Revitalization Plan (CSRP). The former steel mill operations leached arsenic and lead into the soils throughout this area, causing the impacted area to become a brownfield. The EPA established two "Operable Units" for the remediation efforts, and these OUs encompass much of the survey boundary. The full extent of this environmental contamination is illustrated in Blighted Area Factor 10's map.

The field visit identified numerous structures throughout the survey boundary that exhibited severe deterioration, so much so that these buildings were considered structurally unsafe. A building with severe dilapidation was considered by this survey to be both a fire hazard and non-compliant with the City's building code.

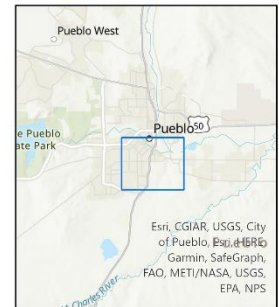
The environmental contamination and severe dilapidation of structures throughout the survey boundary justified the inclusion of this factor in this conditions survey.

Blighting Factor 8 - Conditions Endangering Life and Property



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF 8 Areas
- BF8 - Conditions Endangering Life or Property
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



3.8 Factor Nine – Buildings that are that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities

Description:

This factor refers to conditions that makes buildings unsafe and unfit for employees to work in or residents to live in. It shares similarities with the conditions presented in factors one (1), four (4), five (5) and eight (8). Conditions that would justify the inclusion of this factor in an area may include:

- Buildings that are dilapidated or deteriorating
- Poor physical design
- Inadequate facilities
- Building code violations (age of the building may justify this condition)

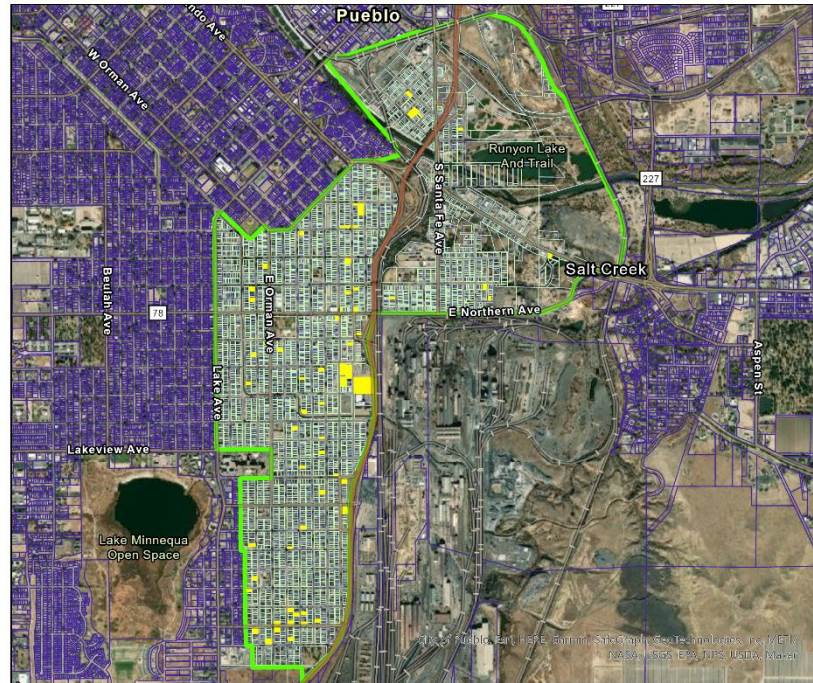
Findings:

This analysis focused on structures that were physically dilapidated as evidence of this blighting factor. Specific building code violations were not reviewed by this report, however, there were instances during the field visit where residential structures were found to be condemned by the city on account of building code violations. These observations were similar to the conditions identified in Factor 8.

There was no obvious pattern or clustering of this factor, however, the frequency by which these conditions were identified during field work justified this factor's inclusion in the report. Buildings were found frequently throughout the survey area that exhibited these conditions. Residential properties in all three neighborhoods, Bessemer, Grove and Eilers Heights/Bojon Town were identified with severe dilapidation or deterioration. These properties, albeit a small percentage of the entire residential neighborhood, were frequent enough to foment negative perceptions throughout the neighborhood and survey boundary. The prevalence of random structural dilapidation supported this factor's inclusion into the conditions survey.

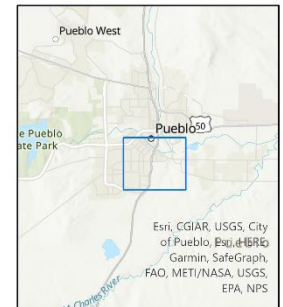
Commercial properties were also found to exhibit these conditions along Northern Avenue, East Abriendo Ave, East Evans Ave and also Santa Fe Ave and Santa Fe Drive. The dilapidation and deterioration observed ranged from broken or boarded up windows, to foundations cracking, to roofs missing shingles and tiles, to abandoned and vacant storefronts. There were also examples of vacant or abandoned commercial properties within the residential neighborhoods. These islands of commercial structures were severely dilapidated in nearly every case. These properties, in particular, fomented negative perceptions of the surrounding residential neighborhoods.

Blighting Factor 9 - Unhealthy or Unsafe Buildings



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF9 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



3.9 Factor Ten - Environmental Contamination of Buildings or Property

Description:

This factor refers specifically to the environmental contamination of buildings or property. In this regard, it shares many similarities with factors four (4) and eight (8). Conditions that would justify the inclusion of this factor in an area may include:

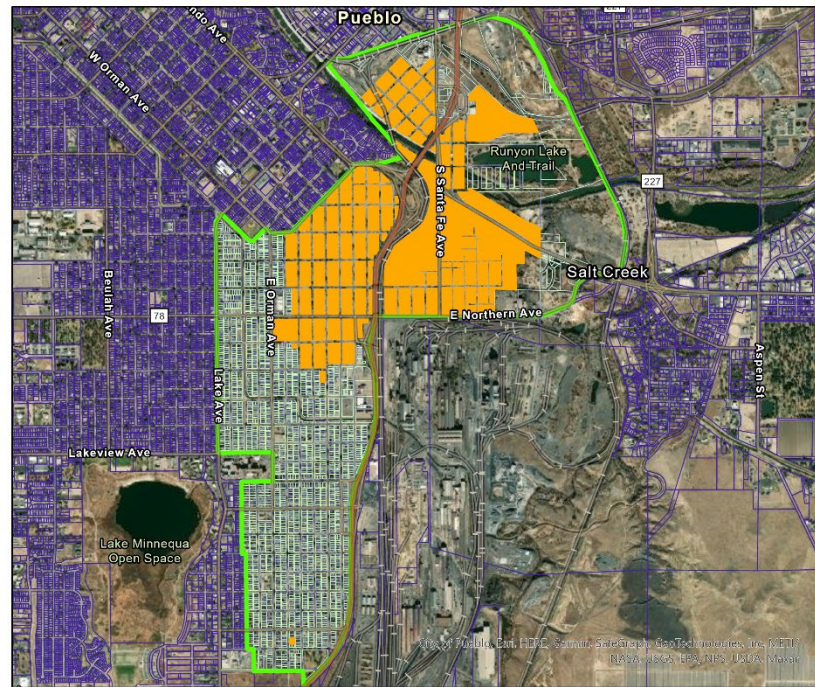
- The presence of hazardous materials in buildings or property

Findings:

In 2014, the EPA designated the “Colorado Smelter Superfund Site”. This site includes the former steel smelter and slag pile, as well as a significant portion of the surrounding neighborhoods. The former smelter’s operations left high levels of arsenic and lead in the soils at the site and in the surrounding properties. The soil contamination at the site of the former smelter and slag pile are designated as Operable Unit 2 (OU 2) by the EPA and the contaminated soils surrounding this site are designated as Operable Unit 1 (OU 1).

The following map depicts the full extent of both OUs throughout the survey area. This extent encompasses a majority of the Grove, Eilers Heights/Bojon Town and Bessemer neighborhoods. The property highlighted orange in the map is property that requires environmental remediation. This requirement adds an additional barrier to future investment and redevelopment, causing it to be defined as a Blighted Area Factor by Colorado’s urban renewal law.

Blighting Factor 10 - Environmental Contamination



- Conditions Survey Boundary
- BF10 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.

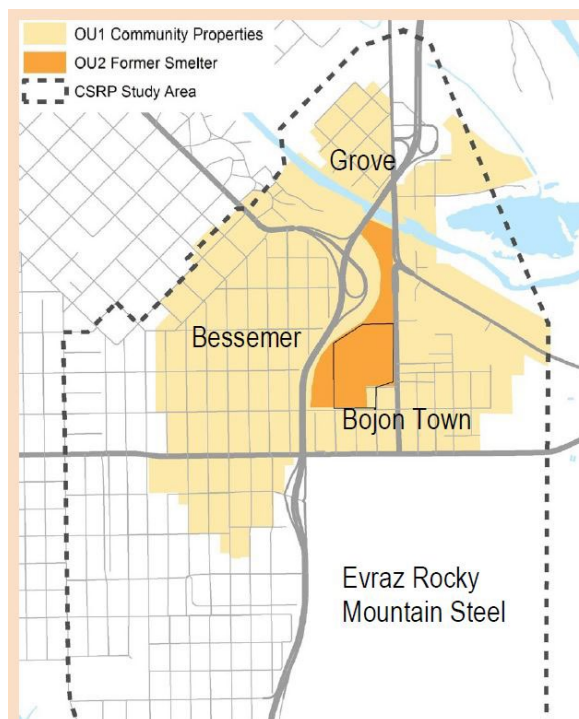
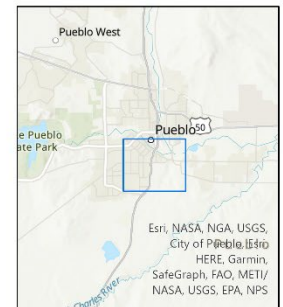


Figure 1 - from CSR 2020



3.10 Factor Eleven – The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

Description:

This factor references a broad category of health, safety and welfare factors. The common conditions for this factor to be present are instances where high levels of municipal service are required, substantial physical underutilization of property is exhibited, or high levels of vacancy are common. Vacancy can include land, buildings, or tenancy. This factor shares similarities with many of the factors on this list. Conditions that would justify the inclusion of this factor in an area include:

- Numerous vacant buildings or property throughout the area
- Evidence of underutilized buildings

Findings:

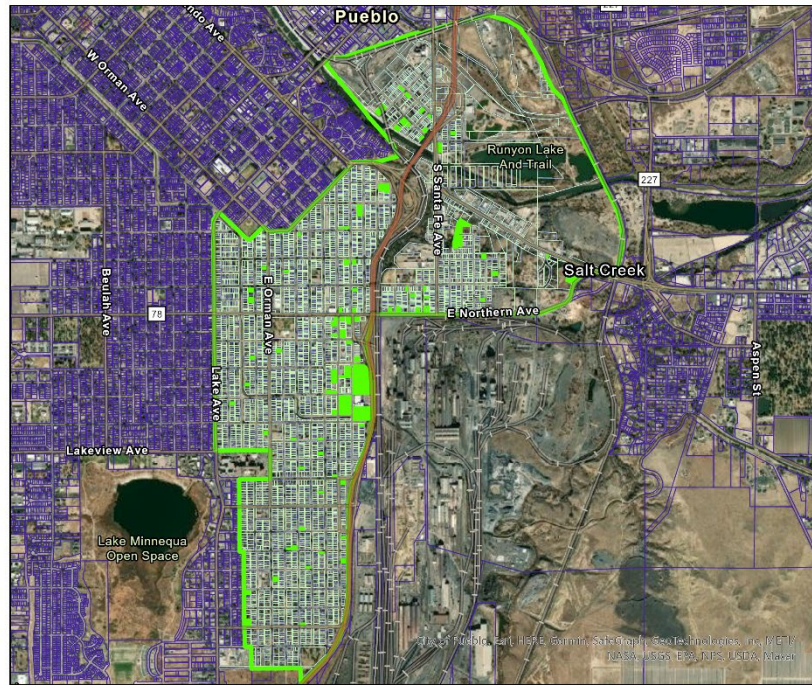
This report's real estate analysis identified multiple examples of this factor within the survey area. Approximately 11% of the parcels within the survey boundary have no building improvement value, according to the Pueblo County Assessor's database. This is a high-level of undeveloped property given the survey boundary's proximity to downtown Pueblo. Notable vacancies and undeveloped properties were those surrounding the Steelworks Museum off of East Abriendo Avenue. These former parking lots, which served workers of the steel factory during its heyday, are now largely unused and underutilized.

The field work also identified numerous commercial properties with tenant vacancies and for rent signs in their windows. This observation was especially pronounced along Northern Avenue, East Evans Avenue, and East Abriendo Avenue. These high levels of vacancy contribute to the conditions outlined under this blighted area factor.

While many of the vacancies were found in commercial zones, there was a significant number of residential properties that appeared vacant as well. These vacancies were often confirmed by posted notices of condemnation on the doors of these properties.

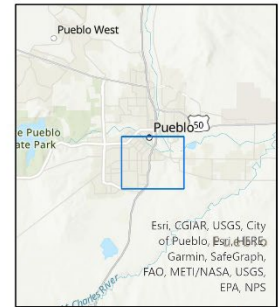
The field work and real estate analysis found significant examples of underutilization of property throughout the survey area, especially along busy commercial corridors. The vacancy rates throughout the area, and observed underutilization, justify the inclusion of this blighting factor.

Blighting Factor 11 - Underutilization and Vacancy



- ▬ Conditions Survey Boundary
- ▬ Conditions Survey Parcels
- BF11 Areas
- ▬ Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.



4 Conclusion

This conditions survey catalogs the presence of statutorily defined blighting factors within the proposed Colorado Smelter Urban Renewal Plan area. This report was designed to assist the Pueblo Urban Renewal Authority (PURA) in determining whether this area is 1) eligible for urban renewal projects and activities, and 2) that the proposed boundary is drawn as narrowly as possible.

This Conditions Survey identified ten blighted area factors as defined by Colorado's Urban Renewal Law, within the survey boundaries of the proposed area. The presence of ten blighted area factors meets the requirements outlined in C.R.S. 31-25-103(2), in which at least four blighted area factors must be present for that area to be declared "blighted" and therefore eligible to be designated as an Urban Renewal Plan area.

The proposed boundary also meets the statutory recommendation of "being drawn as narrowly as possible". The ten blighting factors were not clustered in one vicinity, but rather, were spread across the entirety of the survey boundary.

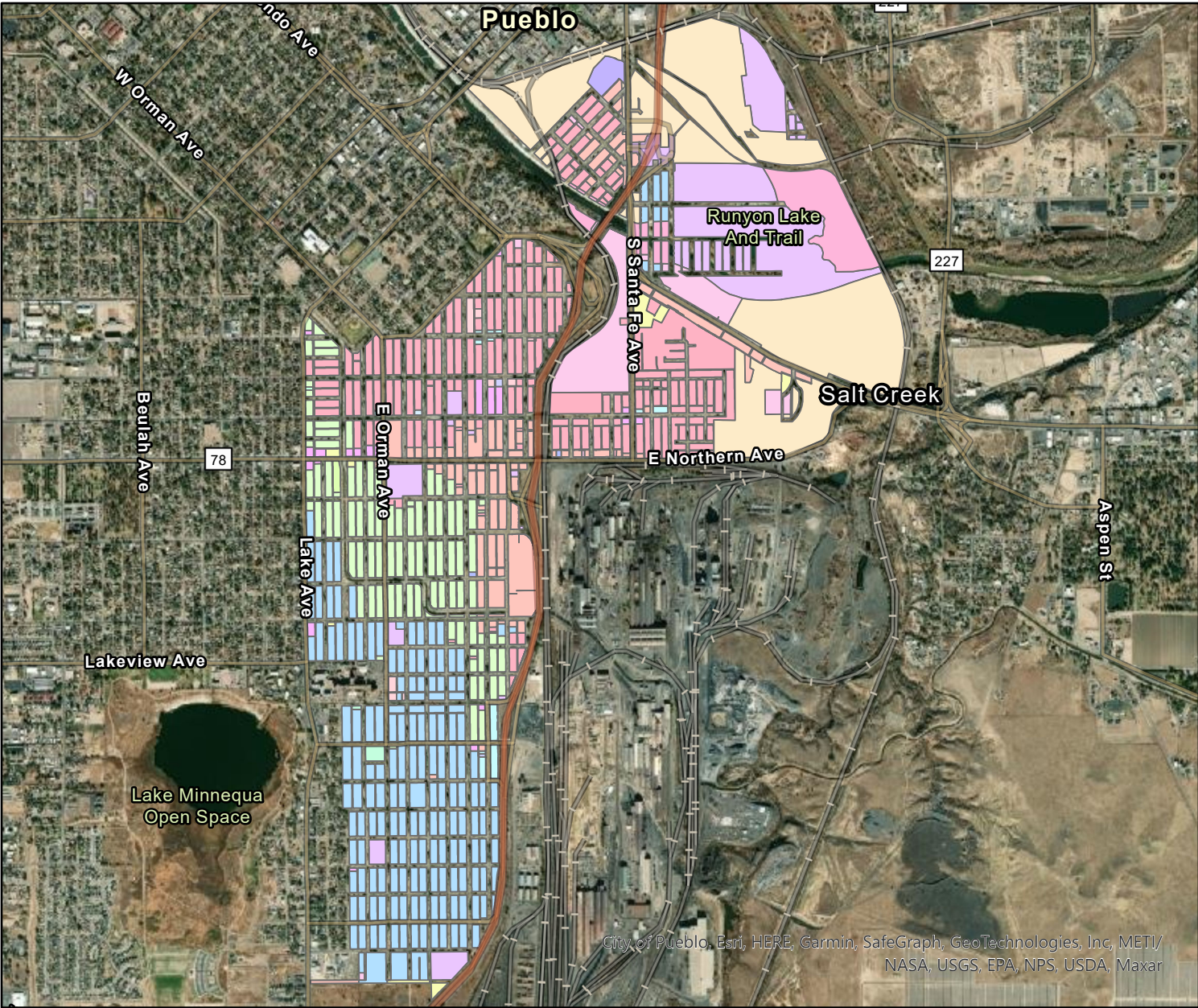
This Conditions Survey finds that the proposed Colorado Smelter Urban Renewal Plan area can be declared a "blighted area" as defined by Colorado's Urban Renewal Law and therefore qualifies for urban renewal treatment.

Conditions Survey Maps

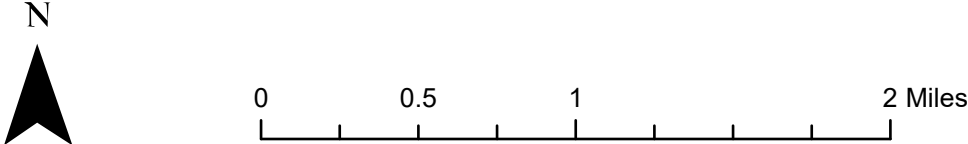
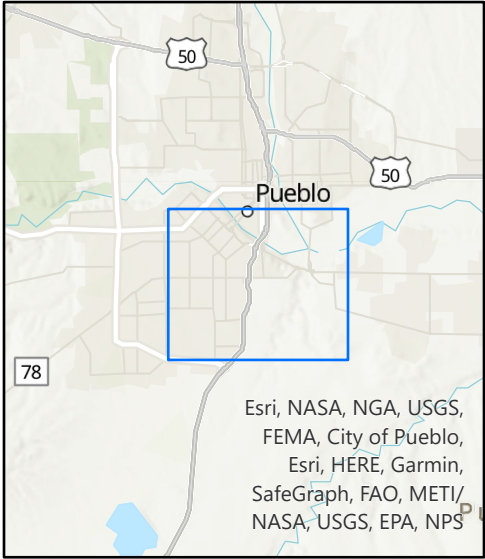
Appendix A

Zoning Map

City of Pueblo Zoning Districts Map



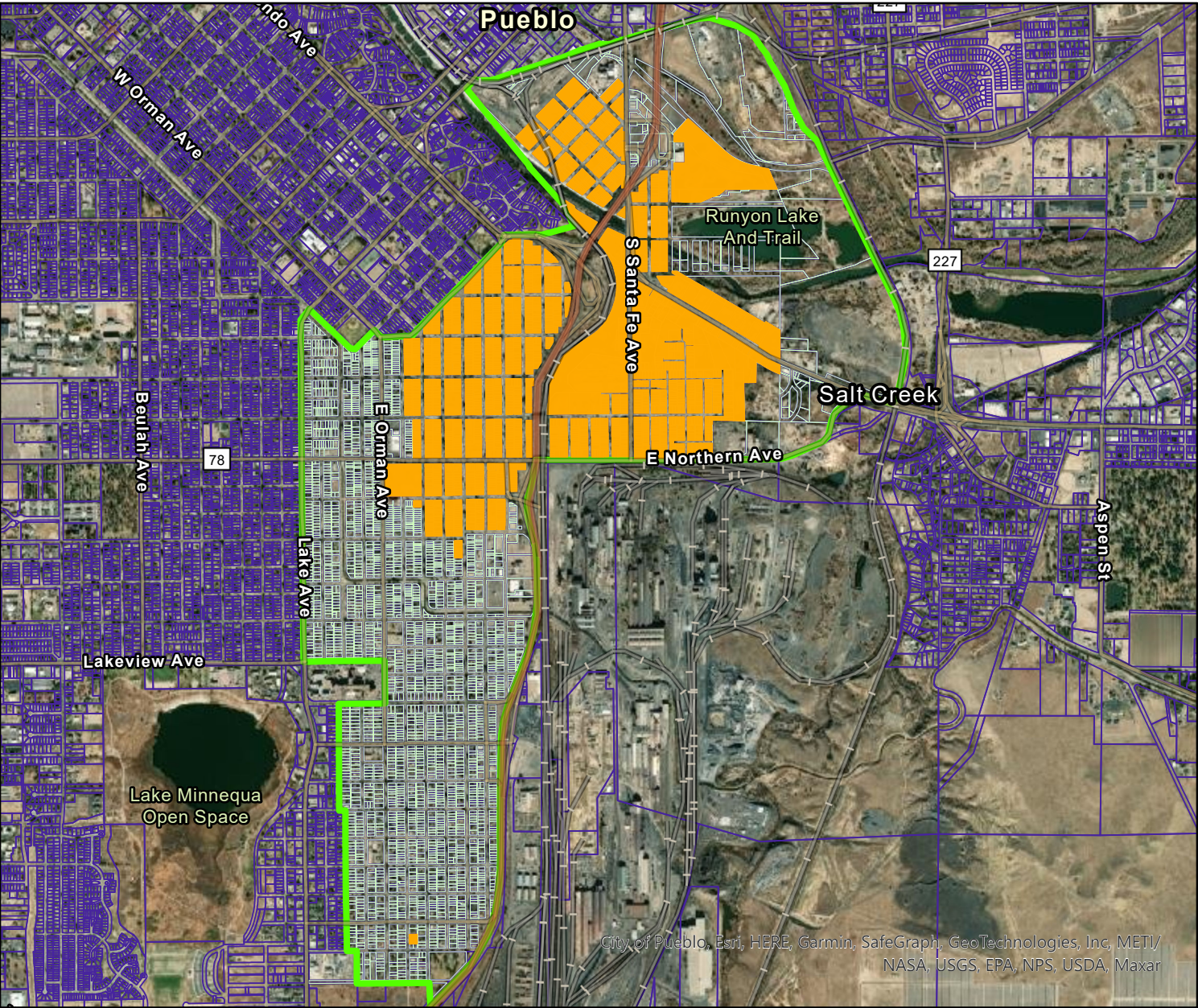
ZONE_CODE		
B-1	R-2	
B-2	R-3	
B-3	R-4	
B-4	R-5	
CCN	R-6	
H-ARP2	RCN	
I-2	S-1	
I-3	S-3	
O-1	S-4	
PUD	<all other values>	



Appendix B

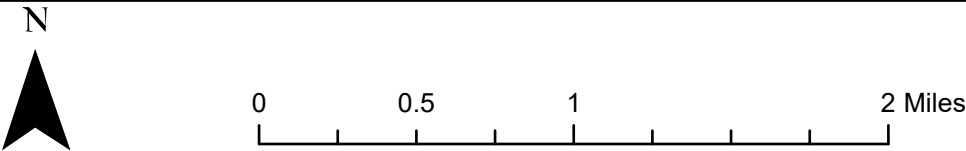
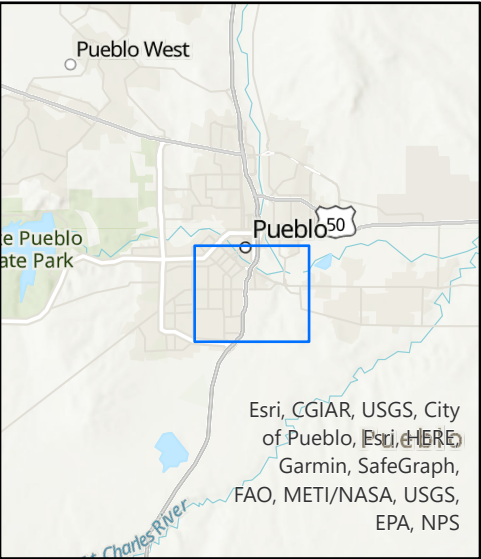
Environmental Contamination Map

Blighting Factor 10 - Environmental Contamination



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF10 Areas
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.

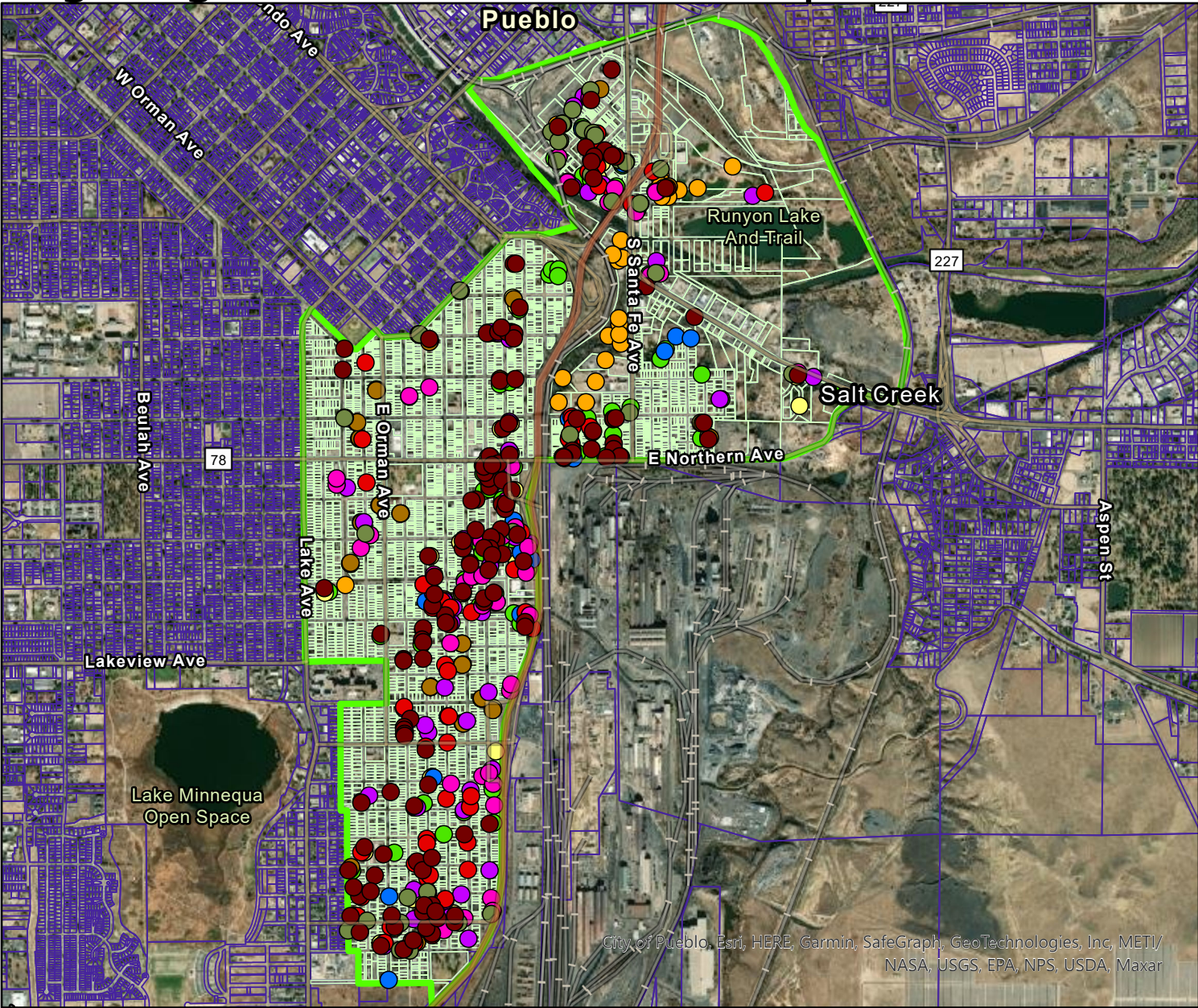


Appendix C

Conditions Survey Field Work Map

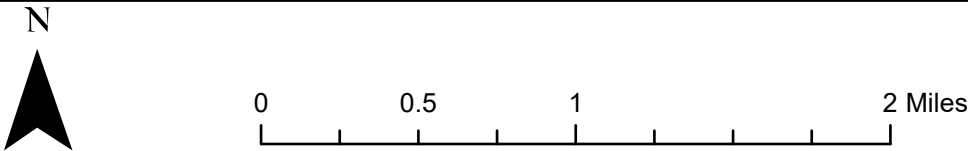
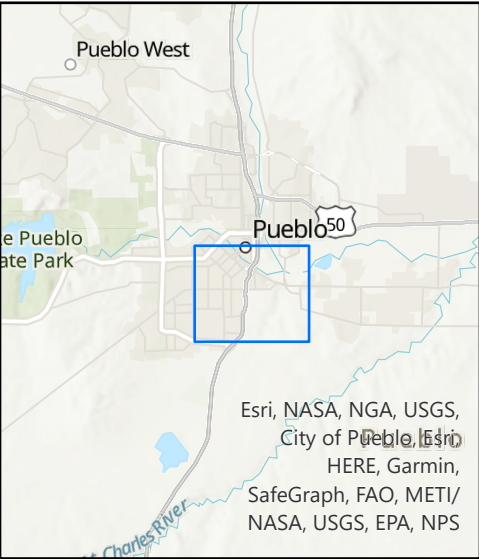
Colorado Smelter Urban Renewal Plan Area

Blighting Conditions Location Map



- Conditions Survey Boundary
- Conditions Survey Parcels
- BF1 - Deteriorating Structures
- BF2 - Defective or Inadequate Streets
- BF3 - Faulty Lots
- BF4 - Unsanitary or Unsafe Conditions
- BF5 - Site Deterioration
- BF6 - Topography and Infrastructure
- BF8 - Conditions Endangering Life or Property
- BF9 - Unhealthy or Unsafe Buildings
- BF10 - Environmental Contamination
- BF11 - Substantial Underutilization or Vacancy
- Pueblo County Parcels 2022

The blighting factors listed above are derived from C.R.S. 31-25-103, where statute defines the eleven blighting factors that are catalogued by Conditions Surveys. The labels assigned to the factors within this legend are only descriptive and not intended to summarize the statute's definition for each factor.





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Colorado Smelter Urban Renewal Plan Impact Report

Pueblo Urban Renewal Authority

165646 | July 10, 2022



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July 10, 2022

Colorado Smelter Urban Renewal Plan
Pueblo Urban Renewal Authority

Dear PURA Board of Commissioners,

This Impact Report is intended to satisfy the requirements outlined in Colorado's Urban Renewal Law, C.R.S. 31-25-107(3.5)I-V. According to Statute, the Urban Renewal Impact Report is a supplementary document to the Urban Renewal Plan that is required if property or sales taxes will be utilized in the project area for renewal activities. The Colorado Smelter Urban Renewal Plan area intends to utilize tax increment financing within its project area and therefore requires an impact report to be completed.

This Impact Report meets the minimum requirements defined by C.R.S. 31-25-107(3.5)I-V, but also has been designed to provide the Pueblo Urban Renewal Authority with a realistic forecast of how development will proceed throughout the Colorado Smelter Urban Renewal Plan area. The forecast utilized in this report has been informed by an analysis of all properties within the project area, as well as interviews with PURA staff. The forecasts are intentionally designed to be conservative estimates and reflect community development needs that have been highlighted by this Board and the public.

The goal of this report is to provide the Pueblo Urban Renewal Authority with a realistic forecast of impacts to better inform negotiations with impacted taxing entities and ensure that the Colorado Smelter Urban Renewal Plan succeeds in bringing about the renewal hoped for by the Pueblo community.

Sincerely,

Andrew Arnold

CC: Jerry Pacheco and Cherish Deeg

Executive Summary

The Colorado Smelter Urban Renewal Plan Impact Report:

The Pueblo Urban Renewal Authority has begun the process of establishing a new Urban Renewal Plan area. This area is described by this report as the Colorado Smelter Urban Renewal Plan. The previously completed Conditions Survey found that this plan area meets the statutory threshold of conditions outlined in C.R.S. 31-25-103. The urban renewal area exhibits ten of the eleven statutorily defined blighting conditions, meaning that the project area is eligible for renewal activities.

One type of renewal activity is the utilization of property and sales taxes to help remediate blight, incentivize redevelopment, and fund public improvements throughout the project area. This mechanism is known as Tax Increment Financing, and Colorado's Urban Renewal Law requires that an Impact Report be submitted with any Urban Renewal Plan that intends to utilize property and/or sales taxes for renewal activities in its project area (C.R.S. 31-25-107(3.5)I-V). The Colorado Smelter Urban Renewal Plan proposes the use of Tax Increment Financing, which triggered the need for this Impact Report.

The minimum requirements for an Impact Report are outlined in Colorado's Urban Renewal Law. Those requirements include,

- A) the estimated time to complete the Urban Renewal Project,
- B) The estimated annual property tax increment to be generated by the Urban Renewal Project and the portion of such increment to be allocated during this period to fund the urban renewal project,
- C) an estimate on the county revenue impact, and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure,
- D) a statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional County infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority,
- E) Any other estimated impacts of the urban renewal project on county services and revenues.

This Impact Report addresses each of the statutory requirements outlined above, but also examines impacts beyond the scope required by statute. Specifically, this Impact Report forecasts future tax incremental revenue by projecting a probable development scenario throughout the 2,642-acre Plan area over the next 25 years. This report assumes that the Colorado Smelter Urban Renewal Plan will be successful in remediating blighting conditions present within this area, which will help facilitate new development. The report also assumes that this new development will be incentivized by the Pueblo Urban Renewal Authority to address community needs, such as an increase in affordable housing, mixed-use and commercial development.

With the assistance of PURA Staff, this report identified 524 parcels with redevelopment characteristics that, when supported by the Colorado Smelter Urban Renewal Plan, exhibit a high propensity to attract future investment and redevelopment. The report forecasted development type, density and value on each parcel using market assumptions and local development trends. These development scenarios were then phased over the Plan area's lifetime, according to the type of development and estimated market absorption rates. The resulting assessed value from these development scenarios was then contrasted with the base assessment of the Colorado Smelter Urban Renewal Plan area to determine the annual tax increment generated by the project. New retail space was also estimated, which was used to determine new sales tax production within the Plan area.

This redevelopment's total tax revenue and increment has been estimated by the impact report to determine the revenue impacts on effected taxing entities. The report also addresses population and student generation within the Plan area, and its potential impact to taxing entities such as the County and the School District.

Executive Summary (continued)

This report found that the Colorado Smelter Urban Renewal Plan would not adversely affect the taxing entities that collect property and sales tax within its boundary. The Plan will not require new County Infrastructure, nor would it require substantial County funded services. This report evaluated County budgets and property tax revenue and found that future development in the Plan area would generate a surplus in sales tax revenue relative to property tax revenue for the County. This report also analyzed the Plan's impacts to the Pueblo School District 60. It found that the fiscal impacts and possible student generation by the Colorado Smelter Plan were minimal. This report concludes that effected taxing entities should support the Colorado Smelter Urban Renewal Plan, as its benefits to the community outweigh its fiscal costs.

The Colorado Smelter Urban Renewal Plan represents PURA's, the City of Pueblo's and Pueblo County's commitment to achieving public private partnerships that will facilitate community-minded development where it is needed most. This Impact Report was designed not only to evaluate the potential impacts of this development, but to also provide a roadmap for achieving these redevelopment goals. Projected Property and Sales Tax Increment that would be generated within this Urban Renewal Plan Area are described in the table below:

Colorado Smelter Urban Renewal Plan Fiscal Projections ¹	
Base Assessed Value of Plan Area	\$ 40,916,432
Total New Improvement Assessed Value	\$ 46,214,000
Total Estimated Property Tax TIF Revenue (25-Years)	\$ 64,890,000
Total Estimated Sales Tax TIF Revenue (25-Years)	\$ 58,545,000
Annual Property Tax TIF Revenue (25-Year Average)	\$ 2,495,000
Annual Sales Tax TIF Revenue (25-Year Average)	\$ 2,384,000

¹ Estimates have been rounded.

Contents

Letter of Transmittal
Executive Summary
Contents

1	Impact Report Summary	1
	Colorado Smelter Urban Renewal Plan Area Description	2
	Zoning Districts Statistics	3
	Taxing Districts Present	4
	Assessment Category Statistics Summary	5
2	Impact Report Methodology	5
	Aligning Revitalization with Urban Renewal	5
	Forecasting Future Growth.....	6
	Revitalization Phases	6
	Redevelopment Feasibility Analysis.....	7
3	Tax Increment Financing Summary	11
	Redevelopment Parcels	11
	Projected Assessment and Phasing	13
	Property Tax TIF Projections.....	14
	Colorado Smelter Urban Renewal Plan TIF Projections.....	15
	Sales Tax TIF Projections	16
4	Taxing Entity Impacts	17
	Assessed Value Comparison	17
	Pueblo County	18
	Pueblo School District 60	20
	Impact Summary on Taxing Entities.....	21
	TIF Summary Table, 25-Year Total.....	22
	Impact Report Appendix.....	24
	Appendix A.....	A-1
	Appendix B.....	B-1

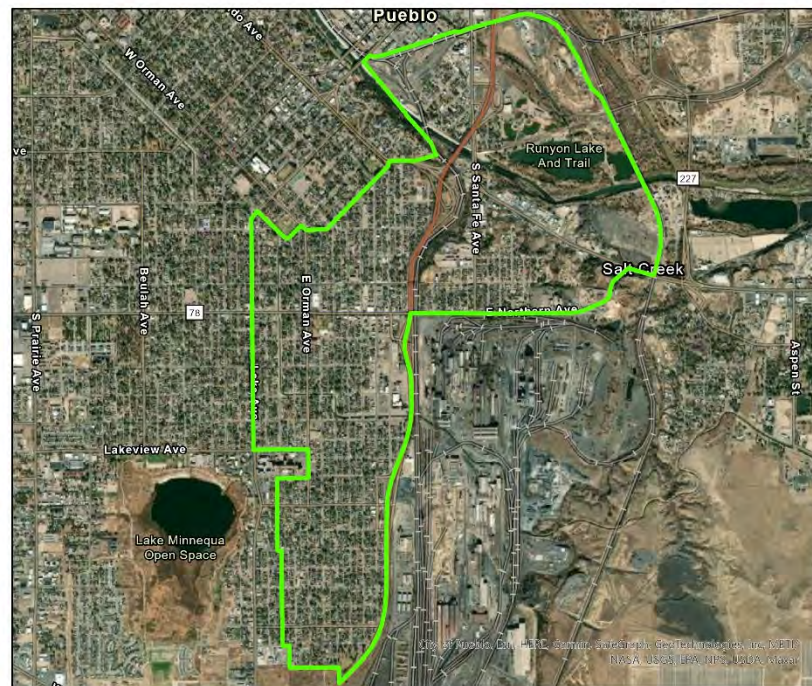
Colorado Smelter Urban Renewal Plan

Colorado Smelter Urban Renewal Plan Impact Report

Prepared for the Pueblo Urban Renewal Authority

1 Impact Report Summary

Colorado Smelter Urban Renewal Plan Impact Report



0 0.75 1.5 3 Miles



Project Area Existing Conditions

The Colorado Smelter Urban Renewal Plan area encompasses 2,642-acres² within the City of Pueblo. This area includes 4,343 parcels. This survey area has been strategically drawn to

² Acreage estimate includes Public Right of Way e.g. Roads and Alleys

include parcels that need or will attract new investment or reinvestment. The area also includes public right-of-way that may benefit from urban renewal treatment.

Colorado Smelter Urban Renewal Plan Area Description

The proposed Colorado Smelter Urban Renewal Plan targets an area in need of environmental remediation, reinvestment, and redevelopment. The survey boundary is within Pueblo's City Limits and encompasses the Bessemer, Eilers Heights/Bojon Town and Grove neighborhoods, the Runyon Sports complex and Lake, as well as residential and commercial areas to the west and south of Bessemer. The survey boundary begins where Santa Fe Avenue crosses the Union Pacific/BSNF railroad lines. The survey boundary extends around the historic Gove neighborhood, stretching east from the Arkansas River to Gruma Drive. The boundary continues south, outlining the Bessemer neighborhood and the Runyon Sports complex and lake. The eastern edge of the survey boundary reaches Salt Creek before turning west along Northern Avenue, and then continuing south on I-25 until terminating past JJ Raigoza Park. The western edge of the survey boundary extends beyond the Bessemer neighborhood to the west, following Washington Street to West Summit Avenue, East Adams Avenue, and then eventually moving south along Lake Avenue. The boundary moves around to exclude the Saint Mary Corwin Hospital, before again heading south along Wyoming Avenue, encompassing the final neighborhood blocks adjacent to the unpaved Streater Avenue and connecting with its eastern edge near JJ Raigoza Park.

The survey boundary was strategically drawn to include a combination of public amenities, key transportation corridors and historic neighborhoods that are impacted by the former smelter facility and slag pile's environmental contamination. These areas are part of the EPA's Superfund site, specifically Operable Unit 1 and Operable Unit 2 and the Colorado Smelter Revitalization Plan (CSRP). This proposed urban renewal area is intended to parallel these environmental remediation efforts, providing an additional tool to alleviate forms of blight including, but not limited to, the environmental contamination of soils throughout the area. These are areas of Pueblo that, to date, have struggled to attract new investment and initiate redevelopment.

The goal of the Colorado Smelter Urban Renewal Project is to encourage "renewal" throughout this surveyed area by attracting additional investment within the project boundary. It will also help to advance the three "revitalization themes" outlined in the CSRP, specifically:

1. Connectivity and Cultural Heritage
2. Thriving Neighborhoods
3. Vibrant Commercial

The goals of the Colorado Smelter Urban Renewal Plan are closely aligned with the community vision contained in the CSRP, which is why the Plan area closely adheres the CSRP's scope.

Colorado Smelter URA Plan Area	Totals
Number of Total Acres	2,642
Parcel Acreage	1,846
Number of Parcels	4,343

1.1 Zoning Districts

The Colorado Smelter Urban Renewal Plan area includes 18 City of Pueblo zoning districts. Each zoning district regulates the land uses on their respective parcels according to the City of Pueblo's Comprehensive Plan and municipal code. These zoning districts will regulate the

redevelopment that will be permitted throughout the Colorado Smelter Urban Renewal project. The zoning districts also inform the forecasts made by this Impact Report.

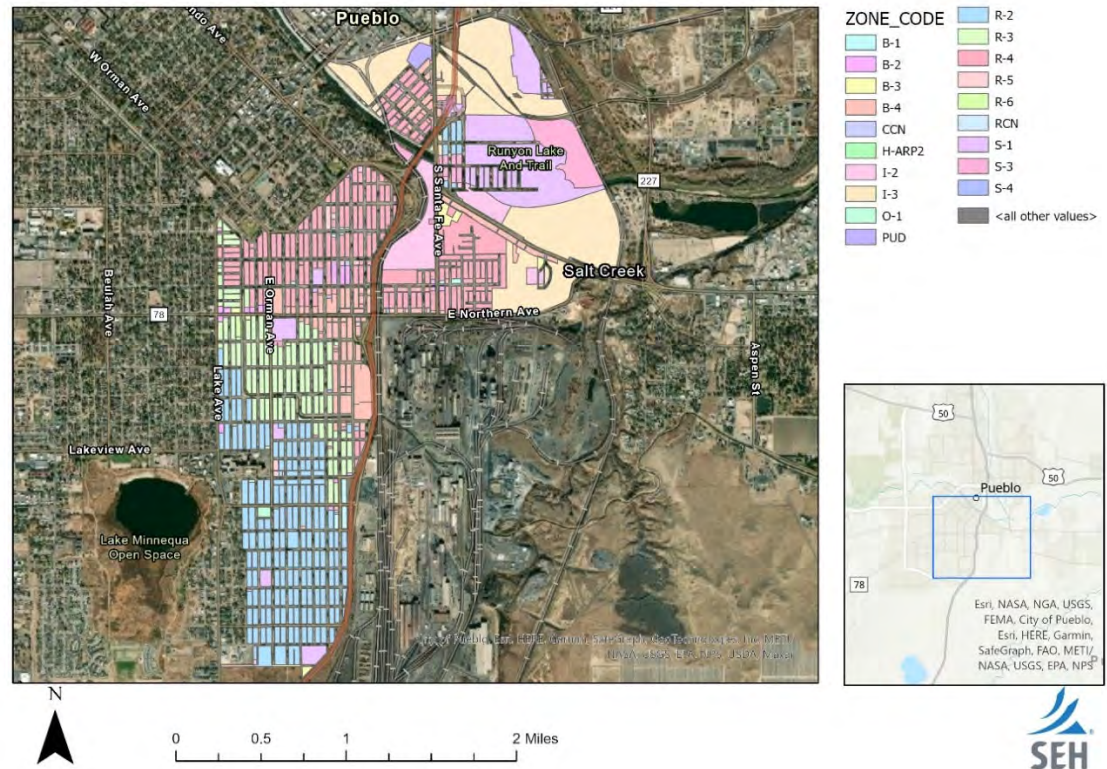
A summary of each zoning district's acreage, number of parcels, and assessed value has been included in the table below. The location of these zoning districts throughout the Plan area is illustrated in the map below.

Zoning Districts Statistics

Zoning	Number of Parcels	Number of Acres	% of Parcel Acreage	Assessed Value
R-2	1,277	336.73	18.24%	\$ 11,537,264
R-3	848	169.56	9.18%	\$ 6,223,611
R-4	1,507	334.93	18.14%	\$ 11,072,687
R-5	13	6.73	0.36%	\$ 234,630
R-6	4	2.26	0.12%	\$ 76,350
RCN	1	0.34	0.02%	\$ 21,090
B-1	38	9.71	0.53%	\$ 458,368
B-2	66	16.17	0.88%	\$ 1,083,108
B-3	12	10.86	0.59%	\$ 274,720
B-4	383	131.56	7.12%	\$ 7,021,024
I-2	35	77.10	4.18%	\$ 815,190
I-3	81	442.03	23.94%	\$ 1,299,280
O-1	3	3.47	0.19%	\$ 457,480
S-1	51	211.47	11.45%	\$ 15,420
S-3	16	81.10	4.39%	\$ -
S-4	2	0.70	0.04%	\$ 5,340
CCN	3	0.86	0.05%	\$ 89,670
PUD	2	9.29	0.50%	\$ 231,200

Source - Pueblo County GIS and Assessor

City of Pueblo Zoning Districts Map



Current Assessment of Plan Area

The Plan area includes 4,343 parcels. The total equalized assessed value of these parcels, according to the Pueblo County Assessor's database, is \$40,916,432. Using the 2021 Certified Assessment the City of Pueblo, the existing taxable value of the Colorado Smelter Urban Renewal Plan area is 4.82% of the City's total taxable value and 2.72% of the County's taxable value.

The survey boundary encompasses properties that are taxed according to four Pueblo County taxing districts, 60B, 60BV, 60BE, 60BM. All four districts levy the same millage rate of 97.705. The number of parcels, estimated acreage and assessed value according to each Taxing District within the survey boundary is recorded in the following table.

Taxing Districts Present

Tax District Statistics				
Tax District Code	Mill Levy	Number of Parcels	Estimated Acreage	Estimated Assessed Value
60B	97.705	4,037	1464.4	\$38,393,964
60BV	97.705	96	145.6	\$1,074,750
60BE	97.705	208	232.7	\$1,447,718
60BM	97.705	1	3.7	\$0

The Colorado Smelter Urban Renewal Plan includes a mix of commercial and residential property. The following table represents the current assessment value for all parcels within the Plan area. Parcels exhibiting an assessment ratio of ~29% were classified as Commercial, ~7.15% as Residential, and a blended percentage as Mixed-use. Tax Exempt assessments were excluded.

Assessment Category Statistics Summary

Assessment Categories	Total Taxable Value
Commercial	\$9,870,457
Residential	\$29,917,850
Mixed-Use	\$1,021,645

2 Impact Report Methodology

Aligning Revitalization with Urban Renewal

The Colorado Smelter Urban Renewal Plan represents a unique urban renewal strategy. The area chosen for this plan part of a local, state and federal revitalization effort. This collective effort is explained in the Colorado Smelter Revitalization Plan (CSRP). CSRP is both an EPA superfund and a city-wide revitalization campaign, which will provide environmental remediation, grants, subsidies and other forms of financial assistance to ensure that this specific area is revitalized. The Colorado Smelter Urban Renewal Plan is an additional tool to assist in this revitalization effort, which is why it overlays the Smelter Superfund's operable units, as well as the neighborhoods and commercial corridors identified by CSRP.

Typically, urban renewal plans fall into two strategic categories. The first is the project-based strategy. This strategy identifies a specific development project prior to an Urban Renewal Plan area being formed. The local Urban Renewal Authority works with that development to create a Plan area which encompasses a specific area connected to this future development.

The second strategy is territorial. This strategy is used when an urban renewal authority wants to target an area for urban renewal treatment but has not yet been approached by a development project within that area. The territorial strategy selects a specific geographic area and overlays that area with a clear redevelopment vision, bolstered by incentives. The goal is to attract and/or leverage new investment within the subject area, effectively remediating conditions arresting redevelopment.

The Colorado Smelter Urban Renewal Plan is a combination of both strategies. As mentioned, this Plan was originally conceived to supplement the Colorado Smelter Revitalization Plan and help advance its three goals, *1. Connectivity and Cultural Heritage*, *2. Thriving Neighborhoods*, and *3. Vibrant Commercial*. Aligning with the CSRP required drawing a plan boundary that encompassed environmental remediation efforts, neighborhood revitalization objectives, and targeted commercial development. This is a territorial renewal strategy.

However, this Urban Renewal Plan also incorporates elements of a project-based strategy. The multi-national company Evraz is currently expanding its steel manufacturing operations in Pueblo. A multi-faceted collaboration with the EPA, the State of Colorado, the City of Pueblo and the Pueblo Urban Renewal Authority created an inventive package that encouraged Evraz to locate

its new long-rail facility in Pueblo. This new Steel Mill is estimated to cost \$700 million. It will produce quarter-mile long rail segments, a highly desirable product for high-speed rail contracts. The mill will also be powered by solar panels, making the operation an example of green manufacturing. This new facility is located adjacent to the Colorado Smelter Urban Renewal Plan area, and its proximity is likely to generate new investment within the renewal area. Leveraging the economic growth expected from the steel mill to further revitalization efforts throughout the CSRP is the Colorado Smelter Urban Renewal Plan's principal strategy.

This impact report assumes that the proximal investments in Pueblo's steel manufacturing industry, coupled with the EPA superfund remediation efforts, the Colorado Smelter Revitalization Plan, and expected urban renewal activities that will be incentivized with Tax Increment Financing, will successfully remediate blight and attract new investment to this area. The methodology used to determine future assessments, taxable revenue, increment, and impacts is explained in the following sections.

Forecasting Future Growth

The goal of the Colorado Smelter's Urban Renewal Plan is to incentivize redevelopment by remediating blighting conditions and spurring new investments in public infrastructure, amenities, and community development needs.

One of the tools urban renewal authorities can use to bring about these changes is known as Tax Increment Financing (TIF). TIF is a redevelopment strategy that leverages future tax revenues to incentivize redevelopment for urban renewal activities. Colorado's Urban Renewal Law mandates that urban renewal project areas which intend to use TIF for renewal activities submit a supplementary Impact Report to help forecast growth within a renewal area and estimate the impacts this growth will have on taxing entities that operate within that area. The impact report's purpose is to ensure that taxing entities that rely on property tax revenues will not be adversely impacted by the urban renewal project.

Quantifying these impacts requires a forecast of probable growth throughout the project area over the project's lifetime. The Colorado Smelter Urban Renewal Plan is expected to last 25 years, the maximum amount of time allotted by Colorado's Urban Renewal Law. This report estimates where and when this redevelopment will take place.

The analysis organized all new development into three **Phases of Revitalization**. Each Revitalization Phase lasts a specific amount of time deemed reasonable for redevelopment. The properties selected for each phase were analyzed by a range of redevelopment factors and the presence of blighting factors³. These factors helped to organize parcels based on their redevelopment feasibility.

Revitalization Phases

Revitalization Phase	Estimated Time
1	8 Years
2	8 Years
3	7 Years

³ All Blighting Factors geo-located within the Colorado Smelter Urban Renewal Plan Conditions Survey.

The analysis assumes that the first two years of the Plan will not generate any new assessed value. After this two-year lag period, the Revitalization Phases begin. The first Revitalization Phase is assumed to take place between 2024 and 2031, lasting eight years. The second phase will begin in 2032 and conclude in 2039, also lasting 8 years. The third and final Revitalization phase is projected to begin in 2040 and end with the Urban Renewal Plan in 2046.

Redevelopment Feasibility Analysis

The analysis assumes a particular redevelopment perspective, one that is informed by the EPA Superfund remediation efforts, the Colorado Smelter Revitalization Plan, the nearby steel industry investments, and urban renewal incentives. This means that new development will be incentivized in ways that remediate blight and environmental contamination, open previously undeveloped parcels to new investment, attract commercial development along transportation corridors, and rehabilitate residential development throughout effected neighborhoods. This underscores the order, pace and type of development that is likely to occur within the Colorado Smelter Urban Renewal Plan area.

This report analyzed every parcel within the Plan area using specific redevelopment metrics. These metrics included:

- *market valuation,*
- *assessments, zoning,*
- *underutilization,*
- *vacancy,*
- *the presence of blighting factors,*
- *non-conforming lots,*
- *parcels within the EPA superfund operable units,*
- *topography,*
- *access,*
- *utilities,*
- *floor-area ratios, and*
- *other redevelopment factors.*

The analysis created a matrix using these redevelopment factors which scored each parcel. Parcels that scored the highest for redevelopment feasibility were then placed in specific Revitalization Phases. These revitalization phases were further analyzed using GIS mapping. The mapping provided an additional layer of analysis, to ensure that high scoring parcels did not exhibit characteristics that made them undevelopable:

Revitalization Phase 1: Parcels in this phase scored high for redevelopment feasibility. They tend to be parcels that are underutilized, vacant, or exhibit low building improvement values relative to land values. This phase focused on parcels that can attract commercial or mixed-use redevelopment to blighted parcels. Parcels that are currently tax exempt, or that have a high propensity for TIF generation, were also considered.

Revitalization Phase 2: Parcels in this phase scored high for redevelopment feasibility but were typically located in residential zones. These parcels are likely to be redeveloped after significant commercial development has taken place in Phase 1, provided that TIF incentives are available for facilitating residential redevelopment and neighborhood rehabilitation.

Revitalization Phase 3: Parcels in this phase scored lower for redevelopment feasibility than parcels in Phases 1 and 2. These parcels tend to exhibit blighting factors, be non-conforming lots, or be underutilized. It is likely that these parcels will require significant incentives for redevelopment, which will require the successful completion of Phase 1 and Phase 2.

Development Feasibility and Assumptions

The properties which required a development forecast used certain assumptions to predict the type, size, time, and value for each development phase. The assumptions are informed by local market studies, urban renewal best practices and community desires. The goal is to anticipate development that will be both financially and politically feasible, meaning that future development in the project area matches the City of Pueblo's market demands but also the community's expressed desires for the Colorado Smelter Urban Renewal Plan. Market realities and community expectations are often in tension with one another, which is why these assumptions seek to strike a compromise between the two viewpoints. The analysis also assumes that future development will be incentivized by the Pueblo Urban Renewal Authority, meaning that new development will be geared towards specific strategic purposes, such as additional housing or increased tax increment. Redevelopment that can cater to these strategies has a higher probability of success (and approval by the URA). These assumptions are cataloged below:

- **Type of Development** – All forecasted development is assumed to match its zoning district. For example, a blighted property currently assessed as commercial but within a residential zone is assumed to be redeveloped as a residential property. Properties that exhibit a mixed assessment (between 29% and 7.15% assessment ratio) and are within a commercial zone that allows mixed-use development, are assumed to be redeveloped as 50% residential space and 50% commercial space. Only 25% of commercial redevelopment is assumed to be retail.
- **Size of Development** – The scale of future development is limited by market demands, such as local absorption rates. Commercial development also needs to account for parking, ROW, and other site improvements that limits the size of vertical construction. SEH analyzed historic floor area ratios (FAR) of existing developments and compared this with recent developments within the City limits. FAR is a ratio between a property's land area and its total building area. The ratio serves as an indicator of how built up a property is relative to its land and can serve as a proxy for utilization. This analysis found that existing properties throughout the Colorado Smelter Urban Renewal Plan area exhibited low FAR's, averaging 0.128. By contrast, recent development throughout the City exhibited an average FAR of 0.49. This analysis conservatively estimated that future development would average a floor area ratio of 0.20⁴.
- **Time of Development** – As mentioned in the Size of Development section, market absorption rates were used to ensure that forecasted development was appropriately phased to meet local market demands.
- **Value of Development** – This report estimated the future value of development by comparing new development price per square foot with existing development price per square foot. These prices included both land and building improvement values. Price per square foot was chosen over cost per square foot because future taxable value is a derivative of actual assessed value. Although the County assessor uses three techniques to assess properties, recent sales price is a common appraisal method. Therefore, the sales price per square foot is a better indicator of future taxable value than cost per square foot. This report analyzed recent residential and commercial developments to determine an average value for each development type. New single-family homes were

⁴ If a redevelopment parcel exhibited an FAR greater than .20, this report assumed the new FAR would equal the old.

valued at \$310,000 per unit. Townhomes and condos were given a value of \$275,000 per unit. New commercial development was assigned an average of \$141 per SF.

These assumptions guided this report's forecast of future development throughout the Colorado Smelter Urban Renewal Plan area.

Tax Increment Financing Assumptions

As part of Statutory Requirements, this report projected the estimated property and sales tax generation for future development within the Colorado Smelter Urban Renewal Plan area. These projections are based on Pueblo County's 2022 certified assessments of property and the mill levies associated with the taxing entities present in the project area. The full list of taxing entities and their associated millage rates are tabulated below:

Colorado Smelter Mill Levies			
Note:	TIF Percentages are assumed to be 100% for the Impact Report		
<u>Tax Entity</u>	<u>2022 Mill Levy</u>	<u>TIF Agreement %</u>	<u>TIF Eligible Mill Levy</u>
PUEBLO COUNTY	30.199	100%	30.199
CITY OF PUEBLO	15.633	100%	15.633
S.E.WATER CONSV DISTRICT	0.839	100%	0.839
LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	1.503	100%	1.503
PUEBLO CITY-COUNTY LIBRARY DISTRICT	5.889	100%	5.889
SCHOOL DISTRICT 60	43.642	100%	43.642
	97.705	100%	97.705

This report assumes that all impacted taxing entities will pledge 100% of their millage rate to the Colorado Smelter Urban Renewal Project area. Property tax projections made by this report assume that the number of taxing entities, as well as their millage rates, will remain unchanged over the project's lifetime.

Tax Increment assumptions are also based on the above mill levies and assumes that the project area's starting **base value is \$40,916,432**. This report projects that both the project base and all future development will appreciate at a rate pegged to inflation. This report assumes that the **inflation rate will average 3%** biennially over the project's lifetime⁵.

Sales Tax Assumptions

Colorado's Urban Renewal Law permits sales tax to be collected within urban renewal project areas to be leveraged for tax increment financing⁶. This report assumes that the City's sales tax rate is the only eligible sale tax for tax increment financing. The amount of sales tax that can be

⁵ Colorado's Urban Renewal Law requires that the base assessment be reevaluated every two years within an urban renewal project area.

⁶ C.R.S. 31-25-107(9)(e)

allocated to an urban renewal project is determined by calculating the amount of sales tax collected within the project area's boundary over the past 12 months. This is known as the sales tax base. Any increase over this base associated with new improvements within the project area is subject to negotiations between the municipality and the urban renewal authority over what portion of this increase can be paid out to fund urban renewal activities within the project area.

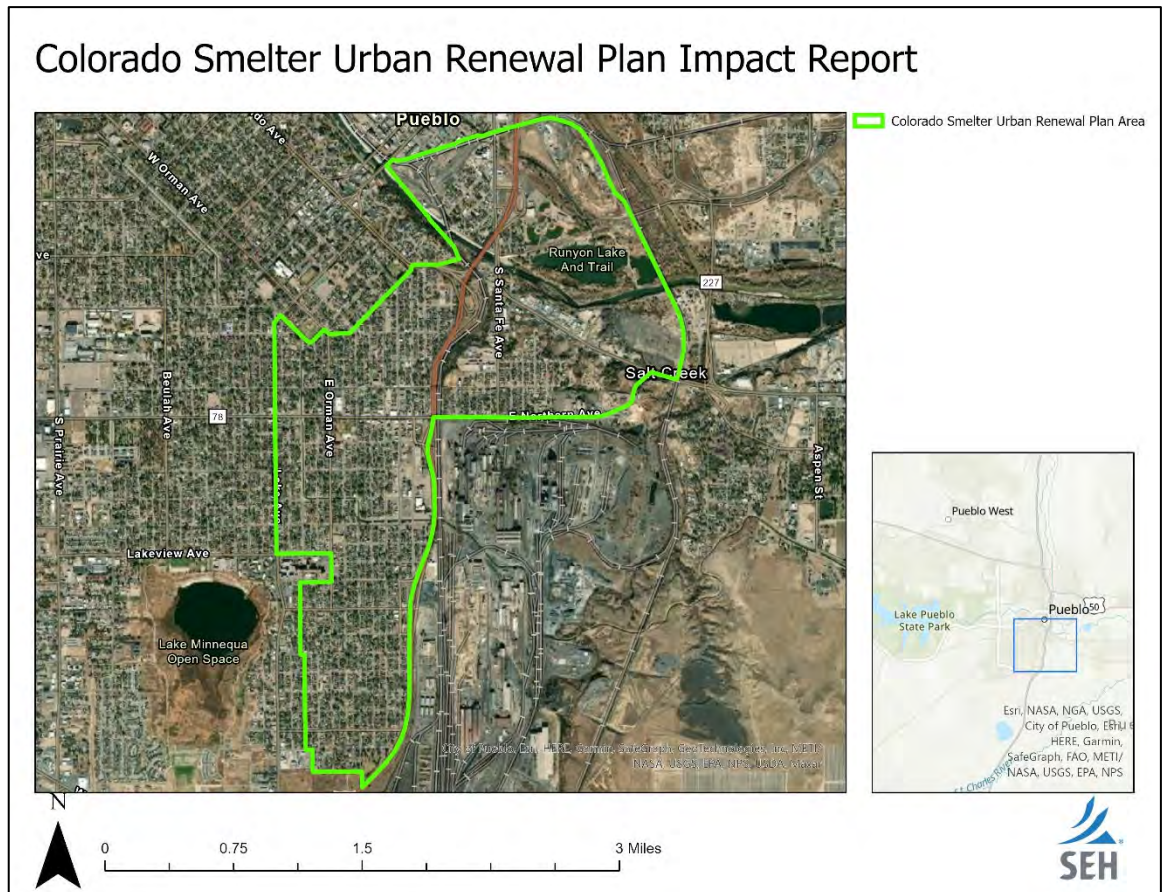
This report assumes that 100% of the City of Pueblo's sales tax generated by new improvements within the Colorado Smelter Urban Renewal Plan area will be allocated to the Pueblo Urban Renewal Authority. All sales tax calculations are estimates that have been isolated to only include new retail space forecasted to develop within the Plan area. The City of Pueblo imposes a 3.7% sales tax rate on the purchase price paid or charged on retail services. However, only 0.7% of the City's sales tax rate is already allocated to special funds. These include the police tax and economic development tax. This report assumes that only 3% of the City's 3.7% sales tax rate will be eligible for tax increment financing.

The But-For Assumption

The final assumption made in this report is that all new development would not occur but for the Colorado Smelter Urban Renewal Plan and the Pueblo Urban Renewal Authority. The goal of this urban renewal plan is to incentivize development through a variety of tools, TIF being just one example, where new investments manifest throughout the Plan area because of the Pueblo Urban Renewal Authority's efforts. All tax increment estimates must therefore be considered revenue that is generated because of the Pueblo Urban Renewal Authority's efforts to attract and facilitate redevelopment to the Plan area. The Conditions Survey identified ten statutorily defined blighting factors within the Plan area that impair and arrest sound development. The Colorado Smelter Urban Renewal Plan will remediate these conditions and bring about development that is desired by the Pueblo community. Because of this, future incremental revenues should not be considered property tax or sales tax that is abdicated by the area's taxing entities. Instead, these incremental revenues should be perceived as a future tax base that would not exist but for the creation of the Colorado Smelter Urban Renewal Plan.

3 Tax Increment Financing Summary

This Impact Report forecasted potential development throughout the Colorado Smelter Urban Renewal Plan area over the next 25 years and projected its assessed value and taxable revenue. These projections were used to estimate the amount of property tax increment and sales tax increment that will be generated within the Plan area if the urban renewal project is successful. Development projections are based on the methodology outlined in Section 2 of this report.



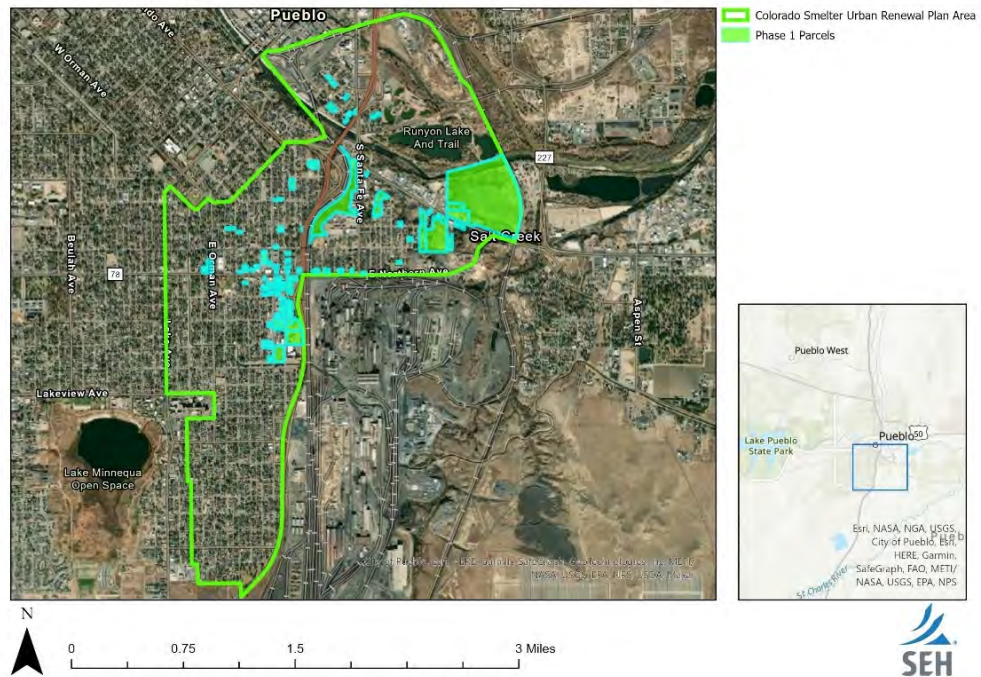
Redevelopment Parcels

The Impact Report identified 524 parcels within the Plan Area that exhibit a high propensity for redevelopment. These properties were organized into three categories based on their timeline for redevelopment. Properties that are expected to redevelop within the next ten years were categorized as **Revitalization Phase 1**. Properties that are likely to develop in the next eight years are labeled as **Revitalization Phase 2**. Properties that are likely to develop in the Plan's final seven years are labeled **Revitalization Phase 3**.

The following maps illustrate each Redevelopment Phase and their selected parcel locations. Neighborhood Maps of each Revitalization Phase are included in this Report's Appendix.

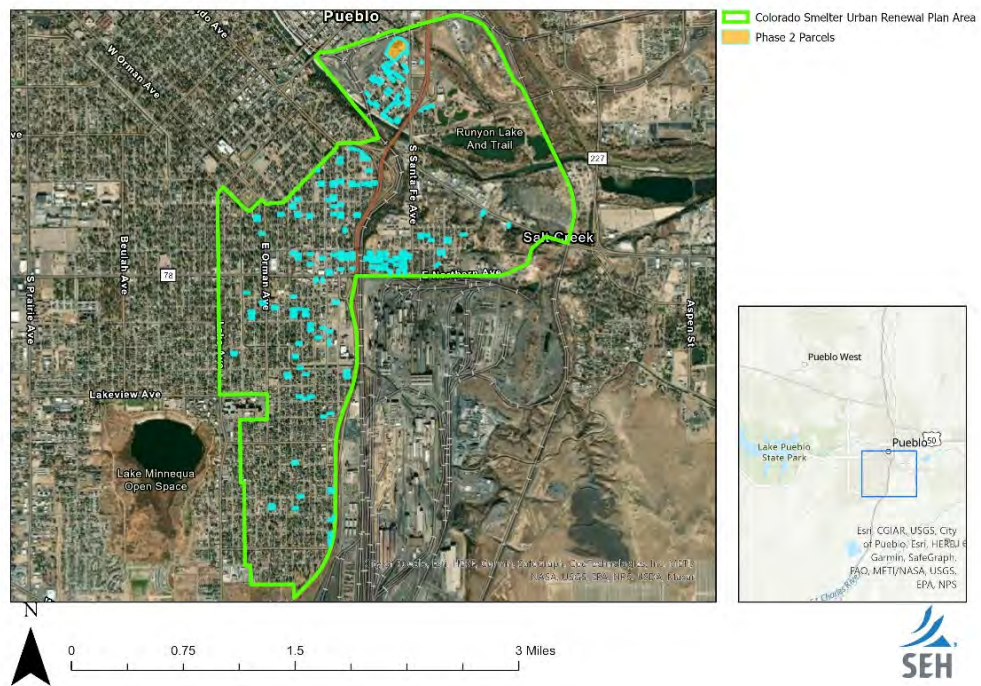
Revitalization Phase 1 - Summary Map

Colorado Smelter URA Plan: Phase 1 Revitalization Map

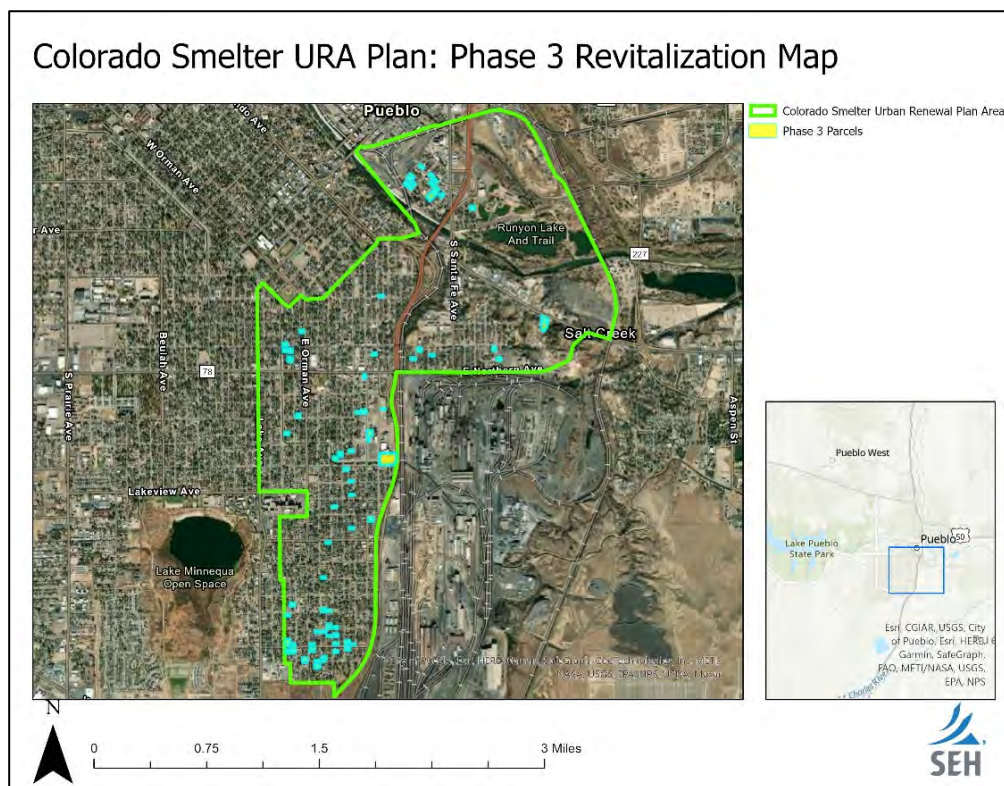


Revitalization Phase 2 – Summary Map

Colorado Smelter URA Plan: Phase 2 Revitalization Map



Revitalization Phase 3 – Summary Map



Projected Assessment and Phasing

The assessed valuation for each Revitalization Phase was estimated by this report. All assessment projections assume that future appraisals utilize a sales comparison approach to determine future value. The following table describes the estimated number of years it will take to absorb the developments, its total developable acreage, the total equalized assessed valuation (AV) of all new development⁷, the existing AV of the subject properties, and the Incremental AV (Net) of all new development. The Incremental (Net) AV is used to determine future tax revenue within the Plan area.

Revitalization Phase 1 (2024 to 2031)							
Number of Parcels	Developable Acreage	Existing AV		New AV	Net AV		
155	123.7	\$	1,474,390	\$	34,869,680	\$	33,395,290
Revitalization Phase 2 (2032 to 2039)							
Number of Parcels	Developable Acreage	Existing AV		New AV	Net AV		
285	44.9	\$	1,921,704.0	\$	6,945,084.5	\$	5,023,380
Revitalization Phase 3 (2040 to 2046)							
Number of Parcels	Developable Acreage	Existing AV		New AV	Net AV		
84	32.9	\$	738,090	\$	4,399,316	\$	3,661,226

⁷ Equalized Assessed Value is a property's value after its commercial and/or residential equalization ratio has been applied to its market value. The equalized assessed value is also a property's taxable value.

Property Tax TIF Projections

This Impact Report estimated the Colorado Smelter Urban Renewal Plan's future TIF revenue over the next 25 years in accordance with C.R.S. 31-25-107(3.5)I-V. These estimates are used to determine the property tax revenue that is likely to be generated by new developments within the Plan area. This tax revenue is assumed to be the result of the Pueblo Urban Renewal Authority's efforts to remediate blight and attract new investments within the Plan area.

Property tax TIF is estimated by comparing the Plan area's base value against its projected new improvement value. These assessed values each generate tax revenue based on the current millage rate of taxing entities within the Plan area. The base value's property tax revenue is not impacted by urban renewal projects. The new improvement's tax revenue, however, is the result of the urban renewal plan. That revenue is labeled as "increment". The property within the Colorado Smelter Urban Renewal Plan area has a current assessed value of \$40,916,432⁸. This assessed value includes both building improvement values and land values. This assessed value includes all parcels within the Plan area. This current assessed value is known as the **Base Value** in tax increment financing.

This report estimates that new improvements within the Colorado Smelter Urban Renewal Plan area will amount to an additional \$46,214,081 in assessed value. This value is not generated at once but is instead phased in over the life of the Urban Renewal Plan.

This report models new development according to the phases outlined in the previous section. It then applies the tax district's millage rates to both existing and new improvements within the plan area. Tax revenue generated by new improvements is incremental revenue. These revenues can be utilized by the Pueblo Urban Renewal Authority for urban renewal activities within the Plan area.

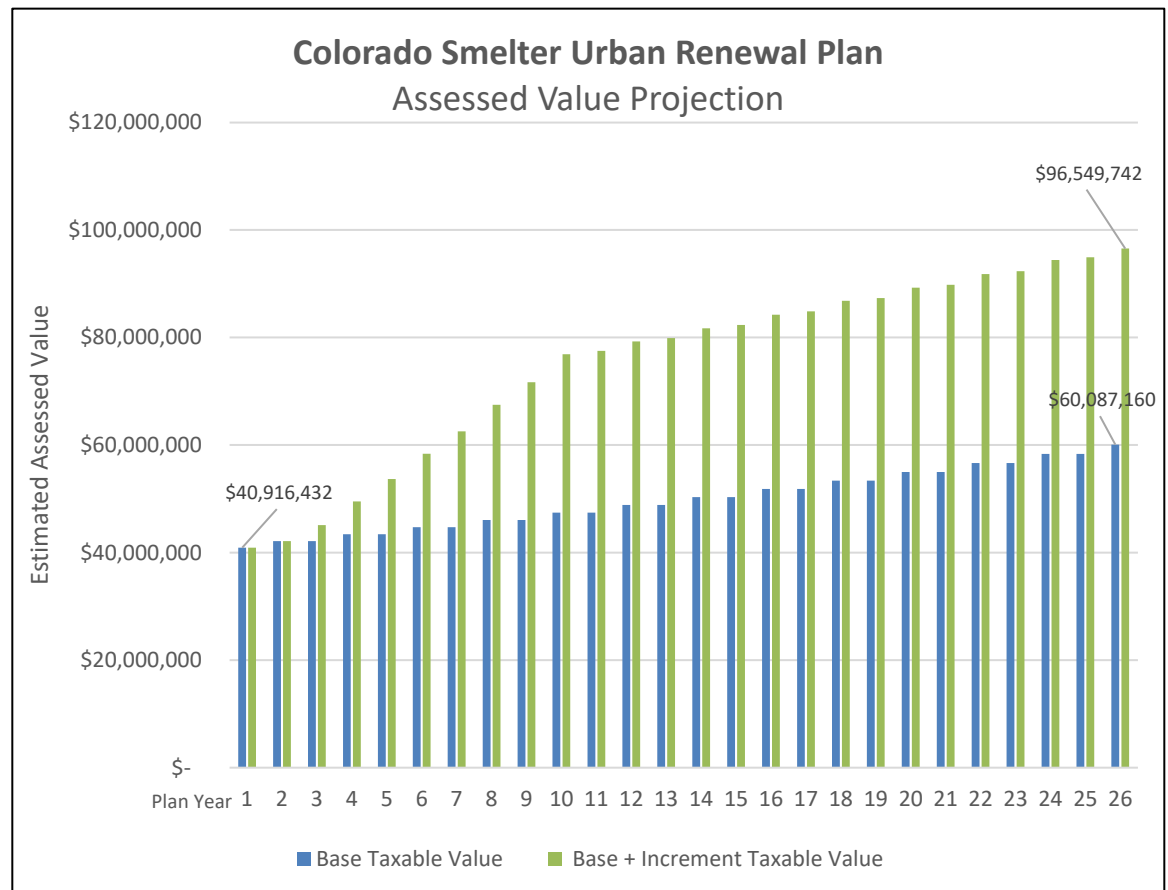
Incremental revenue is also determined by TIF-sharing agreements signed between the Pueblo Urban Renewal Authority and the impacted entities that levy taxes within the Colorado Smelter Urban Renewal Plan area. This report assumes that all taxing entities have pledged 100% of their millage rates to support the Colorado Smelter Urban Renewal Plan.

The following charts and tables illustrate the Colorado Smelter Urban Renewal Plan's 25-Year TIF Projections:

⁸ Per Pueblo County Assessor Database

Colorado Smelter Urban Renewal Plan TIF Projections

Property TIF Estimates ⁹			
Base Value of Plan Area		\$	40,916,432
Total New Improvement AV		\$	46,214,000
Total TIF Revenue		\$	64,890,000
Annual TIF Revenue (25-Year Average)		\$	2,495,000
		Estimated Real Property Taxes	Estimated Tax Increment
Taxing Entity Fund		25 Years	25 Years
PUEBLO COUNTY		\$ 66,243,000	\$ 20,057,000
CITY OF PUEBLO		\$ 34,291,000	\$ 10,382,000
S.E. WATER CONSV. DISTRICT		\$ 1,840,000	\$ 557,000
LOWER AK VALLEY WATER CONSV. DISTRICT		\$ 3,296,000	\$ 998,000
PUEBLO COUNTY-CITY LIBRARY DISTRICT		\$ 12,917,000	\$ 3,911,000
SCHOOL DISTRICT 60		\$ 95,731,000	\$ 28,985,000
TOTAL		\$ 214,318,000	\$ 64,890,000



⁹ Estimates have been rounded

Sales Tax TIF Projections

Colorado's Urban Renewal Law permits Urban Renewal Authorities to collect sales tax as a source of incremental taxable revenue. This report assumes that the Colorado Smelter Urban Renewal Plan will utilize sales tax revenue as a potential source of TIF revenue.

This analysis estimated potential sales tax generation by first estimating the amount new commercial square footage generated throughout redevelopment. This analysis then compared the City of Pueblo's existing commercial square footage to its annual sales tax collections. This helped determine an average sales per square foot multiplier.

This analysis then reviewed the locations of new commercial development within the Colorado Smelter Urban Renewal Plan area. Locations that were not conducive to retail operations, such as having poor access or being in industrial zones, were excluded from being a potential retail space.

The analysis conservatively estimates that only 25% of the projected commercial square footage in the Plan area will be retail space. The analysis also estimates that this space will generate approximately \$250 per SF per year. The summary of these inputs and their estimated sales tax generation are listed in the table below.

New Retail Space (25-Years)	461,730 SF
TIF Eligible Sales Tax Rate	3%
Estimated Sales Per SF	\$ 250.00
Estimated Sales Tax Increment (Gross)	\$ 58,545,000
Estimated Sales Tax Increment (Annual Average)	\$2,384,000
Percent of Annual Sales Tax Collections (City)	4%

This report estimates that the Colorado Smelter Urban Renewal Plan will generate an additional 461,730 square feet of retail space over the next 25-years. Using an estimated sales per square of \$250 PSF, this amount space equates to \$58,545,000 in sales tax increment over the next 25 years. Annually, this equates to an average of \$2,384,000 in sales tax TIF collected. For comparison, the City of Pueblo collected \$66,114,677 in general sales tax (3% rate) in 2021. This means that projected retail development in the Colorado Smelter Urban Renewal Plan area should increase the City's sales tax collections by 4% annually. This estimate does not include State Sales Tax collections or County Sales Tax collections.

4 Taxing Entity Impacts

Assessing an Urban Renewal Plan's impacts on partnering taxing entities require a careful consideration of the revenue, services and infrastructure required to achieve that plan's goals. These impacts also need to consider the purpose of the Urban Renewal Plan. In addition to remediating blighting conditions, an Urban Renewal Plan typically is designed to bring about a public good, either in the form of a public amenity or infrastructure, or even a type of development. The Colorado Smelter Urban Renewal Plan area is designed to facilitate the revitalization of three historic neighborhoods within the City of Pueblo. The Plan is also designed to help spur commercial development along major transportation corridors. This revitalization will occur in parallel with the former smelter site and its surrounding area's environmental remediation. This stated purpose needs to be weighed against the possible fiscal impacts caused by the Urban Renewal Plan on partnering taxing entities. Conversely, partnering taxing entities need to demonstrate an undue impact caused by the Urban Renewal Plan to justify withholding tax revenue that the Pueblo Urban Renewal Authority generated through its renewal efforts.

Colorado's Urban Renewal Law is explicit in C.R.S. 31-25-107(3.5)I-V), when it lists requirements for Urban Renewal Impact Reports to evaluate potential impacts on effected taxing entities. The statute requires that the report examine County impacts in particular, stating the following:

- An estimate on the county revenue impact, and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure,
- A statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional County infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority,
- Any other estimated impacts of the urban renewal project on county services and revenues.

This section will answer these requirements directly about the Colorado Smelter Urban Renewal Plan's impacts to Pueblo County. This report will also address the impacts to the Pueblo School District 60, and the other entities that levy a tax within the Plan area.

Assessed Value Comparison

The Colorado Smelter Urban Renewal Plan is located within four taxing districts, districts 60B, 60BE, 60BV, and 60BM. Each taxing district levies 97.70500 mills. They are also each made up of the same taxing entities, namely Pueblo County, the City of Pueblo, the South East Water Conservation District, the Lower Arkansas Valley Water Conservation District, the Pueblo City-County Library District, and the Pueblo School District 60. Tax Districts 60BE and 60BV also include the Pueblo Conservation District. However, this district does not levy a mill and is not included as part of this analysis.

The table below illustrates the total assessed value (AV) of property currently within each taxing entity the collects a property tax. The Plan area's estimated incremental assessed value is also included, and is compared as a percentage to each tax districts AV.

Residential Assessed Value						
Colorado Smelter UR Plan Incremental Assessed Value	CITY OF PUEBLO	PUEBLO COUNTY	S.E.WATER CONSV DISTRICT	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	PUEBLO CITY-COUNTY LIBRARY DISTRICT	SCHOOL DISTRICT 60
\$9,909,543	\$508,564,043	\$920,438,152	\$848,622,481	\$920,438,152	\$920,438,152	\$518,520,843
<i>Percent of Taxing District</i>	1.9%	1.1%	1.2%	1.1%	1.1%	1.9%
Commercial/Industrial Assessed Value						
Colorado Smelter UR Plan Incremental Assessed Value	CITY OF PUEBLO	PUEBLO COUNTY	S.E.WATER CONSV DISTRICT	LOWER ARKANSAS VALLEY WATER CONSV. DISTRICT	PUEBLO CITY-COUNTY LIBRARY DISTRICT	SCHOOL DISTRICT 60
\$36,304,538	\$339,686,160	\$584,740,095	\$523,940,384	\$391,625,889	\$584,740,095	\$362,803,610
<i>Percent of Taxing District</i>	10.7%	6.2%	6.9%	9.3%	6.2%	10.0%

Pueblo County

Revenue Impacts

The Colorado Smelter Urban Renewal Plan is expected to use Tax Increment Financing to help remediate blight and attract new investment to the project area. The use of future property tax could have an impact on the County's revenues, which is explored in this section.

Pueblo County issues a mill levy of 30.199 in all four tax districts included within the Colorado Smelter Urban Renewal Plan area. This mill levy is a major revenue source for the County's operations and funds. According to the Pueblo County 2022 Budget, taxes (which includes property, sales, use, excise, and specific ownership tax) account for 30% of its total revenue collected. Last year these taxes amounted to \$116 million in revenue and helped to fund most of the County services to residents.

According to Pueblo County's OpenGov website, the total revenue collected in 2021 equaled \$240,723,797. Property tax accounted for 23.6% of the total revenue that year, or \$56,512,423 in property tax collected.

In order to quantify potential revenue impacts to the County, this report compared the projected annual property tax revenue within the Colorado Smelter Urban Renewal Plan area to the County's property tax revenue. Projected property tax revenue is derived from new improvements in the Plan area, meaning that the Plan area's base assessed value was not included in this comparison.

This Report projected the Colorado Smelter Urban Renewal Plan area's annual property tax TIF per the County's millage rate and compared it as a percentage to total revenue collections. This report estimates that the Colorado Smelter Urban Renewal Plan area's property tax increment

generated at the County's 30.199 millage rate will account for 1.36% of Pueblo County's annual revenue collections.

Pueblo County	2021 Property Tax Revenue (Actual)	Plan Area Estimated Property Tax TIF (25-Year Annual Average)	Percent of Total
General Fund	\$ 56,915,720	\$ 771,435	1.36%

The Colorado Smelter Urban Renewal Plan is expected to last 25-years. Over that time, the new improvements incentivized by this Plan and the Pueblo Urban Renewal Authority will begin to accumulate incremental property tax revenue. These incremental property tax revenues represent a possible revenue stream that can be remitted to the Pueblo Urban Renewal Authority via TIF agreement in support of its remediation and redevelopment efforts in the Colorado Smelter Urban Renewal Plan area. This report estimates that new improvements within the Plan area account for \$20,057,000 over 25-years.

However, property tax revenue is not the only revenue source generated by this Plan area's redevelopment. The Colorado Smelter Urban Renewal Plan will seek to attract new commercial development, a portion of which will be sales tax producing. Pueblo County levies a 1% sales tax rate that will not be used for Tax Increment Financing. This means that new commercial development caused by the Pueblo Urban Renewal Authority within the Colorado Smelter Plan area represents a new source of revenue to the County. Over a 25-year horizon, the projected sales tax will nearly match incremental property tax revenue. The estimated deficit is -\$542,000 over 25-years, or approximately 1% of the County's annual property tax collections.

County Revenue Source	New Improvements 25 Year Total	
Property Tax Total (30.199 mills)	\$	20,057,000
Sales Tax Total (1%)	\$	19,515,000
<i>Net Difference</i>	\$	<i>-542,000</i>

The Colorado Smelter Urban Renewal Plan is expected to generate minimal revenue impacts on Pueblo County's General Fund. The Plan area's new development accounts for only 1.36% of the County's annual property tax revenue collections. The projected sales tax generated at the County's 1% rate will nearly offset the incremental property tax. This means that over the next 25-years, the Colorado Smelter Urban Renewal Plan will alleviate blight, remediate environmental contamination, attract new commercial investment, and revitalize three historic neighborhoods, without significantly detracting from the County's expected revenues. This report does not find a negative revenue impact caused by the Colorado Smelter Urban Renewal Plan.

Infrastructure and Service Impacts

The Colorado Smelter Urban Renewal Project is within the Pueblo City limits. It will not require new County infrastructure to serve the projected Plan area's redevelopment. Traffic impacts will be localized to the City of Pueblo. Nearly all roadways within the plan area are maintained by the city. The Plan area's main access roads are either maintained by the city of the State of Colorado, such as Santa Fe Avenue and Interstate-25. There are no major infrastructure projects required to serve this project that will be developed or maintained by Pueblo County.

New development within the Plan area is projected to generate 211 additional households over 25-years. These residences will be within the City of Pueblo's municipal limits and be served by

the City's department of health and human services. Using Colorado State demographer data, this number of households equates to 502 new residents. Pueblo County's total population in 2020 was estimated at 168,434 persons. New residents generated because of the Colorado Smelter Urban Renewal Plan will account for less than 1% of the County's population. This increase is not likely to generate significant impacts on the County's health or human services.

County Impact Conclusion

This report concludes that the Colorado Smelter Urban Renewal Area will not generate adverse fiscal impacts on Pueblo County revenue, infrastructure or services.

Pueblo School District 60

Revenue Impacts

The Pueblo School District 60 is the taxing entity that levies the largest millage rate within the Colorado Smelter Urban Renewal Plan area. The Pueblo School District 60 millage rate is 43.642, or approximately 45% of the total tax rate within the Plan area. The School District is therefore an important partner to the Pueblo Urban Renewal Authority and vulnerable to the Plan's tax increment financing impacts.

According to the FY 2021-2022 adopted budget, the Pueblo School District 60 collected \$143,381,799 in total program funding. Property tax revenue accounted for 20.4%, or \$29,187,883 of that total. The following table compares these annual tax revenues with the estimated annual incremental property tax revenue generated by the Colorado Smelter Urban Renewal Plan area.

Colorado Smelter Urban Renewal Plan Impacts			
Pueblo School District 60 Fund	2019-2020 Property Tax Revenue	Estimated Property Tax TIF (Annual Average)	Percent of Total
Total	\$ 29,187,883	\$ 1,114,837	3.8%

The Colorado Smelter Urban Renewal Plan is not expected to generate a significant impact to the school district annual revenue. This report estimates that future incremental tax revenue amounts to only 3.8% of the School District's total property tax revenue. Property tax revenue is only 20.4% of the School District's total revenue, meaning that the Colorado Smelter Urban Renewal Plan's incremental property tax TIF represents 0.78% of all revenue.

Student Population Generation

The Colorado Smelter Urban Renewal Plan is projected to generate residential and commercial development over the next 25-years. The commercial development will create a negligible impact on the school district. However, residential development leads to additional households and students. This report forecasted potential student generation to quantify that impact.

The Pueblo School District 60 is with the City of Pueblo. The table below summarizes City's demographic data¹⁰. These estimates, including household size and students per household, were used to estimate the number of students the Colorado Smelter Urban Renewal Plan could generate over the next 25 years.

¹⁰ Colorado State Demographer's Office 2020 County Population and Pupil Counts.

Estimated Population Generation	
Pueblo (City) Total Population	111,893
Household Population	108,691
Number of Households	45,704
Persons Per Household	2.38
Number of Students (District 60)	15,205
Students Per Household	0.33
<u>Colorado Smelter Urban Renewal Plan Development Projections</u>	
Projected Residential Units	211
Projected Population	502
Projected Students	70

The addition of 70 students over the next 25 years does not represent a significant impact to the Pueblo School District 60. This amount represents less than 1% of the current student population. According to Colorado's Department of Education, the school district has lost 2,460 students over the past 5 years. An additional 70 students generated by the Colorado Smelter Plan is not a significant impact to the school district.

School District Impact Conclusion

The Colorado Smelter Urban Renewal Plan is not likely to generate significant adverse impacts on Pueblo School District 60. The Plan will not generate a substantial amount of new students for the district, and its projected property tax TIF represents only 3.8% of the district's annual property tax revenue.

Impact Summary on Taxing Entities

This report did not find any substantial fiscal impacts to the taxing entities effected by the Colorado Smelter Urban Renewal Plan. The Plan's boundaries are drawn within a developed area of the City. The Plan is designed to remove blighting factors, remediate environmental contamination, attract investment, and revitalize existing neighborhoods. This means that the Plan is committed to urban infill development. The vacant parcels within the plan area are zoned for commercial/industrial uses, meaning that future development will skew more towards the commercial/mixed-use spectrum. Higher levels of commercial development mitigate the adverse fiscal impacts that are traditional associated with residential development and tax increment financing.

The potential for new sales tax revenue is projected offset any revenue imbalances for Pueblo County. The Plan's limited residential development is not likely to create undue burdens on the School District because of its small size. This report did not identify any significant fiscal impacts to the other taxing entities that levy a mill within the Plan area.

The City of Pueblo will likely incur the most significant impact since this redevelopment will occur entirely within its limits and require its services and infrastructure. However, this Plan supports a City Initiative to revitalize the Colorado Smelter area. This implies that the benefits outweigh the impacts.

The following table outlines the estimated property tax revenue that will be generated within the plan area for each taxing entity. Generating significant tax increment may prove more troublesome than ensuring that taxing entities receive adequate base revenues, which is why this report recommends that each taxing entity agree to allocate 100% of their potential tax increment revenue to the Pueblo Urban Renewal Authority in support of the Colorado Smelter Urban Renewal Plan.

Colorado Smelter Urban Renewal Plan TIF Summary Table, 25-Year Total

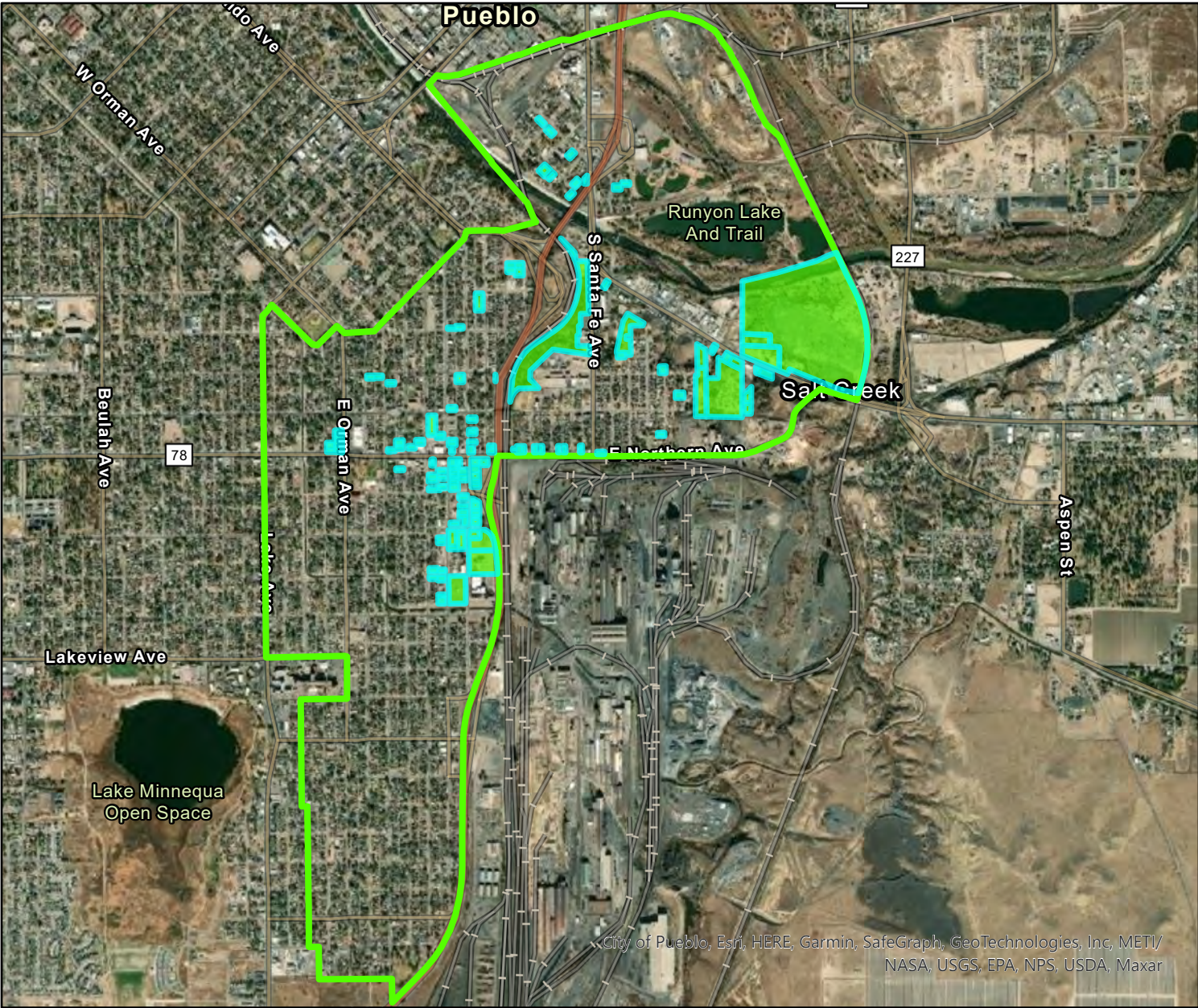
<u>Tax Increment Financing Analysis</u>	
Estimated Real Property Taxes Due	
<u>Tax Entity</u>	<u>25-Years</u>
Pueblo County	\$ 66,243,000
City of Pueblo	\$ 34,291,000
S.E. Water Consv. District	\$ 1,840,000
Lower Arkansas Valley Water Consv. District	\$ 3,296,000
Pueblo City-County Library District	\$ 12,917,000
School District 60	\$ 95,731,000
Total	\$ 214,321,000
Estimated Property Tax Increment	
Base Assessed Value (Year 0):	\$ 40,916,432
<u>Tax Entity</u>	<u>25-Years</u>
Pueblo County	\$ 20,057,000
City of Pueblo	\$ 10,382,000
S.E. Water Consv. District	\$ 557,000
Lower Arkansas Valley Water Consv. District	\$ 998,000
Pueblo City-County Library District	\$ 3,911,000
School District 60	\$ 28,985,000
Total	\$ 64,890,000

Impact Report Appendix

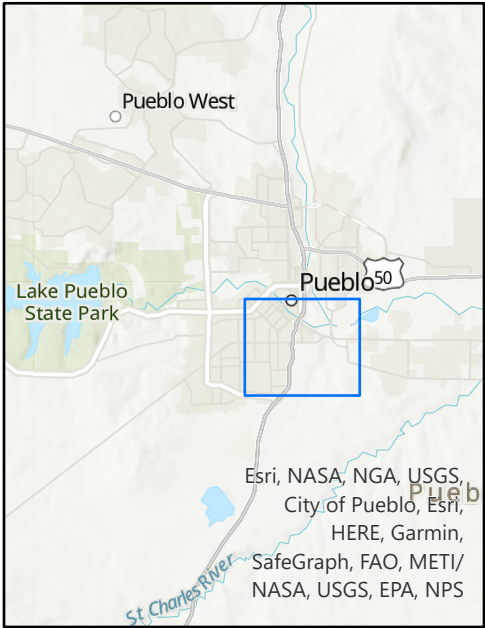
Appendix A

Revitalization Phase Maps

Colorado Smelter URA Plan: Phase 1 Revitalization Map



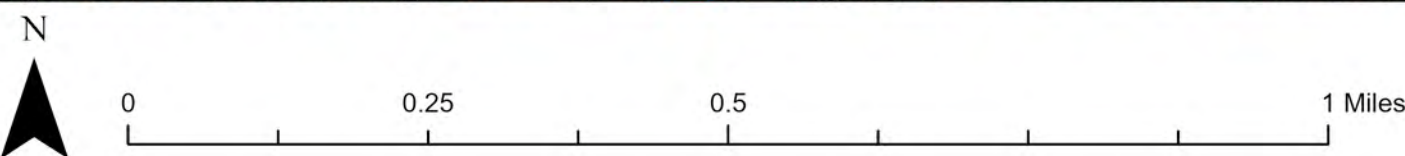
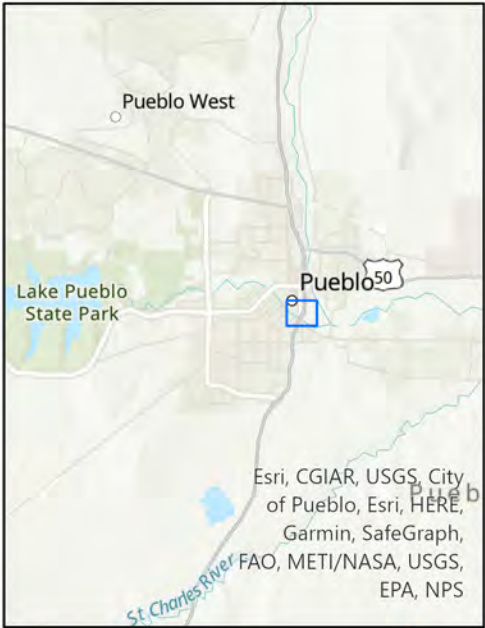
- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



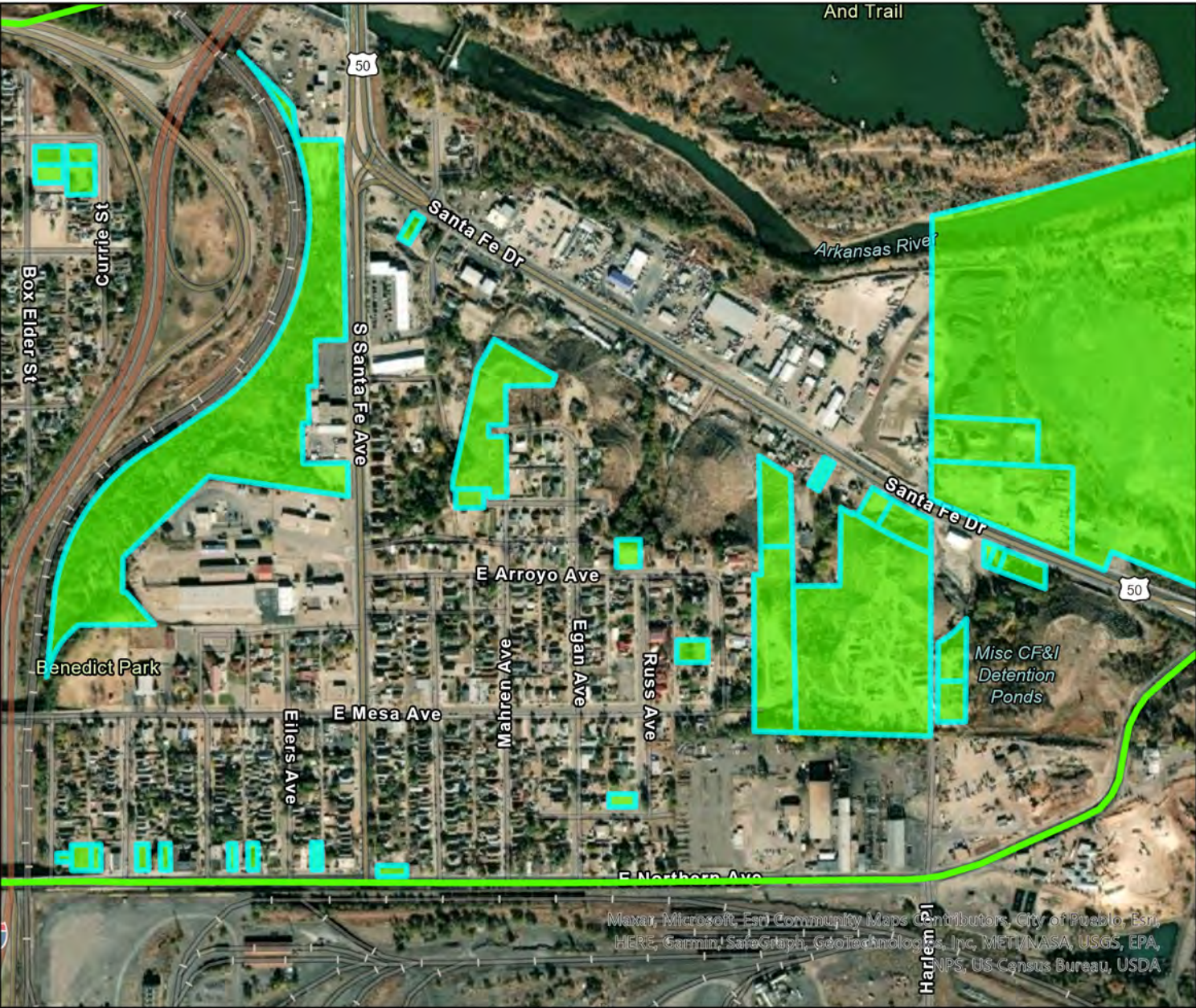
Phase 1 Revitalization: Grove Neighborhood



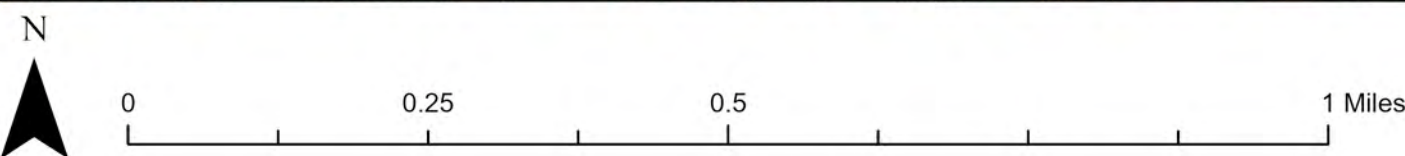
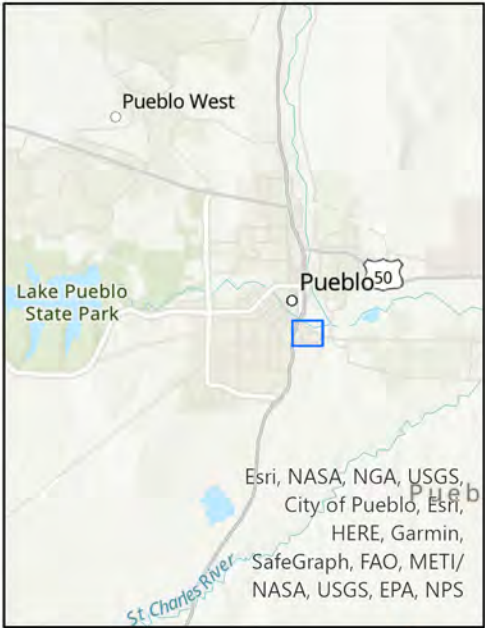
- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



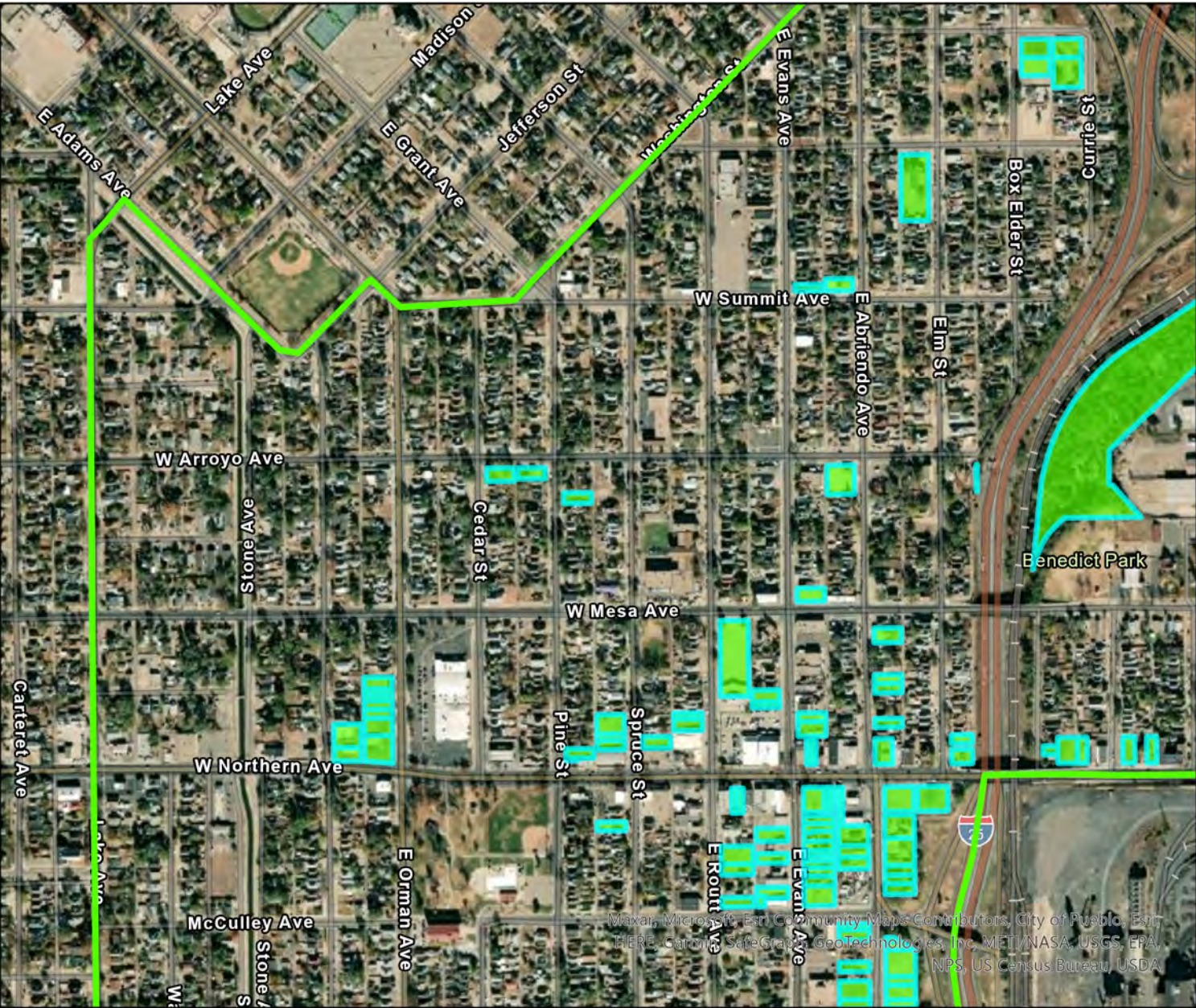
Phase 1 Revitalization: Eilers Heights/Bojon Town



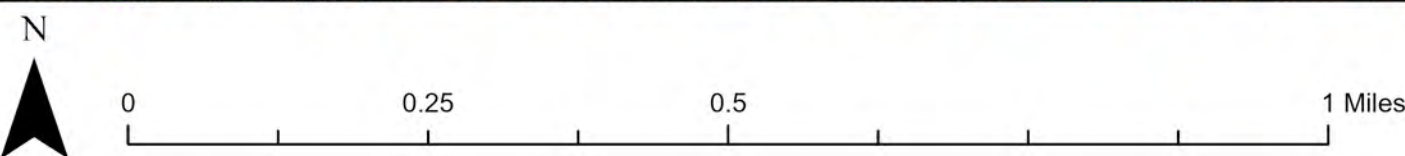
- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



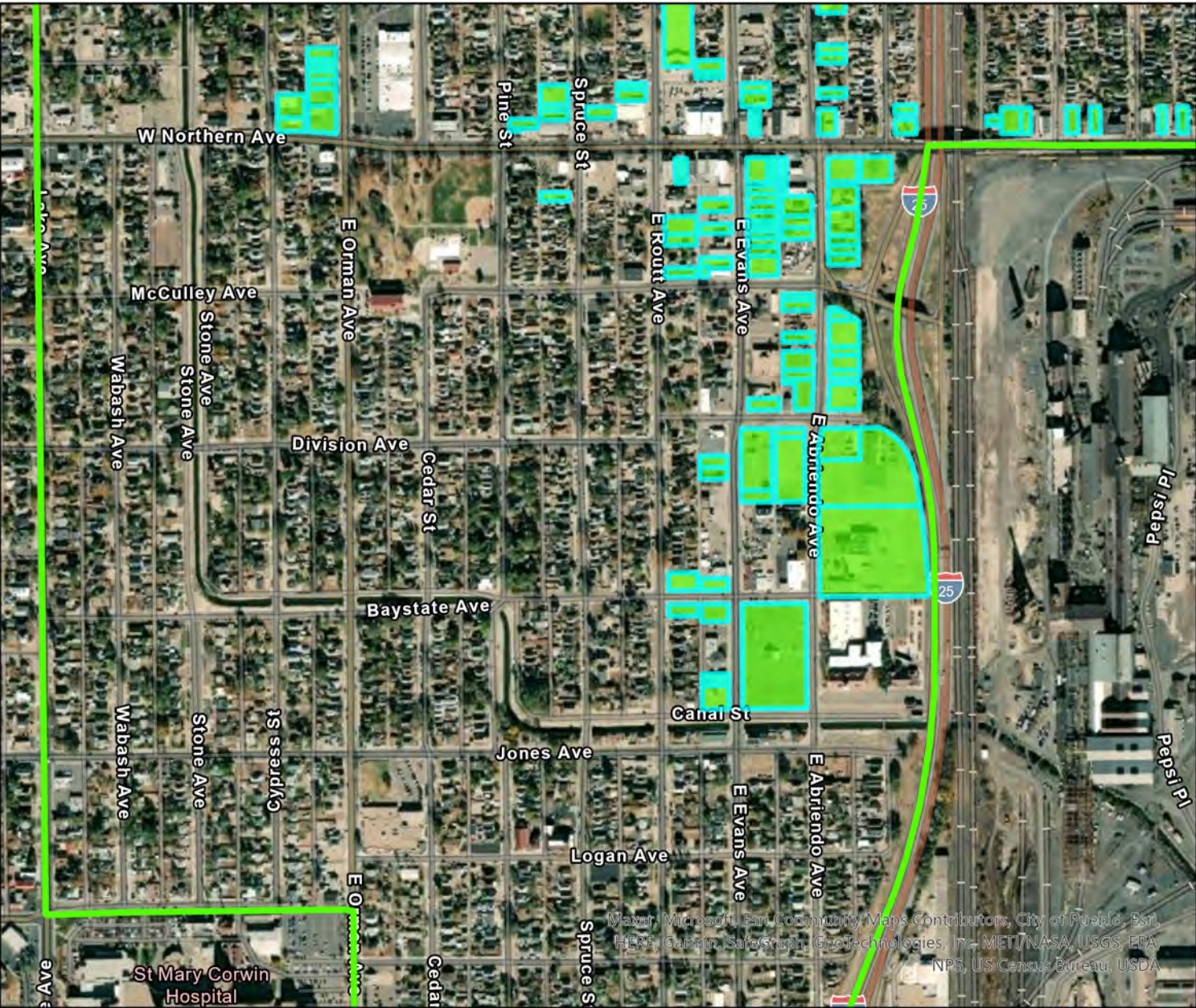
Phase 1 Revitalization: Bessemer North Neighborhood



- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



Phase 1 Revitalization: Bessemer South Neighborhood



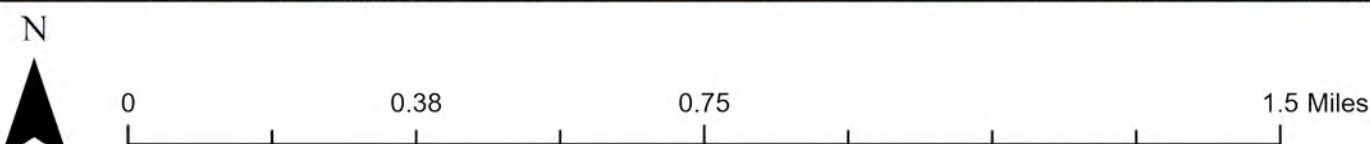
- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



Phase 1 Revitalization: Southern Extent



- Colorado Smelter Urban Renewal Plan Area
- Phase 1 Parcels



Pueblo

W Orman Ave

Runyon Lake And Trail

S Santa Fe Ave

227

Salt Creek

78

Beulah Ave

E Orman Ave

E Northern Ave

S Prairie Ave

Aspen St

Lakeview Ave

Lake Minnequa Open Space

City of Pueblo, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/
NASA, USGS, EPA, NPS, USDA, Maxar

Pueblo West

Lake Pueblo State Park

Pueblo

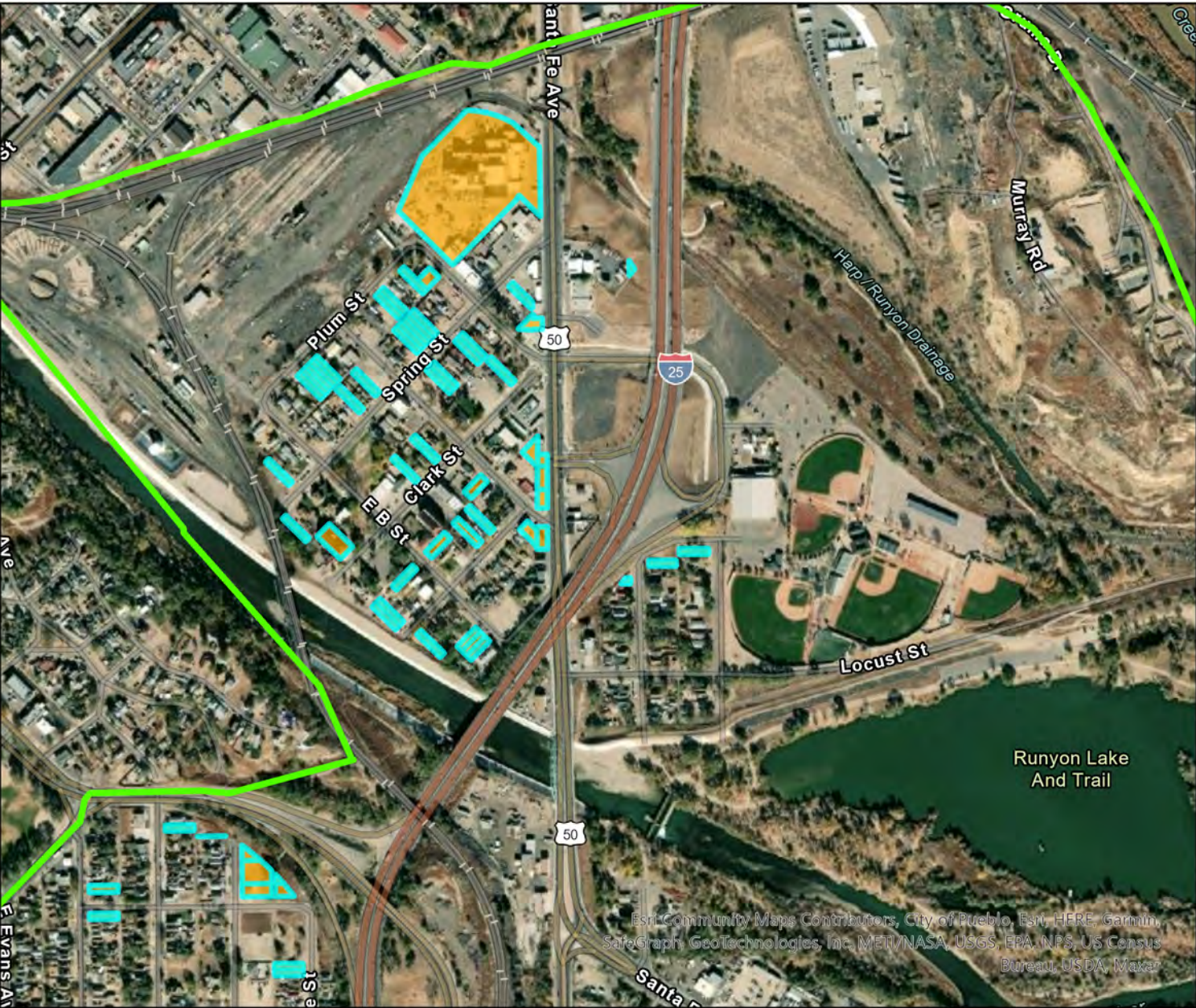
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St. Charles River

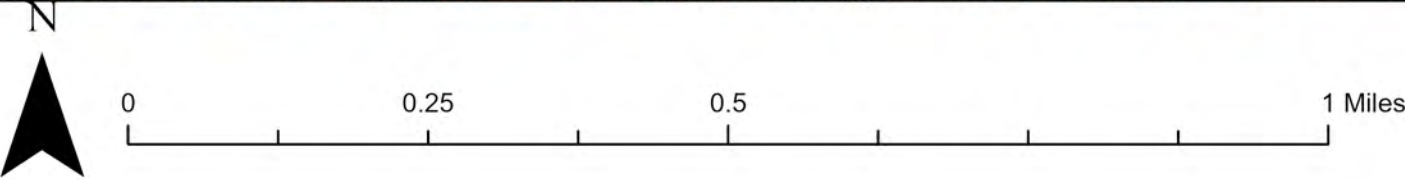
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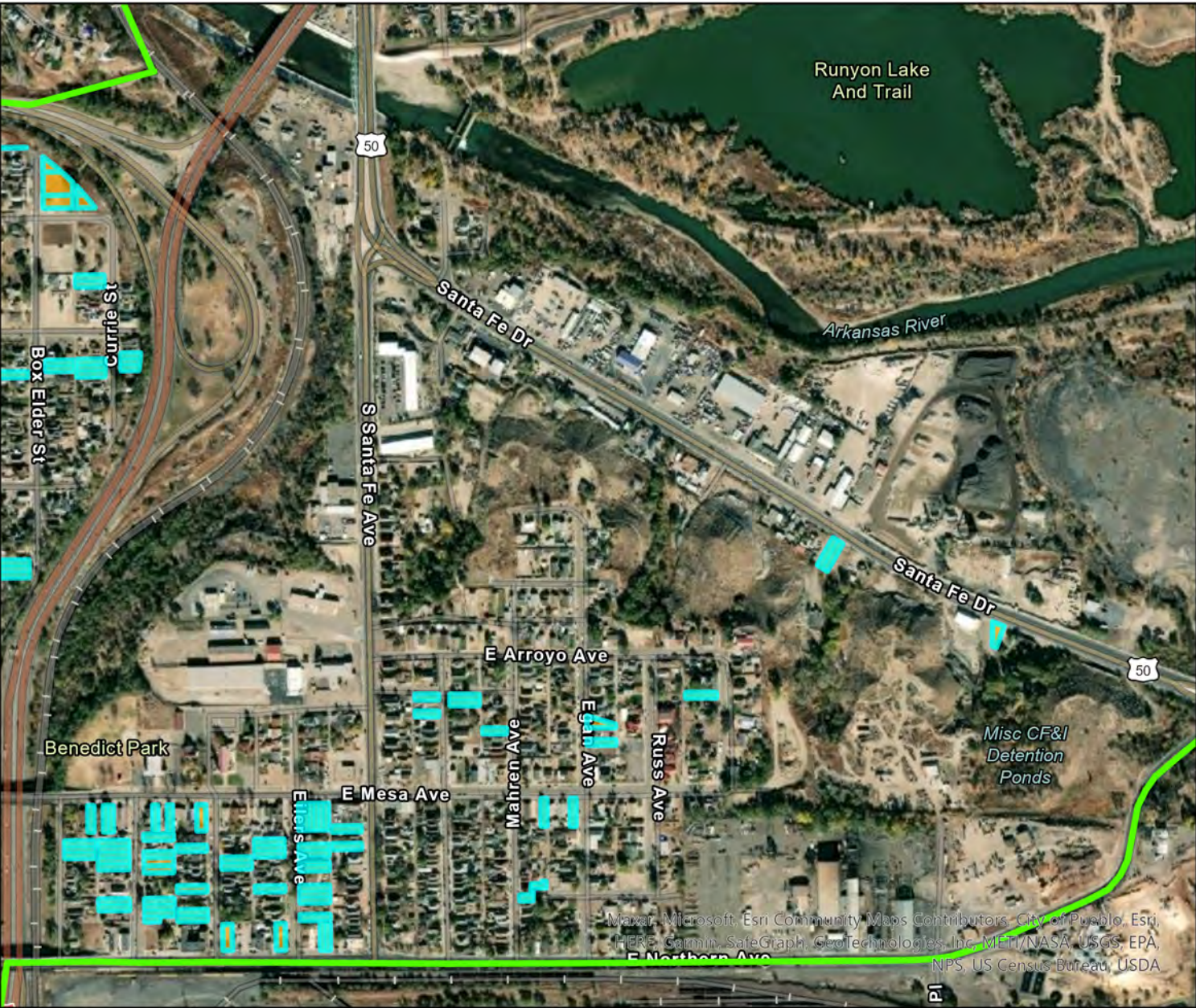
Phase 2 Revitalization: Grove Neighborhood



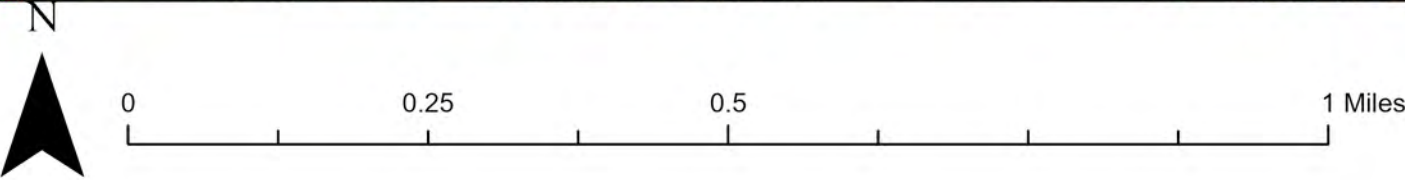
- Colorado Smelter Urban Renewal Plan Area
- Phase 2 Parcels



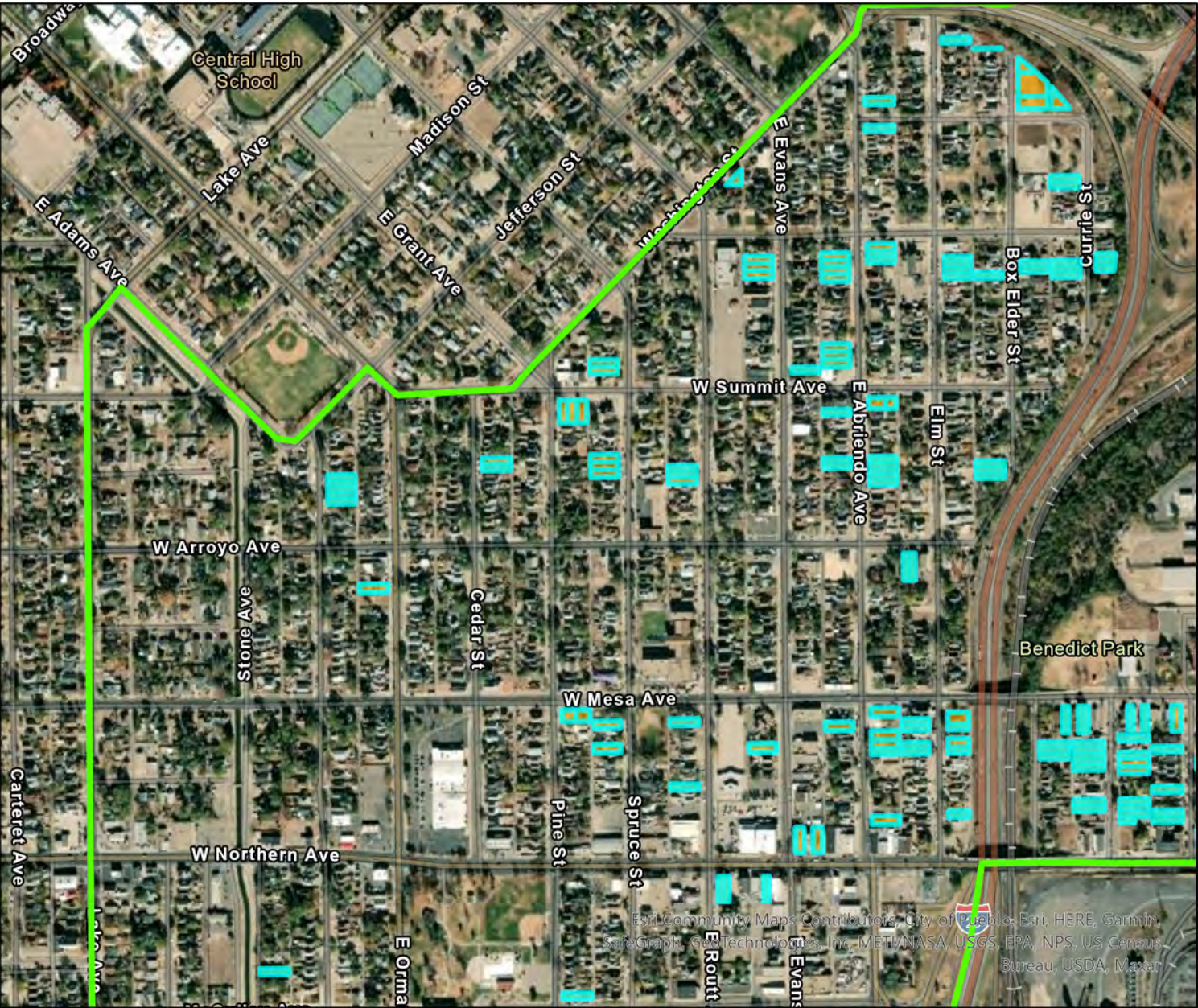
Phase 2 Revitalization: Eilers Heights/Bojon Town



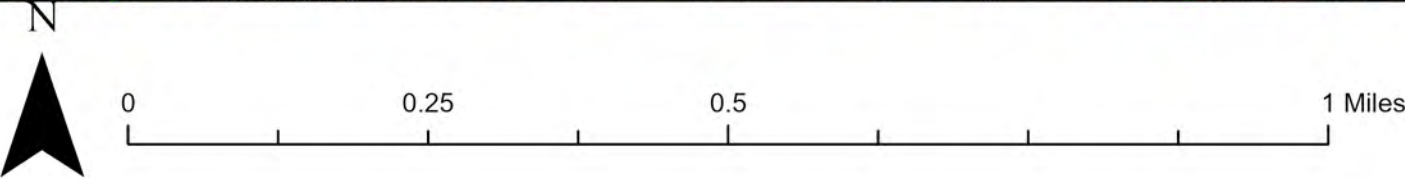
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- Phase 2 Parcels



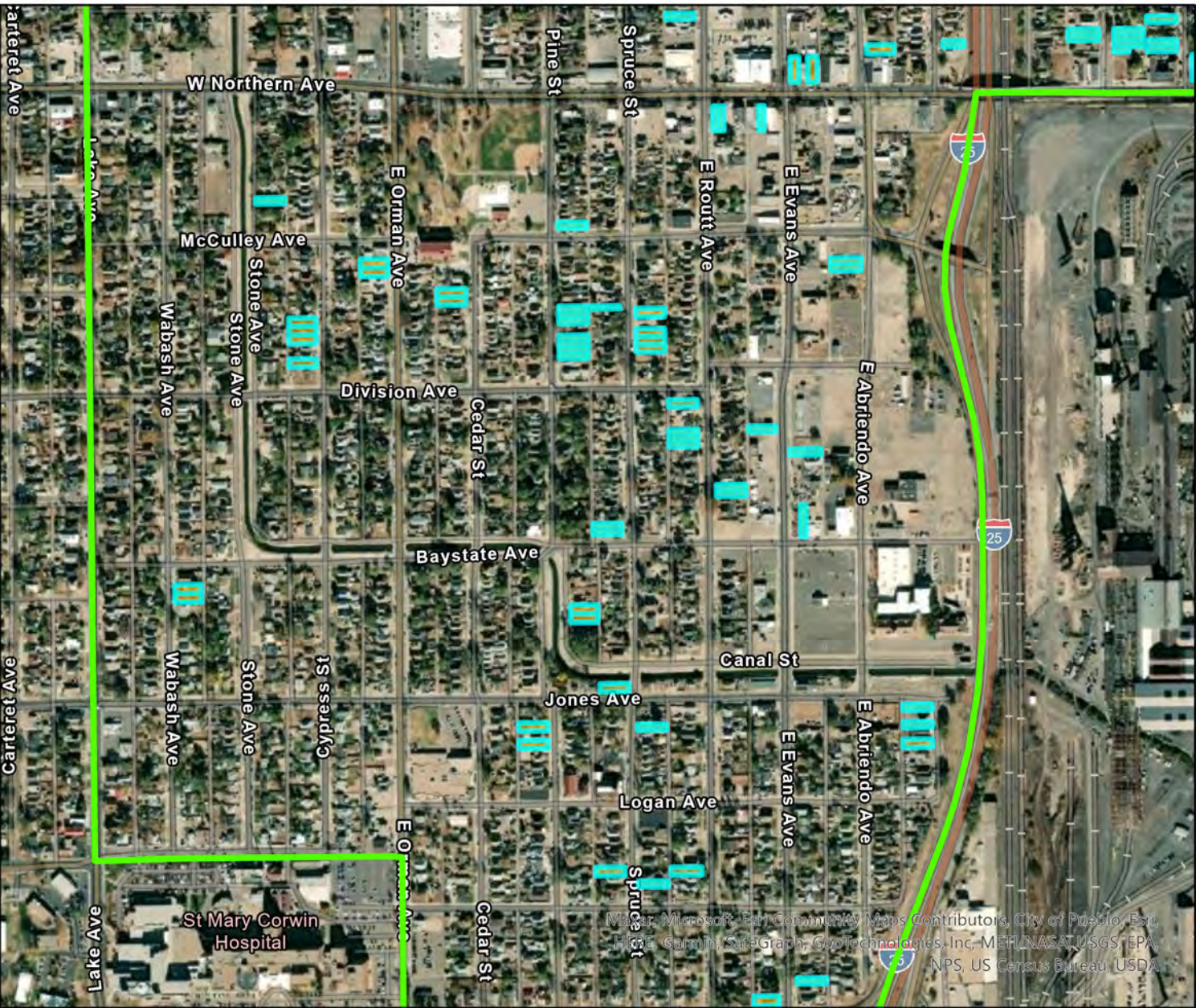
Phase 2 Revitalization: Bessemer North Neighborhood



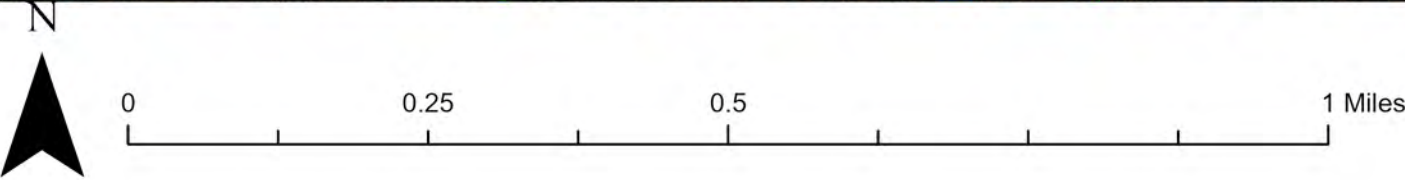
- Colorado Smelter Urban Renewal Plan Area
- Phase 2 Parcels



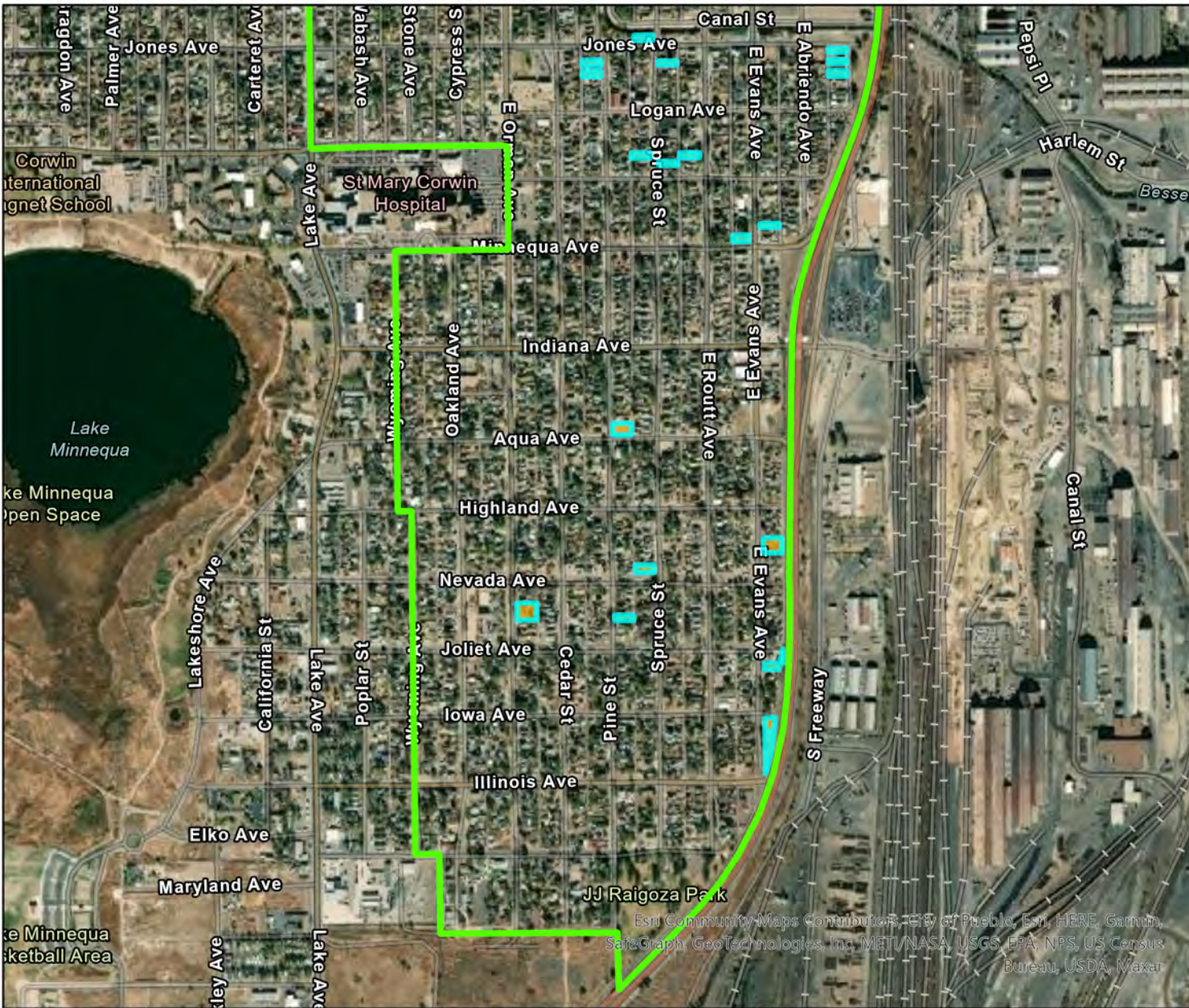
Phase 2 Revitalization: Bessemer South Neighborhood



- Colorado Smelter Urban Renewal Plan Area
- Phase 2 Parcels



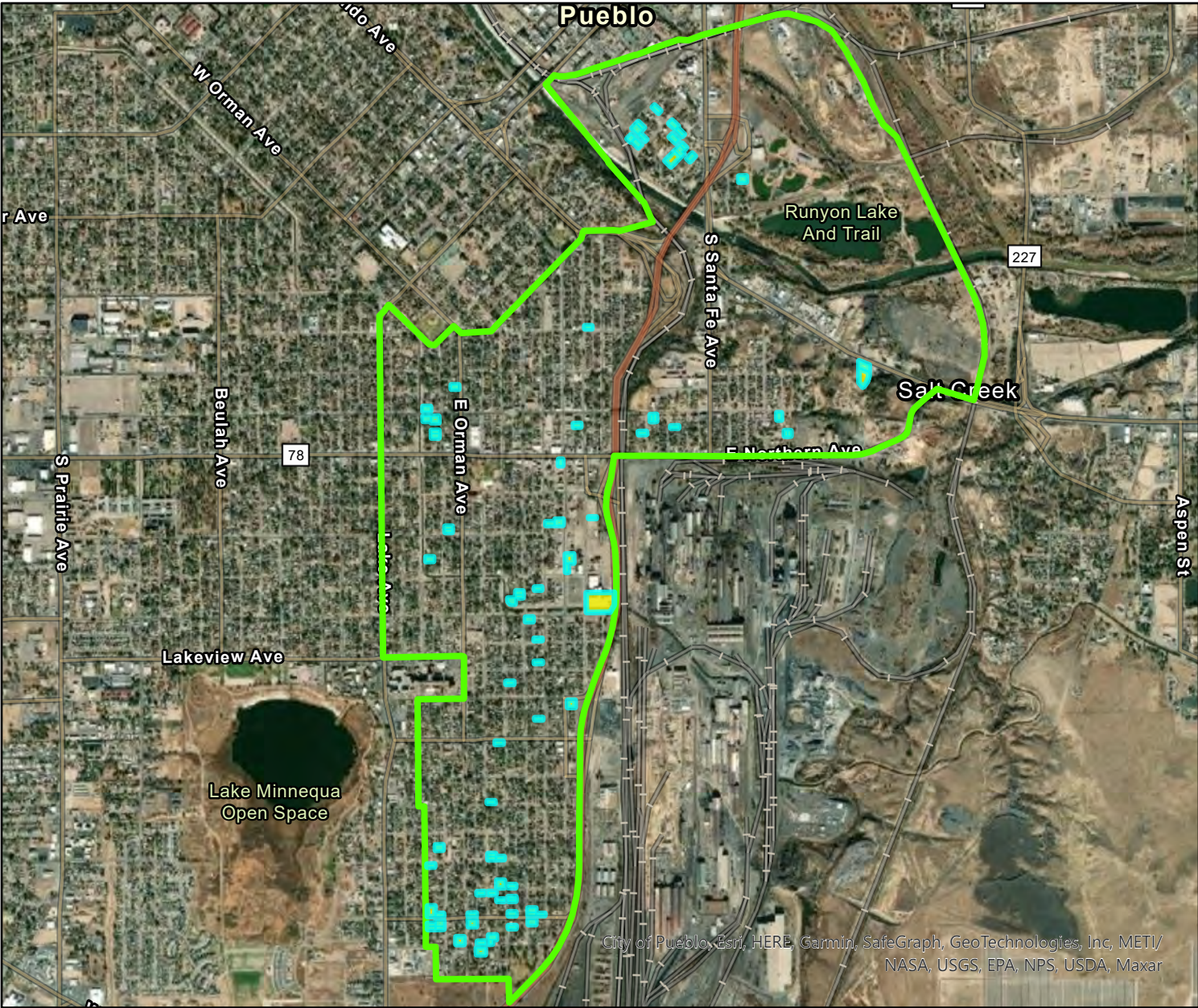
Phase 2 Revitalization: Southern Extent



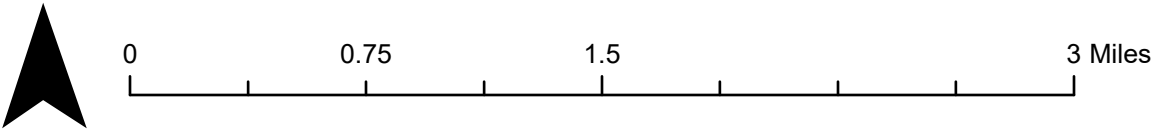
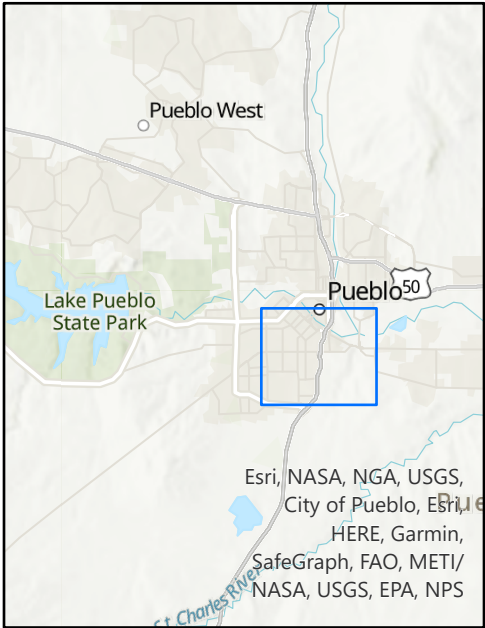
 Colorado Smelter Urban Renewal Plan Area
 Phase 2 Parcels



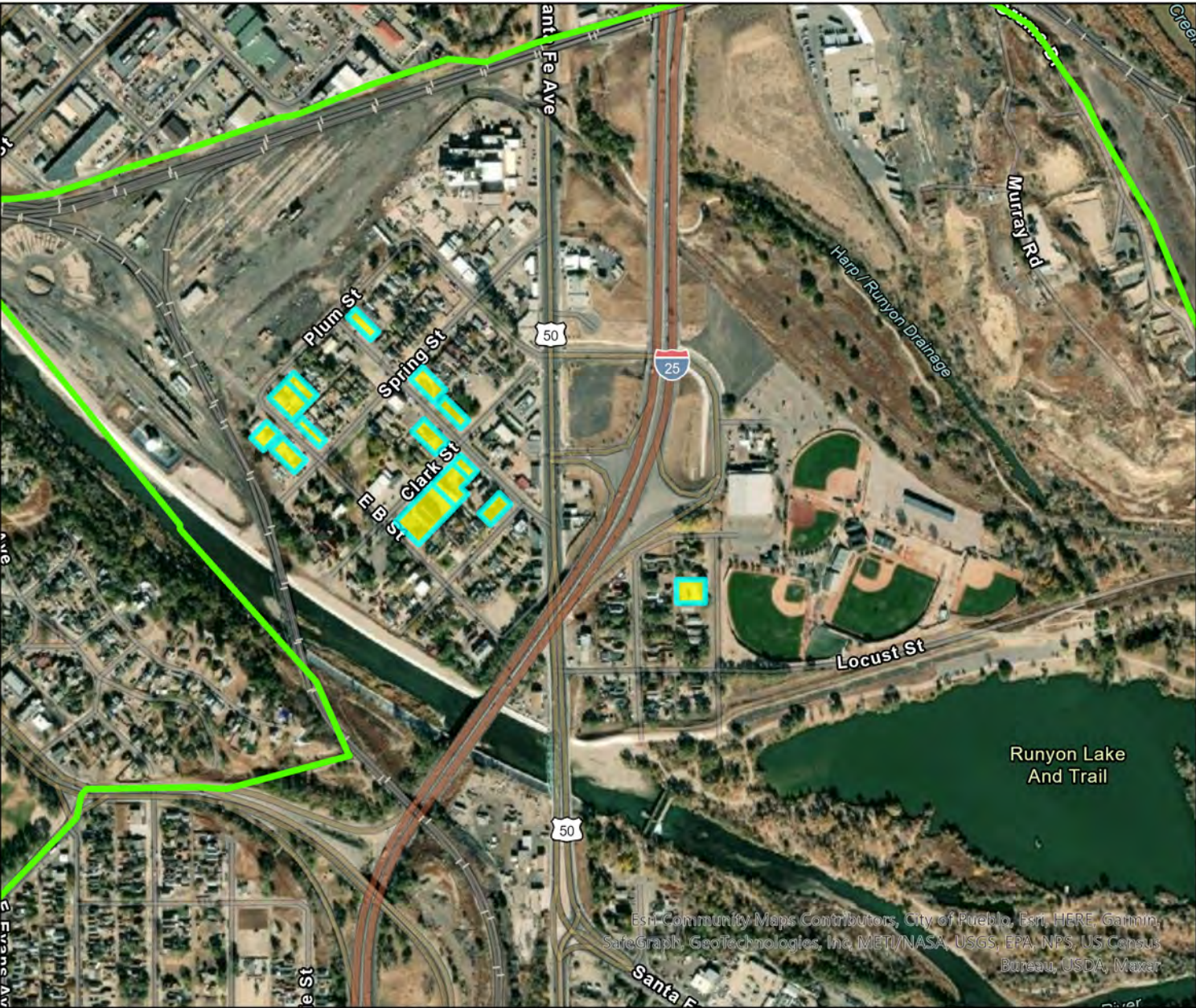
Colorado Smelter URA Plan: Phase 3 Revitalization Map



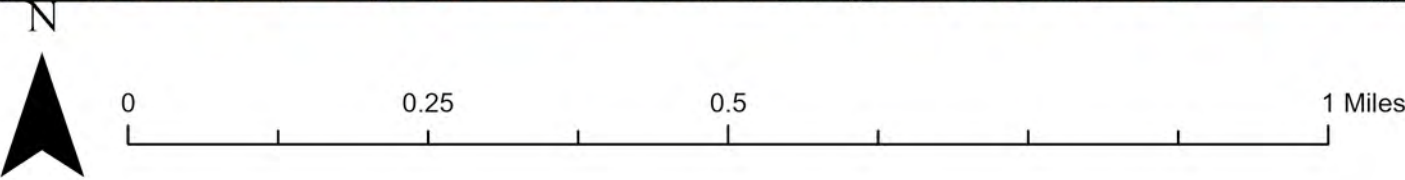
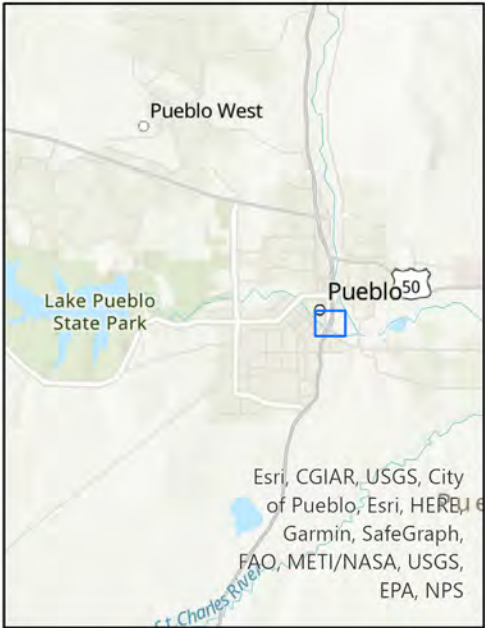
- Colorado Smelter Urban Renewal Plan Area
- Phase 3 Parcels



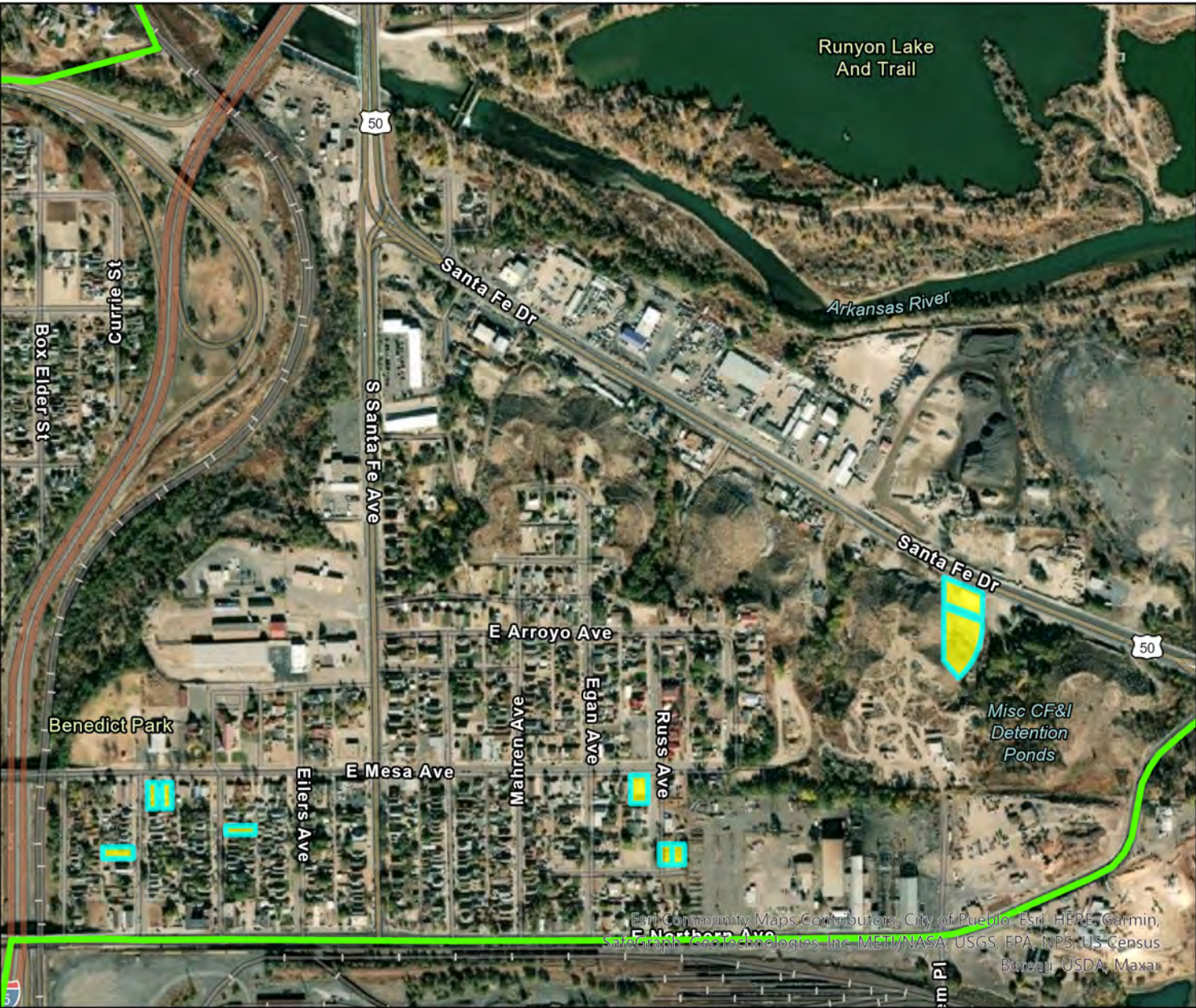
Phase 3 Revitalization: Grove Neighborhood



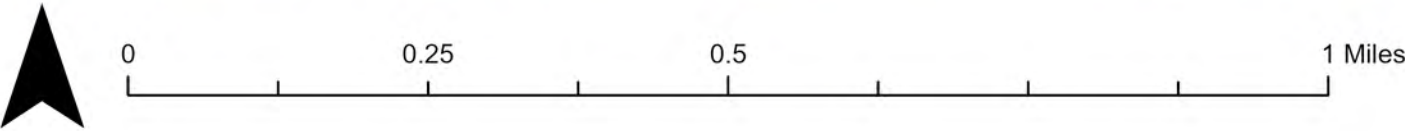
- Colorado Smelter Urban Renewal Plan Area
- Phase 3 Parcels



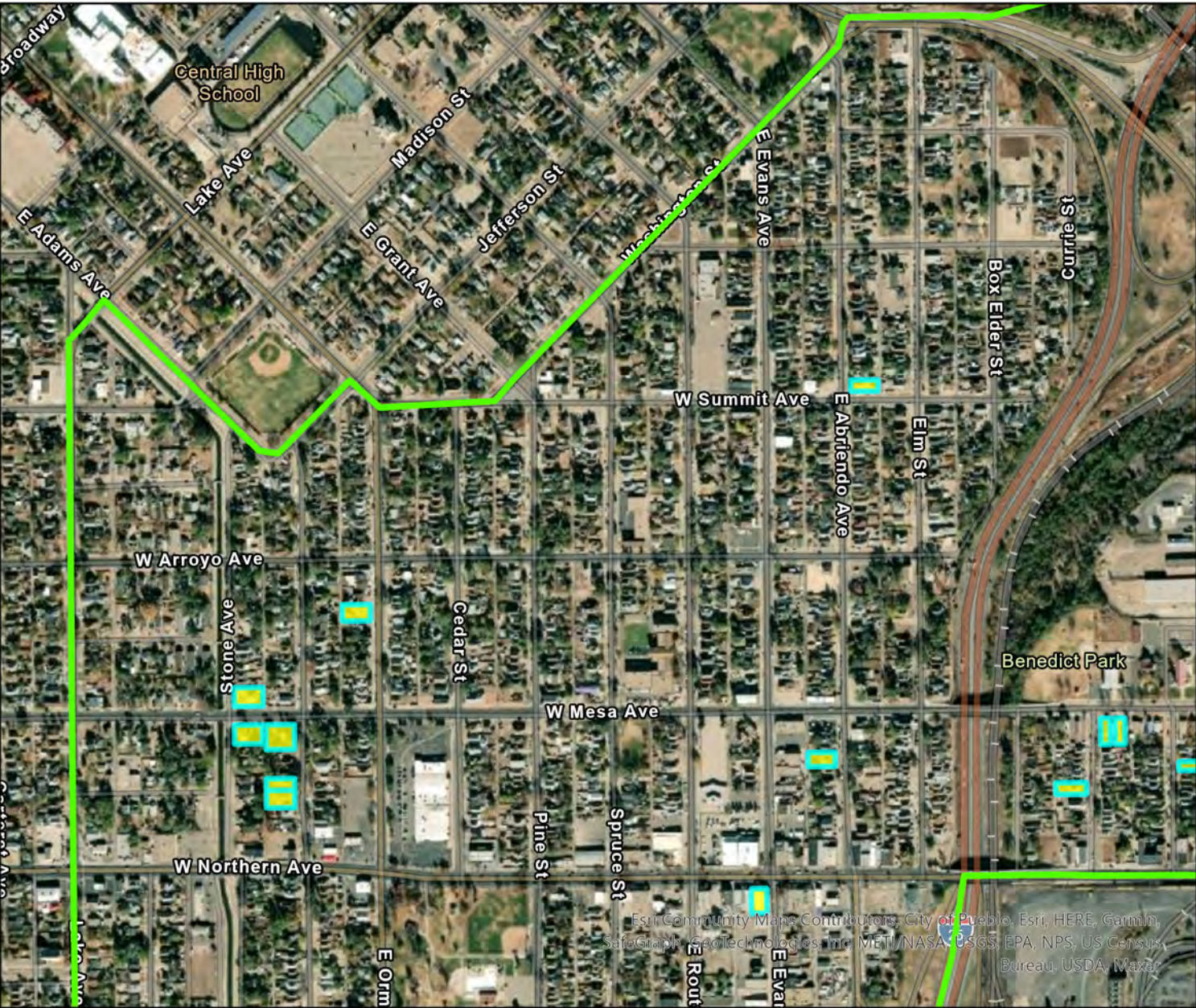
Phase 3 Revitalization: Eilers Heights/Bojon Town



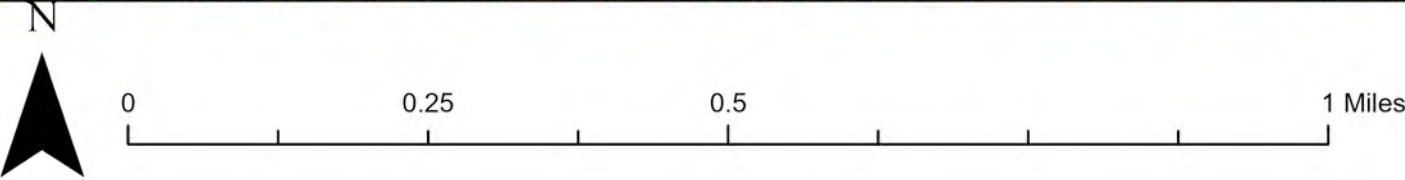
- Colorado Smelter Urban Renewal Plan Area
- Phase 3 Parcels



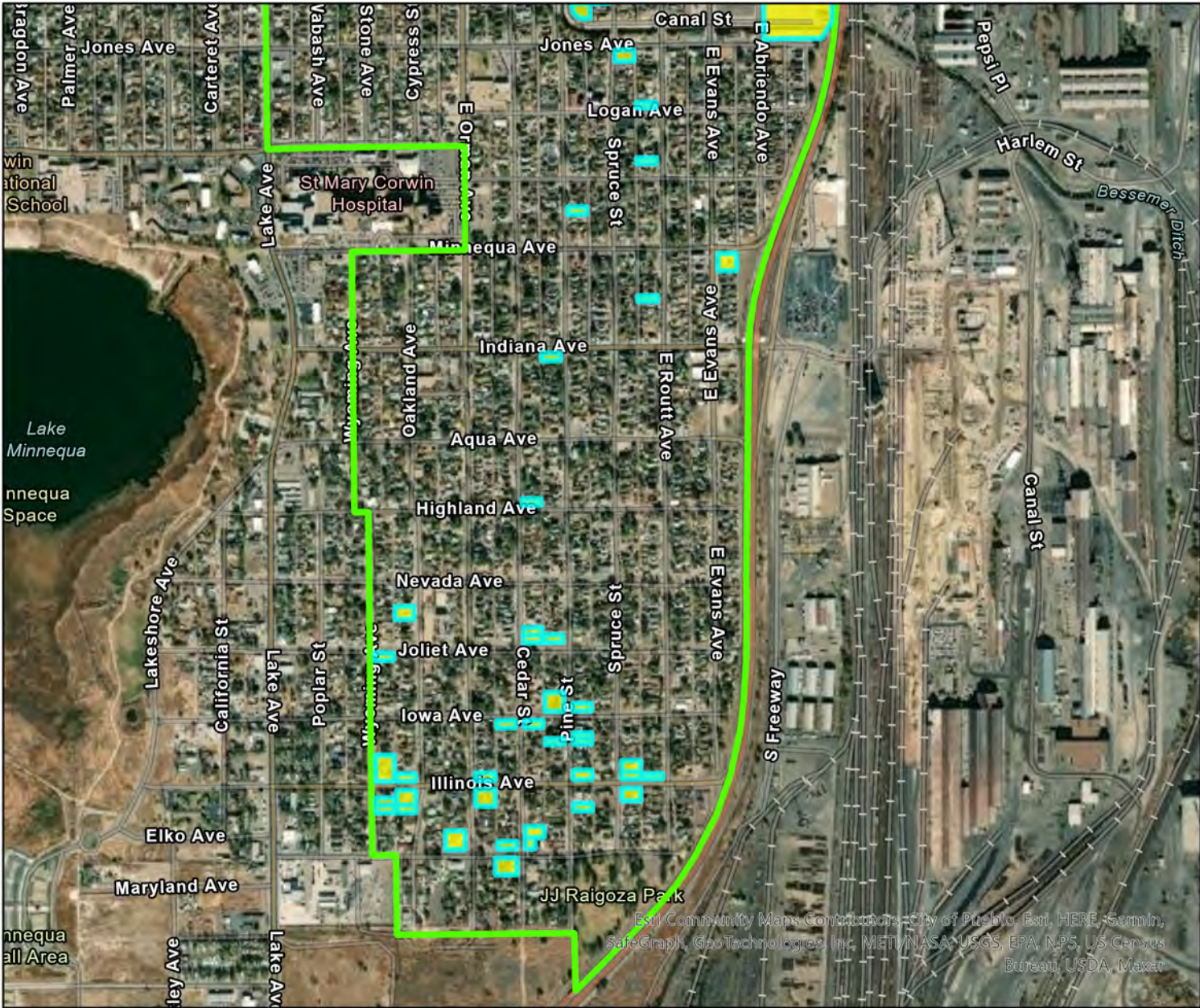
Phase 3 Revitalization: Bessemer North Neighborhood



- Colorado Smelter Urban Renewal Plan Area
- Phase 3 Parcels



Phase 3 Revitalization: Southern Extent



 Colorado Smelter Urban Renewal Plan Area
 Phase 3 Parcels



Appendix B

Tax Increment Financing Pro Forma

Colorado Smelter URA Plan																																																						
Combined Annual Proforma		PHASE	Last Assessment																																																			
			-	-	1	1	1	1	1	1	1	1	2	2	2	2	2	2	2	3	3	3	3	3	3	3	3	3																										
			2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047																										
Absorption Schedule																																																						
Revitalization Phase 1																																																						
Residential Units				10.75	10.75	10.75	10.75	10.75	10.75	10.75	10.75																																											
Commercial SF				90,083	90,083	90,083	90,083	90,083	90,083	90,083	90,083																																											
Revitalization Phase 2																																																						
Residential Units												17	17	17	17	17	17	17	17																																			
Commercial SF												12,466	12,466	12,466	12,466	12,466	12,466	12,466	12,466																																			
Revitalization Phase 3																																																						
Residential Units																				(2)	(2)	(2)	(2)	(2)	(2)	(2)																												
Commercial SF																				14,724	14,724	14,724	14,724	14,724	14,724	14,724																												
Total Residential Units			-	-	11	22	32	43	54	65	75	86	103	121	138	156	173	190	208	225	223	221	219	217	215	213	211																											
Total Commercial SF			-	-	90,083	180,167	270,250	360,333	450,417	540,500	630,584	720,667	733,133	745,599	758,065	770,531	782,996	795,462	807,928	820,394	835,118	849,841	864,565	879,289	894,012	908,736	923,460																											
Project Assessed Value																																																						
Revitalization Phase 1					4,174,411.31	4,174,411.31	4,174,411.31	4,174,411.31	4,174,411.31	4,174,411.31	4,174,411.31	4,174,411.31																																										
Revitalization Phase 2													627,923	627,923	627,923	627,923	627,923	627,923	627,923	627,923																																		
Revitalization Phase 3																					523,032	523,032	523,032	523,032	523,032	523,032																												
Estimated Increment																																																						
Annual NET AV (Assessed Value)			\$	-	\$	-	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	4,174,411	\$	-																										
Inflation Factor				3%																																																		
Total NET AV (Inflation Adjusted)			\$	-	\$	-	\$	4,174,411	\$	8,599,287	\$	12,773,699	\$	17,456,553	\$	21,630,965	\$	26,579,537	\$	30,753,948	\$	35,976,211	\$	36,604,133	\$	38,349,017	\$	38,976,940	\$	40,793,008	\$	41,420,931	\$	43,310,319	\$	43,938,242	\$	45,903,149	\$	46,426,181	\$	48,357,690	\$	48,880,722	\$	50,885,867	\$	51,408,899	\$	53,489,890	\$	54,012,922	\$	55,633,310
Estimated Base																																																						
Existing Taxable Value			\$	40,916,432	\$	42,143,925	\$	42,143,925	\$	43,408,243	\$	43,408,243	\$	44,710,490	\$	44,710,490	\$	46,051,805	\$	46,051,805	\$	47,433,359	\$	47,433,359	\$	48,856,360	\$	48,856,360	\$	50,322,050	\$	50,322,050	\$	51,831,712	\$	51,831,712	\$	53,386,663	\$	53,386,663	\$	54,988,263	\$	54,988,263	\$	56,637,911	\$	56,637,911	\$	58,337,048	\$	58,337,048	\$	60,087,160
Inflation Factor				3%																																																		
Incremental Property Tax Value			\$	-	\$	(1,227,493)	\$	2,946,918	\$	6,107,477	\$	10,281,888	\$	13,662,495	\$	17,836,907	\$	21,444,164	\$	25,618,576	\$	29,459,284	\$	30,087,206	\$	30,409,090	\$	31,037,012	\$	31,387,390	\$	32,015,312	\$	32,395,039	\$	33,022,962	\$	33,432,918	\$	33,955,950	\$	34,285,859	\$	34,808,891	\$	35,164,388	\$	35,687,420	\$	36,069,273	\$	36,592,306	\$	36,462,582
Project Sales Tax																																																						
Annual Sales Per SF																																																						
Retail SF																																																						
Sales Tax %																																																						
Total Retail SF																																																						
Estimated Annual Sales Tax																																																						
Incremental Sales Tax																																																						
Colorado Smelter TIF Estimates		Plan Yr -->	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26																										
Property Tax																																																						
Total Incremental Taxable Value			\$	-	\$	-	\$	2,946,918	\$	6,107,477	\$	10,281,888	\$	13,662,495	\$	17,836,907	\$	21,444,164	\$	25,618,576	\$	29,459,284	\$	30,087,206	\$	30,409,090	\$	31,037,012	\$	31,387,390	\$	32,015,312	\$	32,395,039	\$	33,022,962	\$	33,432,918	\$	33,955,950	\$	34,285,859	\$	34,808,891	\$	35,164,388	\$	35,687,420	\$	36,069,273	\$	36,592,306	\$	36,462,582
TIF Mill Levy																																																						
Annual TIF Estimate			\$	-	\$	-	\$	287,929	\$	596,731	\$	1,004,592	\$	1,334,894	\$	1,742,755	\$	2,095,202	\$	2,503,063	\$	2,878,319	\$	2,939,670	\$	2,971,120	\$	3,032,471	\$	3,066,705	\$	3,128,056	\$	3,165,157	\$	3,226,508	\$	3,266,563	\$	3,317,666	\$	3,349,900	\$	3,401,003	\$	3,435,737	\$	3,486,839	\$	3,524,148	\$	3,575,251	\$	3,562,577
Discount Rate																																																						
NPV																																																						
Sales Tax																																																						
Retail SF																																																						
Estimated Annual Sales Tax			\$	-	\$	-	\$	337,813	\$	675,625	\$	1,013,438	\$	1,351,250	\$	1,689,063	\$	2,026,876	\$	2,364,688	\$	2,702,501	\$	2,749,248	\$	2,795,995	\$	2,842,742	\$	2,889,489	\$	2,936,237	\$	2,982,984	\$	3,029,731	\$	3,076,478	\$	3,131,692	\$	3,186,905	\$	3,242,119	\$	3,297,333	\$	3,352,546	\$	3,407,760	\$	3,462,974	\$	3,462,974
Sales Tax TIF %																																																						
Estimated Sales Tax TIF			\$	-	\$	-	\$	337,813	\$	675,625	\$	1,013,438	\$	1,351,250	\$	1,689,063	\$	2,026,876	\$	2,364,688	\$	2,702,501	\$	2,749,248	\$	2,795,995	\$	2,842,742	\$	2,889,489	\$	2,936,237	\$	2,982,984	\$	3,029,731	\$	3,076,478	\$	3,131,692	\$	3,186,905	\$	3,242,119	\$	3,297,333	\$	3,352,546	\$	3,407,760	\$	3,462,974	\$	3,462,974
Discount Rate																																																						
NPV																																																						



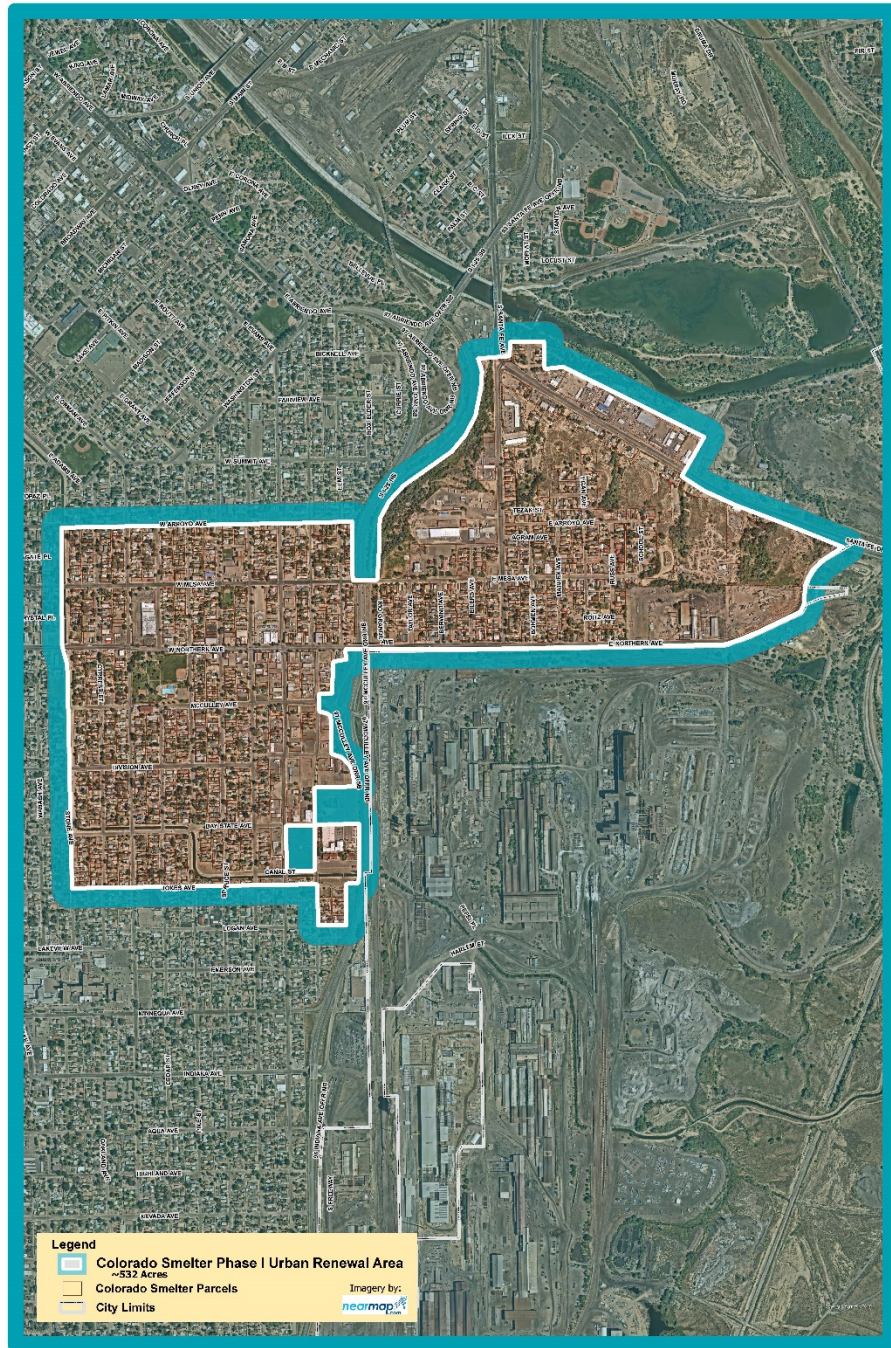
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Colorado Smelter Urban Renewal Plan

May 7, 2024

Prepared by:
SEH, Inc.,
Pueblo Urban Renewal Authority

CONTENTS

I. DEFINITIONS	3
II. INTRODUCTION	4
III. URBAN RENEWAL AREA BOUNDARIES	4
IV. SUMMARY OF STATUTORY CRITERIA	4
V. DESCRIPTION OF URBAN RENEWAL PROJECT.....	5
<i>A. Urban Renewal Plan Goals and the Plan's Relationship to Local and Regional Objectives</i>	<i>5</i>
1. Goals of the Plan	5
2. Relationship to the Comprehensive Plan.....	5
3. Relationship to the Colorado Smelter Revitalization Plan	6
VI. PROJECT ACTIVITIES	7
<i>A. Land Acquisition</i>	<i>7</i>
<i>B. Relocation</i>	<i>8</i>
<i>C. Demolition, Clearance and Site Preparation</i>	<i>8</i>
<i>D. Property Management.....</i>	<i>8</i>
<i>E. Public Improvements.....</i>	<i>8</i>
<i>F. Land Disposition, Redevelopment and Rehabilitation.....</i>	<i>8</i>
<i>G. Cooperation Agreements.....</i>	<i>9</i>
<i>H. Other Project Undertakings and Activities.....</i>	<i>9</i>
VII. PROJECT FINANCING	9
VIII. CHANGES IN APPROVED PLAN	10
IX. MINOR VARIATIONS.....	11

I. DEFINITIONS

The terms used in this Urban Renewal Plan shall have the following meanings.

Act means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, of the Colorado Revised Statutes.

Area or Urban Renewal Area means the area of the City included within the boundaries of this Urban Renewal Plan as described in Exhibit A and depicted in Exhibit B.

Authority means the Urban Renewal Authority of Pueblo, Colorado.

City means the City of Pueblo, Colorado.

City Planning means the Department of Planning & Community Development of the City of Pueblo, Colorado.

City Consolidated Plan means the City of Pueblo 2020-2024 Consolidated Plan, approved June 14, 2021, by Ordinance No. 9951.

Colorado Smelter Revitalization Plan means the EPA Region 8 and Superfund Redevelopment Initiative Plan document adopted by the City of Pueblo in June 2020.

Comprehensive Plan means the Pueblo Comprehensive Plan adopted in 2022, as amended.

Plan or Urban Renewal Plan means this urban renewal plan as it may be amended in the future.

Project or Urban Renewal Project means all activities and undertakings described in this Plan.

II. INTRODUCTION

The purpose of this Plan is to implement those provisions of the Comprehensive Plan, the City Strategic Plan, and the Colorado Smelter Revitalization Plan that apply to the Urban Renewal Area. The provisions of this Plan are intended to help provide important services to the Area, attract private investment, eliminate and prevent conditions of blight, remediate environmental contamination, promote redevelopment and rehabilitation of the urban renewal area, utilize underdeveloped land, and leverage public investment and funding mechanisms to promote redevelopment and rehabilitation, promote redevelopment and rehabilitation of the area by private enterprise, and, where necessary, provide necessary public infrastructure to serve the Area.

This Urban Renewal Plan has been proposed for consideration by the City Council of the City pursuant to the provisions of the Act. The administration of the Project and the implementation of the Plan shall be the responsibility of the Authority.

III. URBAN RENEWAL AREA BOUNDARIES

An urban renewal plan area covering portions of the Colorado Smelter Revitalization Plan (CSRP), the EPA Superfund site's Operable Unit 1 and Operable Unit 2, as well as additional parcels that need or will likely attract new investment or reinvestment. The area also includes public right-of-way that may benefit from urban renewal treatment. The Urban Renewal Plan Area encompasses 2,642 acres which includes 4,343 individual parcels.

IV. SUMMARY OF STATUTORY CRITERIA

On January 24, 2022, Pueblo City Council approved Resolution No. 14796, instructing the Pueblo Urban Renewal Authority to conduct a blight study of the area described Colorado Smelter Urban Renewal Plan. Relevant conditions were researched, documented, photographed, and compared with the blight factors pursuant to the Act. The result of the survey is included in a document entitled "Colorado Smelter URA Plan: Conditions Survey" (the Conditions Survey) dated April 5, 2022, consisting of 40 pages, related exhibits, a description of existing conditions, and numerous photographs. The Conditions Survey is incorporated herein in its entirety by this reference.

The Conditions Survey shows that the following factors listed in the Act are present in the Area and that these conditions qualify the Area as a "blighted area" as defined in the Act:

1. Slum, deteriorated, or deteriorating structures.
2. Predominance of defective or inadequate street layout.
3. Faulty lot layout in relation to adequacy, accessibility, size or usefulness.
4. Unsanitary or unsafe conditions.
5. Deterioration of site or other improvements.
6. Unusual topography or inadequate public improvements or utilities.
7. Conditions that endanger life or property by fire or other causes.

8. Buildings that are Unsafe or Unhealthy or unhealthy for persons to live or work in.
9. Environmental contamination of buildings or property; and
10. Substantial physical underutilization or vacancy of sites, buildings, or other improvement.

V. DESCRIPTION OF URBAN RENEWAL PROJECT

This Plan will be implemented as part of a comprehensive program to eliminate and prevent blight in the Colorado Smelter Urban Renewal Area. The Authority and the City, with the cooperation of private enterprise and other public bodies, will undertake a program to eliminate the conditions of blight identified in the Conditions Survey, attract new investment within the Urban Renewal Project, and advance the goals outlined in the Colorado Smelter Revitalization Plan.

A. Urban Renewal Plan Goals and the Plan's Relationship to Local and Regional Objectives

1. Goals of the Plan

This Plan has been adopted to achieve the following goals in the Area:

- a. To encourage “renewal” throughout the surveyed area by attracting additional investment within the project boundary.
- b. To alleviate blight within the boundaries of the project Area.
- c. To leverage Tax Increment Financing to help attract new commercial and residential investments within the Plan area that will alleviate blighting conditions.
- d. To assist in the Revitalization of the Grove, Eilers Heights/Bojon Town, and Bessemer Neighborhoods.
- e. To assist in the environmental remediation efforts surrounding the former smelter site and slag pile.
- f. To improve the streetscapes in a way that promotes on-street bike and pedestrian travel while also enhancing lighting, sidewalks, pedestrian safety, parking, signage, landscaping, bike racks and bus shelters.
- g. To invest in culture and community spaces.
- h. To create thriving neighborhoods to providing residents with home buying assistance, increasing affordable and accessible housing options, increasing small lot infill development and increasing and diversifying recreation and service amenities.

2. Relationship to the Comprehensive Plan

The Plan conforms with and is designed to implement the following guiding principals, goals, policies and strategies outlined in the Pueblo Area Council of Governments Regional Comprehensive Plan (2022):

a. Guiding Principal 1 – Diverse Lifestyles, Attainable Housing Options.

- i. The Plan will help advance regional goals and policies outlined under this guiding principle, including:
 - 1. Goal 1.1 – Expand housing options to meet the needs of existing and future residents of all ages, abilities, and income levels.
 - 2. Goal 1.2 – Promote reinvestment in existing neighborhoods – housing stock, infrastructure, and amenities.
 - 3. Goal 1.3 – Preserve and expand the supply of workforce and affordable housing within the region.

b. Guiding Principle 4 – Celebrate Pueblo

- i. The Plan will help advance regional goals and policies outlined under this guiding principle, including:
 - 1. Goal 4.1 – Protect and Preserve Pueblo County’s Historic,
 - 2. Goal 4.6 – Enhance the appearance of public spaces, rights of way, and community gateways.

c. Guiding Principle 5 – A Future Ready Workforce

- i. The Plan will help advance regional goals and policies outlined under this guiding principle, including:
 - 1. Goal 5.2 Diversify the region’s economic base.

d. Guiding Principle 6 – Grow Smarter

- i. The Plan will help advance regional goals and policies outlined under this guiding principle, including:
 - 1. Goal 6.1 – Promote a fiscally and environmentally responsible pattern of growth.
 - 2. Goal 6.2 – Encourage infill and reinvestment in established communities and neighborhoods.

e. Guiding Principle 7 – Strong Local and Regional Connections

- i. The Plan will help advance regional goals and policies outlined under this guiding principle, including:
 - 1. Goal 7.3 – Encourage and Prioritize the use of alternative forms of transportation.

3. Relationship to the Colorado Smelter Revitalization Plan

The Plan conforms with and designed to implement the following goals detailed in the EPA Region 8’s, City of Pueblo, and BEGIN Network’s Colorado Smelter Revitalization Plan:

- a) Connectivity and Cultural Heritage – The Plan will help to reconnect the Bessemer, Eilers Heights/Bojon Town and Grove neighborhoods.

This connectivity will be achieved through incentivizing the development of Greenway trails, sidewalk and streetscape improvements, enhancing commercial nodes, and adding cultural heritage signage.

- b) Thriving Neighborhoods – The Plan will help revitalize the Bessemer, Eilers Heights/Bojon Town, and the Grove neighborhoods by incentivizing catalyst mixed-use projects and providing funding for residential rehabilitation and affordable housing options.
- c) Vibrant Commercial – The Plan will help to identify and incentivize and catalyst public-private project that combines investment in civic space, workforce housing, neighborhood services and streetscape improvements. The Plan will help target investment into commercial corridors with the project area.

B. Land Use Regulations and Building Requirements

The Plan will provide a comprehensive and unified plan to promote and encourage high quality development and redevelopment of the Urban Renewal Plan Area by cooperative efforts of private enterprise and public bodies. Notwithstanding anything in the Plan to the contrary, the development and use of the property within the Urban Renewal Project described in the Plan including, without limitation, land area, land use, design building requirements, timing or procedures applicable to the property, shall be subject to the Pueblo Municipal Code and secondary codes therein adopted by reference, and other applicable standards and regulations of the City of Pueblo ("City Regulations"). Permitted uses for properties in the Urban Renewal Area shall be those uses allowed in the City of Pueblo Land Use Code.

VI. PROJECT ACTIVITIES

The following provisions shall apply to the Area. In accordance with the Act, the Authority may undertake these activities directly or, to the extent authorized by applicable law, contract with third parties to do so.

A. Land Acquisition

To carry out this Plan, the Authority may exercise any and all of its rights and powers under the Act and any other applicable law, ordinance or regulation. The Authority may acquire any interest in property by any manner available. The Authority may acquire property in the Area for the following reasons: To eliminate or prevent conditions of blight; to carry out one or more objectives of the Plan; to assemble property for redevelopment by private enterprise; for needed public improvements; and for any other lawful purpose authorized by the Plan, the Act or any other applicable law.

Acquisition of property by eminent domain is not authorized unless the City Council approves, by majority vote, the use of eminent domain by the Authority in accordance with the Act and other applicable laws.

B. Relocation

If acquisition of property displaces any individual, family, or business concern, the Authority may assist such party in finding another location, and may, but is not obligated to, make relocation payments to eligible residents and businesses in such amounts and under such terms and conditions as it may determine and as may be required by law.

C. Demolition, Clearance and Site Preparation

The Authority may demolish and clear those buildings, structures, and other improvements from property it acquires if such buildings, structures, and other improvements are not to be rehabilitated in accordance with this Plan. The Authority may provide rough and finished site grading and other site preparation services as part of a comprehensive redevelopment program.

D. Property Management

During such time as any property is acquired by the Authority, for disposition for redevelopment, such property shall be under the management and control of the Authority and may be rented or leased by it pending disposition for redevelopment or rehabilitation. Notwithstanding the foregoing, the Authority may acquire property, develop, construct, maintain, and operate thereon buildings, and facilities devoted to uses and purposes as the Authority deems to be in the public interest.

E. Public Improvements

The Authority will cooperate with the City and other public bodies to install, repair or replace necessary public infrastructure including, but not limited to, public streets, ADA accessible routes, stormwater improvements outside the scope of the City Storm Water Enterprise, park and recreation amenities and multi-use recreational trails in the Area.

F. Land Disposition, Redevelopment and Rehabilitation

The Authority may dispose of property it acquires by means of a reasonable competitive bidding procedure it establishes in accordance with the Act and pursuant to redevelopment agreements between the Authority and such purchasers.

The Authority may also enter into owner participation agreements with property owners in the Area for the development, redevelopment, or rehabilitation of their property. Such agreements will provide for such participation and assistance as the Authority may elect to provide to such owners.

The Authority may develop, construct, maintain, and operate buildings and facilities devoted to uses and purposes as the Authority deems to be in the public interest.

All such redevelopment, owner participation and other agreements shall contain, at a minimum, provisions requiring:

1. Compliance with the Plan and, if adopted by the Authority, the Design Guidelines and Standards and City codes and ordinances.
2. Covenants to begin and complete development, construction, or rehabilitation of both public and private improvements within a period of time deemed to be reasonable by the Authority.
3. The financial commitments of each party (but nothing herein shall obligate the Authority to make any such financial commitment to any party or transaction).

G. Cooperation Agreements

For the purposes of planning and carrying out this Plan in the Area, the Authority may enter into one or more cooperation agreements with the City or other public bodies. Without limitation, such agreements may include project financing and implementation; design, location and construction of public improvements; and any other matters required to carry out this Project. It is recognized that cooperation with the City, other municipalities and other public and private bodies may be required to coordinate such issues as the design, construction, maintenance, operation, and timing of public and private improvements within and outside of the Area to properly and efficiently carry out the goals and objectives of this Plan.

H. Other Project Undertakings and Activities

Other Project undertakings and activities deemed necessary by the Authority to carry out the Plan in the Area may be undertaken and performed by the Authority or pursuant to agreements with other parties or public bodies in accordance with the authorization of the Act and any and all applicable laws.

VII. PROJECT FINANCING

The Authority is authorized to finance activities and undertakings under this Plan by any method authorized by the Act or any other applicable law, including without limitation, appropriations, loans or advances from the City; federal loans and grants; state loans and grants; interest income; pay as you go arrangements; annual appropriation agreements; agreements with public and private parties or entities; sale of securities; loans, advances and grants from any other available source.

Any and all financing methods legally available to the City, the Authority, any private developer, redeveloper or owner may be used to finance in whole or in part any and all costs, including without limitation, the cost of public improvements described or anticipated in the Plan or in any manner related or incidental to the development of the Urban Renewal Area. Such methods may be combined to finance all or any part of activities and undertakings throughout the Urban Renewal Area. Any financing method authorized by the Plan or by any applicable law, including without limitation, the Act, may be used to pay the principal of and interest on and to establish reserves for indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Authority

or the City to finance activities and undertakings authorized by the Act and this Plan in whole or in part.

The Authority is authorized to issue notes, bonds or any other financing instruments or documents in amounts sufficient to finance all or part of the Urban Renewal Plan. The Authority is authorized to borrow funds and to create indebtedness in carrying out this Plan. The principal, interest, and any premiums due on or in connection with such indebtedness may be paid from any funds available to the Authority.

The Project may be financed by the Authority under the tax allocation financing provisions of the Act. Under the tax allocation method of financing the Project, property taxes levied after the effective date of the approval of this Plan upon taxable property in the Urban Renewal Area each year by or for the benefit of each public body that levies property taxes in the Area, shall be divided for a period not to exceed twenty-five (25) years after the effective date of the adoption of this tax allocation provision, as follows:

Base Amount

That portion of the taxes which are produced by the levy at the rate fixed each year by or for such public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of the Plan or, as to an area later added to the Urban Renewal Area, and the effective date of the modification of the Plan shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

Increment Amount

That portion of said property taxes in excess of such base amount shall be allocated to and, when collected, paid into a special fund of the Authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by (whether funded, refunded, assumed or otherwise) the Authority for financing or refinancing, in whole or in part, the Project.

Unless and until the total valuation for assessment of the taxable property in the Urban Renewal Area exceeds the base valuation for assessment of the taxable property in the Urban Renewal Area, all of the taxes levied upon taxable property in the Urban Renewal Area shall be paid into the funds of the respective public bodies.

When such bonds, loans, advances and indebtedness, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds of the respective public bodies.

The increment portion of the taxes, as described in this subparagraph 2, may be irrevocably pledged by the Authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances and indebtedness incurred by the Authority to finance the Project.

VIII. CHANGES IN APPROVED PLAN

This Plan may be modified pursuant to the provisions of the Act governing such modifications, including Section 31-25-107, C.R.S.

IX. MINOR VARIATIONS

The Authority may in specific cases allow minor variations from the provisions of the Plan if it determines that a literal enforcement of the provisions of the Plan would constitute an unreasonable limitation beyond the intent and purpose of the Plan.

EXHIBIT A
LEGAL
DESCRIPTION

This Urban Renewal Area contains approximately 560 acres, and is generally described as follows:

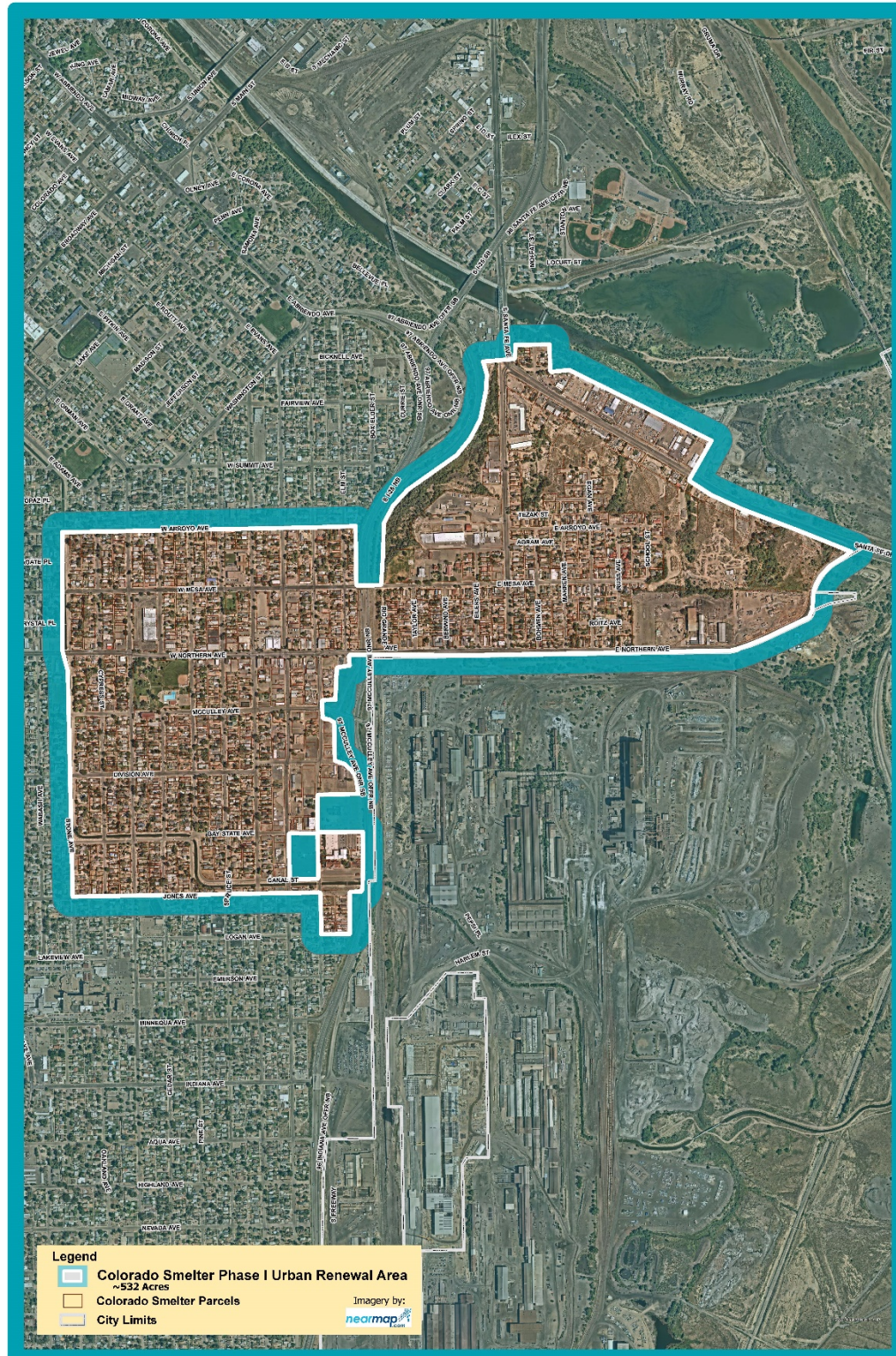
Beginning at the center point of the intersection of Stone Avenue and West Arroyo Avenue; thence easterly along said centerline of West Arroyo to its intersection with Interstate 25; thence easterly across said Interstate 25 right-of-way to the eastern right-of-way line of Interstate 25; thence northeasterly along said eastern right-of-way line of Interstate 25 northeasterly to the southern edge of the Arkansas River Multi-Use Path; thence east-southeasterly along said southern edge of the Arkansas River Multi-Use Path to the eastern right-of-way line of South Santa Fe Avenue; thence south-southeasterly along said eastern right-of-way line of South Santa Fe Avenue to the northern edge of the Lansing Street right-of-way; thence easterly along the northern right-of-way line of Lansing Street to the southern bank of the Arkansas River; thence easterly along said south bank of the Arkansas River to western edge of the Colorado 227 Highway right-of-way line; thence southerly along said Colorado 227 Highway right-of-way line to the centerline of Santa Fe Drive; thence westerly along said centerline of Santa Fe Drive to the intersection Santa Fe Drive and East Northern Avenue; thence west-southwesterly to the western edge of the Interstate 25 right-of-way line; thence south along said western Interstate 25 right-of-way line to the centerline of Logan Avenue; thence west along said centerline of Loagan Avenue to the centerline of East Abriendo Avenue; thence north along said centerline of East Abriendo Avenue to the south right-of way line of Jones Avenue; thence west along said south right-of way line of Jones Avenue to the center point of the intersection of Jones Avenue and East Stone Avenue; thence north from said center point of the intersection of Jones Avenue and East Stone Avenue along the centerline of the East Stone Avenue right-of-way to the center point of the intersection of Stone Avenue and West Arroyo Avenue said point of beginning.

EXCLUDING the following Parcels Numbers:

140600064, 1406000102, 1406300019, 1406000066, 1406000110, 1406000005, 1406000017, 1406000065, 1406000007, 1512126001, and 1512125007.

EXHIBIT B
MAP

COLORADO SMELTER PROPOSED
URBAN RENEWAL AREA





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Brett Boston, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO THE LATINO CHAMBER DEVELOPMENT FOUNDATION IN THE AMOUNT OF \$1,000 TO SPONSOR THE 19TH ANNUAL TOSTADA FUNDRAISER EVENT AT THE SANGRE DE CRISTO ARTS CENTER ON FRIDAY, AUGUST 16, 2024

SUMMARY:

Attached for consideration is a request for support of the Latino Chamber Development Foundation in the amount of \$1,000 to sponsor the 19th Annual Tostada Fundraiser event at the Sangre de Cristo Arts Center on Friday, August 16, 2024.

PREVIOUS COUNCIL ACTION:

Council supported this event for \$2,000 in 2023 for the first time.

BACKGROUND:

City Council Member Brett Boston is requesting \$1,000 to support the 19th Annual Tostada Fundraiser event at the Sangre de Cristo Arts Center on Friday, August 16, 2024. The Latino Chamber Foundation is excited to host the 19th Annual Joe T. Ulibarri Tostada on Friday, August 16, 2024. This light-hearted event honors a local leader that is mildly insulted, amused, embarrassed, and generally highlighted by friends and acquaintances as they recall old stories, jokes, appearances, and miscues over the years.

This year's honoree roastee is a former City Councilman, ballet instructor, and business owner Larry Atencio. Mr. Atencio will be "roasted" by friends, family, and other leaders while the audience gets a good laugh for a good cause. Larry's Nutcrackers AKA the Roasters are: Abel Tapia, Mark Carmel, Sandy Gutierrez, Gus Garcia, and George Autobee. Each Roaster will get a chance to roast Larry and then Larry will get a chance to redeem himself and rebuttal the Roasters.

Cocktail hour will begin at 6 pm which will include complimentary appetizers, a cash bar, and a mariachi performance. The program and dinner will begin at 7:00pm and will last until 9:30 pm. During the intermission of the event, there will also be a special performance from the ballet team at the Sangre de Cristo Arts & Conference Center.

FINANCIAL IMPLICATIONS:

Payment of funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2024 General Fund Budget to the Latino Chamber Development Foundation to sponsor the 19th Annual Tostada Fundraiser event at the Sangre de Cristo Arts Center on Friday, August 16, 2024.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Brett Boston.

ATTACHMENTS:

1. Latino Tostada Graphic (002)
2. 2024 19th Annual Tostada Sponsorship Sheet
3. Latino Chamber Tostada Colorado Secretary of State
4. 2024 Contingencies (Council) Latino Chamber Tostada

RESOLUTION NO. 15734

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO THE LATINO CHAMBER DEVELOPMENT FOUNDATION IN THE AMOUNT OF \$1,000 TO SPONSOR THE 19TH ANNUAL TOSTADA FUNDRAISER EVENT AT THE SANGRE DE CRISTO ARTS CENTER ON FRIDAY, AUGUST 16, 2024

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2024 General Fund Budget is authorized to be paid to the Latino Chamber Development Foundation to sponsor the 19th Annual Tostada Fundraiser event at the Sangre de Cristo Arts Center on Friday, August 16, 2024.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to effectuate the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 26, 2024

BY: Brett Boston
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK



LATINO CHAMBER FOUNDATION

PRESENTS

19TH ANNUAL

Joe T. Ulibarri Tostada

~ honoring ~

FORMER CITY COUNCILMAN LARRY ATENCIO

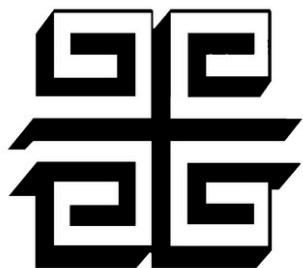
Friday, August 16, 2024 • 6:00 - 9:30 p.m.

Sangre de Cristo Arts & Conference Center

\$50 per person

\$500 per table





Presents the 19th Annual Joe T. Ulibarri Tostada

Latino Chamber Foundation

Mark your calendars for the Joe T. Ulibarri Tostada on Friday, August 16th 2024! This light-hearted event honors a local leader that is mildly insulted, amused, embarrassed, and generally highlighted by friends and acquaintances as they recall old stories, jokes, appearances, and miscues over the years. The local leader will be "roasted" by friends, family, and other leaders while the audience gets a good laugh for a good cause.

Sponsorship Levels

JOKING \$3,000

- (1) Reserved corporate table – 10 seats
- Up to a minute commercial video played during the event (provided by sponsor)
- Full-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Joking Sponsor
- Sponsor banner displayed in the ballroom during the event
- Sponsor's promotional items placed on tables
- Sponsor name/logo featured on Latino Chamber's website and newsletter

TEASING \$2,000

- (1) Reserved corporate table – 10 seats
- Up to a minute commercial video played during the event (provided by sponsor)
- Half-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Teasing Sponsor
- Sponsor's banner displayed in the ballroom during the event

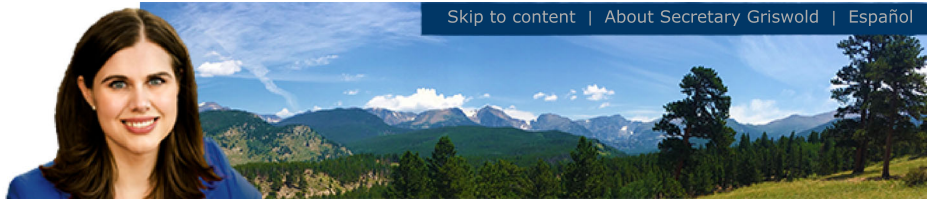
LAUGHING \$1,000

- (1) Reserved corporate table – 10 seats
- Half-page advertisement in the event program (provided by sponsor)
- Sponsor name/logo featured in the presentation & on table tents
- Media recognition on all digital and print advertising as a Laughing Sponsor

CORPORATE TABLES \$500

Program Ads Half Pg \$150 Full Pg \$250

INDIVIDUAL TICKETS \$50



- > UCC Home
- > Instructions
- > FAQs
- > Login
- > Create User Account

Organization Record Confirmation

Review and select "Confirm" if this entity is the correct business organization.

ID Number:	19961087303
Name:	LATINO CHAMBER DEVELOPMENT CORPORATION, INC.
Principal Street Address:	215 S Victoria Ave, Pueblo, CO, 81003, US
Principal Mailing Address:	
Registered Agent:	Latino Chamber Development Corporation
Registered Agent Street Address:	215 S Victoria Ave, Pueblo, CO, 81003, US
Registered Agent Mailing Address:	
Status:	Good Standing
Form:	Nonprofit Corporation
Jurisdiction:	CO
Formation Date:	1996-07-02

Previous Page

Confirm

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DATE	BALANCE IN 2024 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				\$ 100,000.00
Bal. Fwd.	Desiree Tamlich - Mural Levee Project Remaining Balance		\$ 1,500.00		\$ 98,500.00
1/8/24	Mt. Carmel Veterans Services Salute to Heroes Event		\$ 1,000.00		\$ 97,500.00
1/22/24	PFP Sun Soil Water Ag Summit		\$ 2,000.00		\$ 95,500.00
1/22/24	Latino Chamber 45th Anniversary Dinner Table		\$ 1,100.00		\$ 94,400.00
1/22/24	Boys & Girls Club Champions of Youth Dinner VIP Table		\$ 1,800.00		\$ 92,600.00
2/5/24	Desiree Tamlich - Mural Levee Project Remaining Balance		\$ 1,500.00		\$ 91,100.00
2/12/24	Pueblo Friends of the Arkansas Trout on the Routt		\$ 250.00		\$ 90,850.00
2/26/24	Pueblo Child Advocacy Center Blue Sneaker Ball		\$ 1,200.00		\$ 89,650.00
3/11/24	Pueblo Children's Chorale		\$ 3,000.00		\$ 86,650.00
3/11/24	Latino Veterans Profiles in Courage		\$ 1,500.00		\$ 85,150.00
3/11/24	Mariposa Center for Safety - Mother's Day		\$ 1,000.00		\$ 84,150.00
3/11/24	Hip Hop Festival - Mad Fresh Productions		\$ 2,000.00		\$ 82,150.00
3/11/24	Super Team PCSO - St. Baldricks Head Shaving Event		\$ 1,000.00		\$ 81,150.00
3/11/24	Pueblo Has Talent Event		\$ 3,800.00		\$ 77,350.00
3/25/24	Southern Colorado Press Club Sheep Dip		\$ 1,000.00		\$ 76,350.00
3/25/24	Juneteenth Organization		\$ 1,000.00		\$ 75,350.00
3/25/24	El Movimiento Sigue fiscal sponsor for Cinco de Mayo		\$ 2,000.00		\$ 73,350.00
3/25/24	Boys & Girls Club the PLACE Community Block Party		\$ 1,000.00		\$ 72,350.00
3/25/24	The ARC of Pueblo Golden Tortilla		\$ 400.00		\$ 71,950.00
4/8/24	Southern Colorado Equality Alliance Spring Fling		\$ 280.00		\$ 71,670.00
4/22/24	C Cubed Training - Girls in IT Day		\$ 700.00		\$ 70,970.00
4/22/24	Downtown Association Levee Walk		\$ 1,000.00		\$ 69,970.00
5/13/24	AMR Safety Jam		\$ 2,000.00		\$ 67,970.00
5/13/24	Boy Scout Troop 19		\$ 1,000.00		\$ 66,970.00
5/28/24	Sangre de Cristo Arts Center Gala		\$ 1,500.00		\$ 65,470.00
5/28/24	Pueblo Zoo - Zoofari		\$ 1,500.00		\$ 63,970.00
5/28/24	CSU Pueblo President's Gala		\$ 200.00		\$ 63,770.00
6/10/24	District 60 Summer Musical		\$ 1,000.00		\$ 62,770.00
6/24/24	Pueblo Spay and Neuter Now		\$ 1,125.00		\$ 61,645.00
6/24/24	Colorado State Fair Fiesta Committee Noche de Fiesta		\$ 500.00		\$ 61,145.00
6/24/24	RMSER: Youth Kickback Events		\$ 1,000.00		\$ 60,145.00
6/24/24	PDI Dancing with the Pueblo Starz		\$ 1,250.00		\$ 58,895.00
7/8/24	American Cancer Society Relay for Life		\$ 1,500.00		\$ 57,395.00
7/8/24	Assistance League - Operation School Bell		\$ 2,000.00		\$ 55,395.00
7/8/24	A Caring Pregnancy Center Annual Fundraiser		\$ 1,500.00		\$ 53,895.00
7/8/24	Mad Fresh Productions - Multicultural Festival		\$ -		\$ 53,895.00
7/22/24	Genealogical Society of Hispanic America		\$ 2,000.00		\$ 51,895.00
7/22/24	Elks Brotherhood #90		\$ 2,000.00		\$ 49,895.00
8/12/24	Pueblo Chile Balloon Fest		\$ 2,500.00		\$ 47,395.00
8/12/24	Servicios de la Raza Children's Day		\$ 2,000.00		\$ 45,395.00
8/26/24	Southern Colorado Fashion and Fall Showcase		\$ 1,000.00		\$ 44,395.00
8/26/24	Mariposa Center for Safety - Tribute to Women		\$ 1,000.00		\$ 43,395.00
8/26/24	Spark the Change Suicide Memory Walk		\$ 1,500.00		\$ 41,895.00
8/26/24	Latino Chamber Tostada Event		\$ 1,000.00		\$ 40,895.00
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					\$ 40,895.00



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Sarah Martinez, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MAD FRESH PRODUCTIONS IN THE AMOUNT OF \$1,000 AS THE FISCAL SPONSOR OF SOUTHERN COLORADO FASHION AND THE FALL SHOWCASE ON SATURDAY, SEPTEMBER 7, 2024, AT 5 PM AT THE PUEBLO MALL

SUMMARY:

Attached for consideration is a request for support of Southern Colorado Fashion and the Fall Showcase on Saturday, September 7, 2024, at 5 pm at the Pueblo Mall.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Sarah Martinez is requesting \$1,000 to support Southern Colorado Fashion and the Fall Showcase on Saturday, September 7, 2024, at 5 pm at the Pueblo Mall. Southern Colorado Fashion holds quarterly showcases and this sponsorship will support the Fall and Spring events. The gold sponsorship level also supports youth development workshops and other community missions.

FINANCIAL IMPLICATIONS:

Payment of funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2024 General Fund Budget to Mad Fresh Productions as fiscal sponsor of Southern Colorado Fashion and the Fall Showcase on Saturday, September 7, 2024, at 5 pm at the Pueblo Mall.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

ATTACHMENTS:

1. So Co Fashion 2024
2. So Co Fashion 2024 2
3. So Co Fashion 2024 3
4. Colorado Secretary of State - Organization Record Confirmation Mad Fresh Prods
081424
5. 2024 Contingencies (Council) Southern Colorado Fashion

RESOLUTION NO. 15735

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MAD FRESH PRODUCTIONS IN THE AMOUNT OF \$1,000 AS THE FISCAL SPONSOR OF SOUTHERN COLORADO FASHION AND THE FALL SHOWCASE ON SATURDAY, SEPTEMBER 7, 2024, AT 5 PM AT THE PUEBLO MALL

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2024 General Fund Budget is authorized to be paid to Mad Fresh Productions to sponsor Southern Colorado Fashion and the Fall Showcase on Saturday, September 7, 2024, at 5 pm at the Pueblo Mall.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to effectuate the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 26, 2024

BY: Roger Gomez
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

EXPERIENCE THE ELEMENTS



**SOUTHERN
COLORADO
FASHION**

**FALL
SHOWCASE
2024**

**PUEBLO
MALL**

**3429 DILLION DR.
PUEBLO CO
SEPTEMBER 7TH**

5:00-7:00 PM



WWW.SOUTHERNCOLORADOFASHION.COM

GOLD SPONSOR

US\$1,000.00

[+ SEE DETAILS](#)

ADD TO CART



Shine Together

PARTNER WITH SCF AND OUR COLLECTIVE
NOURISHING INTEGRITY, VALUE AND
CREATIVITY THAT ALCHAMIZES SUCCESS.

OUR SPONSORSHIP PACKAGES PROVIDE
IMPACTFUL COMMUNITY SUPPORT TO A
DESIGNATED TO OUR YOUTH DEVELOPMENT
WORKSHOPS AND/OR COMMUNITY MISSIONS
AND SHOWCASES.

INTERESTED IN:
BECOME SCF SPONSOR
PROMOTE YOUR BRAND IN SCF GIFT BAG



city of

PUEBLO

colorado

CITY OF PUEBLO SPONSORSHIP REQUEST

Date of Request: 8/1/24

Name: Saharara Arrozola-Tiscareno

Business/Non-Profit Name: Southern Colorado Fashion

Phone: 720.653.2600 E-Mail: info@southerncoloradofashion.com

Name of Event/Program: SCF Fall Showcase /
Quartley Fashion Shows

Date of Event/Program: 9/7/24 Amount requested: \$1,000
winter/spring 2025
Fall

*****Supporting documents must be attached to this request*****

Make check payable to:

Business/Non-Profit Name: Mad Fresh Productions

Address: 1425 E 19th Street
81001

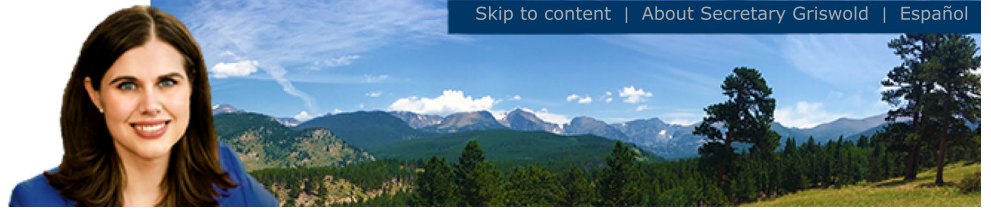
Phone: 719 491 3493

Please note: If the payee listed above is not an established vendor with the City of Pueblo, the application must be completed before payment can be processed. If payee is an active vendor with the City of Pueblo we will confirm the information listed above. If the information does not match our records, it must be updated before payment can be processed.

OFFICE USE ONLY:

Amount approved: _____ Supporting Councilmember: _____

Agenda date: _____ Vendor Confirmation Date: _____

[> UCC Home](#)[> Instructions](#)[> FAQs](#)[> Login](#)[> Create User Account](#)

Organization Record Confirmation

Review and select "Confirm" if this entity is the correct business organization.

ID Number:	20231412346
Name:	Mad Fresh Productions
Principal Street Address:	1425 E 19th St, Pueblo, CO, Pueblo, 81001, United States
Principal Mailing Address:	1425 E 19th St, Pueblo, CO, Colorado, 81001, United States
Registered Agent:	Javier Quinones
Registered Agent Street Address:	1425 E 19th St, Pueblo, CO, 81001, United States
Registered Agent Mailing Address:	1425 E 19th St, Pueblo, CO, 81001, United States
Status:	Good Standing
Form:	Nonprofit Corporation
Jurisdiction:	CO
Formation Date:	2023-04-17

[Previous Page](#)[Confirm](#)

DATE	BALANCE IN 2024 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				\$ 100,000.00
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3/11/24	Mariposa Center for Safety - Mother's Day		\$ 1,000.00		\$ 84,150.00
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6/24/24	Pueblo Spay and Neuter Now		\$ 1,125.00		\$ 61,645.00
6/24/24	Colorado State Fair Fiesta Committee Noche de Fiesta		\$ 500.00		\$ 61,145.00
6/24/24	RMSER: Youth Kickback Events		\$ 1,000.00		\$ 60,145.00
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7/8/24	A Caring Pregnancy Center Annual Fundraiser		\$ 1,500.00		\$ 53,895.00
7/8/24	Mad Fresh Productions - Multicultural Festival		\$ -		\$ 53,895.00
7/22/24	Genealogical Society of Hispanic America		\$ 2,000.00		\$ 51,895.00
7/22/24	Elks Brotherhood #90		\$ 2,000.00		\$ 49,895.00
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8/26/24	Southern Colorado Fashion and Fall Showcase		\$ 1,000.00		\$ 44,395.00
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**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Sarah Martinez, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MARIPOSA CENTER FOR SAFETY IN THE AMOUNT OF \$1,000 TO SPONSOR THE 23RD ANNUAL TRIBUTE TO WOMEN AWARDS CEREMONY ON SATURDAY, OCTOBER 5, 2024, AT 6 PM AT THE RAWLINGS LIBRARY

SUMMARY:

Attached for consideration is a request for support of Mariposa Center for Safety in the amount of \$1,000 to sponsor the 23rd Annual Tribute to Women Awards Ceremony on Saturday, October 5, 2024, at 6 pm at the Rawlings Library.

PREVIOUS COUNCIL ACTION:

Council supported this event for \$500 in 2020, 2019, and 2018.

BACKGROUND:

City Council Member Sarah Martinez is requesting \$1,000 to support Mariposa Center for Safety with a table at the 23rd Annual Tribute to Women Awards Ceremony on Saturday, October 5, 2024 at 6 pm at the Rawlings Library.

Mariposa Center for Safety's mission is to increase self-sufficiency and self-worth by empowering survivors of domestic violence, human trafficking, sexual assault, and family abuse through education, prevention, client advocacy, and emergency services including sheltering.

In 2024, Mariposa Center for Safety (formerly the YWCA of Pueblo) provided services to 322 adults, 74 children, we provided 12,683 meals, 5,247 shelter nights and answered 245 crisis calls on our 24-7 domestic violence crisis line. Your sponsorship will directly support operational and program costs, which benefit the entire city of Pueblo and Pueblo County.

FINANCIAL IMPLICATIONS:

Payment of funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2024 General Fund Budget to Mariposa Center for Safety to sponsor the 23rd Annual Tribute to Women Awards Ceremony on Saturday, October 5, 2024, at 6 pm at the Rawlings Library.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

ATTACHMENTS:

1. Tribute to Women Mariposal Sponsor Request
2. Colorado Secretary of State - Organization Record Confirmation - Mariposa Center for Safety 081424
3. 2024 Contingencies (Council) Mariposa Tribute to Women

RESOLUTION NO. 15736

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO MARIPOSA CENTER FOR SAFETY IN THE AMOUNT OF \$1,000 TO SPONSOR THE 23RD ANNUAL TRIBUTE TO WOMEN AWARDS CEREMONY ON SATURDAY, OCTOBER 5, 2024, AT 6 PM AT THE RAWLINGS LIBRARY

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2024 General Fund Budget is authorized to be paid to Mariposa Center for Safety to sponsor the 23rd Annual Tribute to Women Awards Ceremony on Saturday, October 5, 2024 at 6 pm at the Rawlings Library.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to effectuate the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 26, 2024

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

23rd ANNUAL

Tribute to Women Gala

Greetings!

This year marks the 23rd Mariposa Center for Safety's Annual Tribute to Women Awards Ceremony, a highly revered event honoring women in our Pueblo community. We invite you to take part in this exciting opportunity and experience firsthand the pride we take in supporting our cause. Mariposa Center for Safety's mission is to increase self-sufficiency and self-worth by empowering survivors of domestic violence, human trafficking, sexual assault, and family abuse through education, prevention, client advocacy, and emergency services including sheltering.

In 2024, Mariposa Center for Safety (formerly the YWCA of Pueblo) provided services to 322 adults, 74 children, we provided 12,683 meals, 5,247 shelter nights and answered 245 crisis calls on our 24-7 domestic violence crisis line. Your sponsorship will directly support operational and program costs, which benefit the entire city of Pueblo and Pueblo County. Without the assistance of community-minded individuals such as yourself, we would not be able to meet the needs of the domestic violence survivors. Each level of sponsorship will make a tremendous impact on the following programs:

Domestic Violence Services – including 24/7 secure and confidential shelter services

Teresa's Place – supervised visitations and safe exchange services to families

Runaway and Homeless Youth (RHY) – supports homeless youth in providing shelter and case management

Healthy Relationships – a youth violence-prevention initiative that delivers curriculum to local middle and high schools

Nominations are being accepted for the following categories: *Young Leader, Professional Achievement, Community Service* and *Triumph Over Adversity*. Please take this time to look into your own organization or network to nominate a woman who is deserving of such recognition. For more information on how to purchase a ticket, sponsor a table, or nominate an amazing woman in our community, please visit our website at www.mariposacs.org or scan the QR code below.

Our Red Carpet evening includes opportunities for agency recognition, meals, swag bags, wine, and drink tickets. Dinner, awards presentation, sponsors recognition, and closing remarks will occur from 6-9pm. The cost to attend is **\$100 per person or \$1000 to sponsor a table, \$2500 to sponsor a table and get additional recognition and swag items, or \$5000 for recognition, swag, meals, and a speaking opportunity.**

This event will be held on **Friday, October 5th, 2024, 6-9pm** at **Rawlings Library at 100 E. Abriendo Ave, 4th Floor.**

Join us in your best Red Carpet attire, and we will see you there!

Kindest regards,



S. Nicole Ferguson, PhD
Executive Director



For more information on this event and how to nominate an amazing woman, scan here:





SPONSORSHIP OPPORTUNITY

PREMIER \$5,000

- Speaking opportunity at event
- Logo recognition in event program
- Website & social media recognition
- 8 seats at event (meal included)
- 8 swag bags
- 2 bottles of wine
- 8 drink tickets

TRIBUTE \$2,500

- Logo recognition in event program
- Website & social media recognition
- 8 seats at event (meal included)
- 8 swag bags
- 1 bottle of wine
- 8 drink tickets

HONOR \$1,000

- Logo recognition in event program
- Website & social media recognition
- 8 seats at event (meal included)
- 8 swag bags
- 8 drink tickets

Individual..... \$100

- 1 seat at event (meal included)
- 1 drink ticket

Name: _____

Nominations forms are available at:
www.mariposacs.org

Company: _____

For more information, please contact (719) 542-6904
or e-mail us at: hello@mariposacs.org

Contact: _____ Address: _____

City: _____ Zip: _____ Phone: _____ Fax: _____

Email Address: _____

Mail: 801 N. Santa Fe Ave., Pueblo, CO 81003, email: hello@mariposacs.org or fax (719) 595-1796 your completed form to Mariposa Center for Safety.

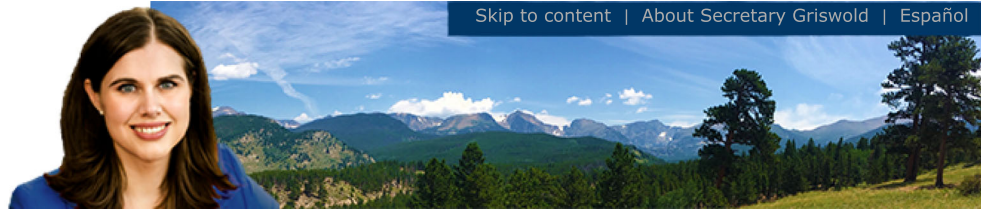
Name as you wish for it to appear in event promotion:

- ☐ Premier - \$5,000 _____
- ☐ Tribute - \$2,500 _____
- ☐ Honor - \$1,000 _____
- ☐ Individual - \$100 _____

If you have selected a sponsorship level that will require a logo and/or an ad, please send (jpg format) to: hello@mariposacs.org by **September 20th, 2024.**

- ☐ Invoice me ☐ Payment enclosed ☐ Contact me to charge my credit card





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Organization Record Confirmation

Review and select "Confirm" if this entity is the correct business organization.

ID Number:	19871062795
Name:	Mariposa Center for Safety
Principal Street Address:	801 N Santa Fe Ave, Pueblo, CO, 81003, US
Principal Mailing Address:	
Registered Agent:	Mariposa Center for Safety
Registered Agent Street Address:	801 N Santa Fe Ave, Pueblo, CO, 81003, US
Registered Agent Mailing Address:	
Status:	Good Standing
Form:	Nonprofit Corporation
Jurisdiction:	CO
Formation Date:	1916-05-25

[Previous Page](#)

[Confirm](#)

DATE	BALANCE IN 2024 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				\$ 100,000.00
Bal. Fwd.	Desiree Tamlich - Mural Levee Project Remaining Balance		\$ 1,500.00		\$ 98,500.00
1/8/24	Mt. Carmel Veterans Services Salute to Heroes Event		\$ 1,000.00		\$ 97,500.00
1/22/24	PFP Sun Soil Water Ag Summit		\$ 2,000.00		\$ 95,500.00
1/22/24	Latino Chamber 45th Anniversary Dinner Table		\$ 1,100.00		\$ 94,400.00
1/22/24	Boys & Girls Club Champions of Youth Dinner VIP Table		\$ 1,800.00		\$ 92,600.00
2/5/24	Desiree Tamlich - Mural Levee Project Remaining Balance		\$ 1,500.00		\$ 91,100.00
2/12/24	Pueblo Friends of the Arkansas Trout on the Routt		\$ 250.00		\$ 90,850.00
2/26/24	Pueblo Child Advocacy Center Blue Sneaker Ball		\$ 1,200.00		\$ 89,650.00
3/11/24	Pueblo Children's Chorale		\$ 3,000.00		\$ 86,650.00
3/11/24	Latino Veterans Profiles in Courage		\$ 1,500.00		\$ 85,150.00
3/11/24	Mariposa Center for Safety - Mother's Day		\$ 1,000.00		\$ 84,150.00
3/11/24	Hip Hop Festival - Mad Fresh Productions		\$ 2,000.00		\$ 82,150.00
3/11/24	Super Team PCSO - St. Baldricks Head Shaving Event		\$ 1,000.00		\$ 81,150.00
3/11/24	Pueblo Has Talent Event		\$ 3,800.00		\$ 77,350.00
3/25/24	Southern Colorado Press Club Sheep Dip		\$ 1,000.00		\$ 76,350.00
3/25/24	Juneteenth Organization		\$ 1,000.00		\$ 75,350.00
3/25/24	El Movimiento Sigue fiscal sponsor for Cinco de Mayo		\$ 2,000.00		\$ 73,350.00
3/25/24	Boys & Girls Club the PLACE Community Block Party		\$ 1,000.00		\$ 72,350.00
3/25/24	The ARC of Pueblo Golden Tortilla		\$ 400.00		\$ 71,950.00
4/8/24	Southern Colorado Equality Alliance Spring Fling		\$ 280.00		\$ 71,670.00
4/22/24	C Cubed Training - Girls in IT Day		\$ 700.00		\$ 70,970.00
4/22/24	Downtown Association Levee Walk		\$ 1,000.00		\$ 69,970.00
5/13/24	AMR Safety Jam		\$ 2,000.00		\$ 67,970.00
5/13/24	Boy Scout Troop 19		\$ 1,000.00		\$ 66,970.00
5/28/24	Sangre de Cristo Arts Center Gala		\$ 1,500.00		\$ 65,470.00
5/28/24	Pueblo Zoo - Zoofari		\$ 1,500.00		\$ 63,970.00
5/28/24	CSU Pueblo President's Gala		\$ 200.00		\$ 63,770.00
6/10/24	District 60 Summer Musical		\$ 1,000.00		\$ 62,770.00
6/24/24	Pueblo Spay and Neuter Now		\$ 1,125.00		\$ 61,645.00
6/24/24	Colorado State Fair Fiesta Committee Noche de Fiesta		\$ 500.00		\$ 61,145.00
6/24/24	RMSER: Youth Kickback Events		\$ 1,000.00		\$ 60,145.00
6/24/24	PDI Dancing with the Pueblo Starz		\$ 1,250.00		\$ 58,895.00
7/8/24	American Cancer Society Relay for Life		\$ 1,500.00		\$ 57,395.00
7/8/24	Assistance League - Operation School Bell		\$ 2,000.00		\$ 55,395.00
7/8/24	A Caring Pregnancy Center Annual Fundraiser		\$ 1,500.00		\$ 53,895.00
7/8/24	Mad Fresh Productions - Multicultural Festival		\$ -		\$ 53,895.00
7/22/24	Genealogical Society of Hispanic America		\$ 2,000.00		\$ 51,895.00
7/22/24	Elks Brotherhood #90		\$ 2,000.00		\$ 49,895.00
8/12/24	Pueblo Chile Balloon Fest		\$ 2,500.00		\$ 47,395.00
8/12/24	Servicios de la Raza Children's Day		\$ 2,000.00		\$ 45,395.00
8/26/24	Southern Colorado Fashion and Fall Showcase		\$ 1,000.00		\$ 44,395.00
8/26/24	Mariposa Center for Safety - Tribute to Women		\$ 1,000.00		\$ 43,395.00
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					\$ 43,395.00



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Regina Maestri, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO METRO VOLUNTEERS DBA SPARK THE CHANGE COLORADO IN THE AMOUNT OF \$1,500 TO SPONSOR THE ANNUAL SUICIDE MEMORY WALK ON SEPTEMBER 7, 2024, FROM 9 AM TO 12 PM AT LAKE MINNEQUA VETERAN'S MEMORIAL PARK

SUMMARY:

Attached for consideration is a request for support of Metro Volunteers DBA Spark the Change Colorado in the amount of \$1,500 to sponsor the annual Suicide Memory Walk on September 7, 2024, from 9 am to 12 pm at Lake Minnequa Veteran's Memorial Park.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Regina Maestri is requesting \$1,500 to support Metro Volunteers DBA Spark the Change Colorado to sponsor the annual Suicide Memory Walk on September 7, 2024, from 9 am to 12 pm at Lake Minnequa Veteran's Memorial Park. The Mental Wellness Task Force of Southern Colorado is planning the annual Suicide Memory Walk, an event aimed at raising awareness about suicide prevention, honoring the memories of those we have lost, and providing support to families and individuals affected by suicide.

This event will serve as a powerful platform to promote mental health awareness and connect community members with vital resources. We are also planning a butterfly release. Sponsorship supports the costs associated with organizing this important event. The funds will be used for essential aspects such as event logistics, promotional materials, and providing support services on the day of the walk.

FINANCIAL IMPLICATIONS:

Payment of funds in the amount of \$1,500 would be paid from the Council Contingencies Account in the 2024 General Fund Budget to Metro Volunteers DBA Spark the Change Colorado to sponsor the annual Suicide Memory Walk on September 7, 2024, from 9 am to 12 pm at Lake Minnetonka Veteran's Memorial Park.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Regina Maestri.

ATTACHMENTS:

1. 2024 Suicide Memory Walk Flyer
2. Suicide Memory Walk Request Email
3. Colorado Secretary of State - Organization Record Confirmation - Metro Volunteers
4. 2024 Contingencies (Council) Spark the Change Memory Walk

RESOLUTION NO. 15737

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2024 GENERAL FUND BUDGET TO METRO VOLUNTEERS DBA SPARK THE CHANGE COLORADO IN THE AMOUNT OF \$1,500 TO SPONSOR THE ANNUAL SUICIDE MEMORY WALK ON SEPTEMBER 7, 2024, FROM 9 AM TO 12 PM AT LAKE MINNEQUA VETERAN'S MEMORIAL PARK

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,500 from the Council Contingencies Account in the 2024 General Fund Budget is authorized to be paid to Metro Volunteers DBA Spark the Change Colorado in the amount of \$1,500 to sponsor the annual Suicide Memory Walk on September 7, 2024, from 9 am to 12 pm at Lake Minnequa Veteran's Memorial Park.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to effectuate the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: August 26, 2024

BY: Brett Boston
MEMBER OF CITY COUNCIL

APPROVED: Mark Aliff
PRESIDENT OF CITY COUNCIL

ATTESTED BY: Vince Petkosek
DEPUTY CITY CLERK

Suicide MEMORY Walk

SEPTEMBER 7, 2024

9:00 AM-12:00 PM

EVENT CHECK-IN 9:00-9:30 AM

REGISTER FREE



SCAN HERE

LAKE MINNEQUA VETERAN'S MEMORIAL PARK
3005 LAKESHORE AVE PUEBLO, CO 81004
MEET US AT THE BASKETBALL PAVILION!

GET SPONSORED



SCAN HERE

COLLECT FUNDS
FOR MENTAL
WELLNESS AND
SUICIDE
PREVENTION
EDUCATION AND
AWARENESS



From: [Dena Rodriguez-Leach](#)
To: [Alyssa Parga](#)
Subject: [External] Suicide Memory Walk
Date: Tuesday, August 6, 2024 1:58:22 PM
Attachments: [Outlook-ietbn5n2.png](#)
[Outlook-eumotx1u.png](#)

External email. Please use caution.

Good afternoon Alyssa, Mayor Graham, and Esteemed Members of the City Council,

I hope this email finds you well. I am writing on behalf of the Mental Wellness Task Force of Southern Colorado, operating under the umbrella of Spark the Change Colorado, a 501(c)(3) nonprofit organization.

The Mental Wellness Task Force of Southern Colorado is planning the annual Suicide Memory Walk, an event aimed at raising awareness about suicide prevention, honoring the memories of those we have lost, and providing support to families and individuals affected by suicide. The event will be held on September 7, 2024, from 9:00 am to 12:00pm at Lake Minnequa Veteran's Memorial Park. This event will serve as a powerful platform to promote mental health awareness and connect community members with vital resources. We are also planning a butterfly release.

We are respectfully requesting a sponsorship of \$2,000 from the City Council to support the costs associated with organizing this important event. The funds will be used for essential aspects such as event logistics, promotional materials, and providing support services on the day of the walk.

In addition, we kindly request that this sponsorship proposal be included on the agenda for the upcoming City Council meeting in August.

We believe that with the support of the City Council, we can significantly impact our community by providing hope, support, and resources to those in need.

T

Hugs,

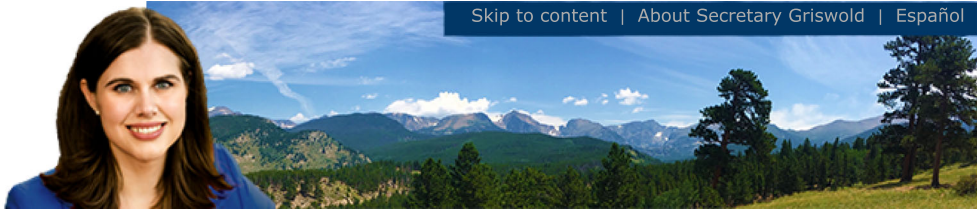
Dena Rodriguez-Leach, MSW, MPPA, LCSW Candidate
Interim Director of the Mental Wellness Program



Direct Line: 720-262-3066

3399 Holly Street

Denver, CO 80207



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Organization Record Confirmation

Review and select "Confirm" if this entity is the correct business organization.

ID Number:	19871363824
Name:	METRO VOLUNTEERS
Principal Street Address:	3399 Holly St, Denver, CO, 80207, US
Principal Mailing Address:	
Registered Agent:	Patrice Hawkins
Registered Agent Street Address:	3399 Holly St, Denver, CO, 80207, US
Registered Agent Mailing Address:	
Status:	Good Standing
Form:	Nonprofit Corporation
Jurisdiction:	CO
Formation Date:	1979-02-02

[Previous Page](#)

[Confirm](#)

DATE	BALANCE IN 2024 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				\$ 100,000.00
Bal. Fwd.	Desiree Tamlich - Mural Levee Project Remaining Balance		\$ 1,500.00		\$ 98,500.00
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1/22/24	Boys & Girls Club Champions of Youth Dinner VIP Table		\$ 1,800.00		\$ 92,600.00
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2/12/24	Pueblo Friends of the Arkansas Trout on the Routt		\$ 250.00		\$ 90,850.00
2/26/24	Pueblo Child Advocacy Center Blue Sneaker Ball		\$ 1,200.00		\$ 89,650.00
3/11/24	Pueblo Children's Chorale		\$ 3,000.00		\$ 86,650.00
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3/11/24	Mariposa Center for Safety - Mother's Day		\$ 1,000.00		\$ 84,150.00
3/11/24	Hip Hop Festival - Mad Fresh Productions		\$ 2,000.00		\$ 82,150.00
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3/25/24	Southern Colorado Press Club Sheep Dip		\$ 1,000.00		\$ 76,350.00
3/25/24	Juneteenth Organization		\$ 1,000.00		\$ 75,350.00
3/25/24	El Movimiento Sigue fiscal sponsor for Cinco de Mayo		\$ 2,000.00		\$ 73,350.00
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3/25/24	The ARC of Pueblo Golden Tortilla		\$ 400.00		\$ 71,950.00
4/8/24	Southern Colorado Equality Alliance Spring Fling		\$ 280.00		\$ 71,670.00
4/22/24	C Cubed Training - Girls in IT Day		\$ 700.00		\$ 70,970.00
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5/13/24	AMR Safety Jam		\$ 2,000.00		\$ 67,970.00
5/13/24	Boy Scout Troop 19		\$ 1,000.00		\$ 66,970.00
5/28/24	Sangre de Cristo Arts Center Gala		\$ 1,500.00		\$ 65,470.00
5/28/24	Pueblo Zoo - Zoofari		\$ 1,500.00		\$ 63,970.00
5/28/24	CSU Pueblo President's Gala		\$ 200.00		\$ 63,770.00
6/10/24	District 60 Summer Musical		\$ 1,000.00		\$ 62,770.00
6/24/24	Pueblo Spay and Neuter Now		\$ 1,125.00		\$ 61,645.00
6/24/24	Colorado State Fair Fiesta Committee Noche de Fiesta		\$ 500.00		\$ 61,145.00
6/24/24	RMSER: Youth Kickback Events		\$ 1,000.00		\$ 60,145.00
6/24/24	PDI Dancing with the Pueblo Starz		\$ 1,250.00		\$ 58,895.00
7/8/24	American Cancer Society Relay for Life		\$ 1,500.00		\$ 57,395.00
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7/8/24	A Caring Pregnancy Center Annual Fundraiser		\$ 1,500.00		\$ 53,895.00
7/8/24	Mad Fresh Productions - Multicultural Festival		\$ -		\$ 53,895.00
7/22/24	Genealogical Society of Hispanic America		\$ 2,000.00		\$ 51,895.00
7/22/24	Elks Brotherhood #90		\$ 2,000.00		\$ 49,895.00
8/12/24	Pueblo Chile Balloon Fest		\$ 2,500.00		\$ 47,395.00
8/12/24	Servicios de la Raza Children's Day		\$ 2,000.00		\$ 45,395.00
8/26/24	Southern Colorado Fashion and Fall Showcase		\$ 1,000.00		\$ 44,395.00
8/26/24	Mariposa Center for Safety - Tribute to Women		\$ 1,000.00		\$ 43,395.00
8/26/24	Spark the Change Suicide Memory Walk		\$ 1,500.00		\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00
					\$ 41,895.00



**Background Paper for Proposed
Action Item**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE RATIFYING THE APPROVAL AND ADOPTING THE CITY OF PUEBLO'S 2024-2025 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE.

SUMMARY:

This Ordinance approves the 2024-2025 Action Plan as presented. The Action Plan contains the funding recommendations made by the Citizens' Advisory Committee (CAC) and Staff.

PREVIOUS COUNCIL ACTION:

The City Council has not taken any previous action on this matter.

BACKGROUND:

As an entitlement city, the City of Pueblo is required by the U.S. Department of Housing and Urban Development (HUD) to complete an Annual Action Plan for each of the years of the Consolidated Plan. This Action Plan and the accompanying documentation serve as the City's application to HUD for the 2024-2025 Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grant (HOME). This is the last Action Plan under the 2020-2024 Five-Year Consolidated Plan.

A public meeting was held to receive citizen input and to hear applicant presentations on July 18, 2023. HUD CPD Notice 24-01 requested the annual action plan not be

submitted prior to the publication of the grantees FY24 allocation on May 6, 2024. The notice of the availability of the 2024 Annual Action Plan was published on June 23, 2024 and made available to the public for review on June 24, 2024, formally opening the public comment period for thirty-days. Public meetings were held on June 27, 2024 and July 11, 2024. Copies were available at the City Clerk's Office, the Rawlings Library, the Division of Housing and Citizen Services (Department), and the City's website.

FINANCIAL IMPLICATIONS:

The City anticipates receiving \$1,453,413.00 in CDBG funding and \$ 880,344.00 in HOME Consortium grant funding. The HOME Consortium grant is shared with Pueblo County on an 87%/13% City/County basis. The HOME grant requires a 25% match. The City's portion this year is \$176,620.00.

BOARD/COMMISSION RECOMMENDATION:

The Citizens Advisory Committee (CAC) has recommended that the City Council approve the activities outlined in the 2024-2025 Action Plan and presented its recommendations to Council during Work Session on September 11, 2023.

STAKEHOLDER PROCESS:

The following stakeholder processes were undertaken by the Department. Starting May 1, 2023 through May 31, 2023, applications for grant funding were made available to the community. Public hearings were held before the CAC on July 18, 2023. The public hearings were open for public comments, and for funding applicants to present their requests to the CAC. The CAC deliberations were held on August 9, 2023. This was an open meeting, but opportunity for public comment is not provided. The 30-day comment period began June 24, 2024, with the publication of a public notice in The Pueblo Chieftain on June 23, 2024.

ALTERNATIVES:

The City Council can choose to not apply for the CDBG and HOME grants, in which case a number of community services and community projects will need to find alternative funding.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2024 AAP V1
2. 2024 Final Attachement A
3. 2024 SF-424 CDBG
4. SF424D-CDBG
5. 2024 SF-424 HOME
6. SF424D-HOME

ORDINANCE NO.

AN ORDINANCE RATIFYING THE APPROVAL AND ADOPTING THE CITY OF PUEBLO'S 2024-2025 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE.

WHEREAS, the City of Pueblo is designated as an entitlement city under the Housing and Community Development Act of 1974, and will receive Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grants (HOME) for fiscal year 2024; and

WHEREAS, the City of Pueblo conducted a citizen participation process that included two public hearings within the City of Pueblo in addition to a third public hearing before City Council to obtain the views of citizens, non-profit and neighborhood groups on the City's housing and community needs; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Council hereby finds and determines that the City of Pueblo's 2024-2025 Action Plan listing projects and programs for funding from CDBG and HOME federal funds has been developed to give maximum feasible priority to activities which will benefit low- to moderate-income families and/or aid in the prevention or elimination of slum and blight, as required by HUD, and is hereby approved, adopted, and incorporated herein.

SECTION 2.

The Mayor is hereby authorized to submit, in the name of the City of Pueblo, the applications (SF-424/SF-424D) and the 2024-2025 Action Plan, together with all required and necessary certifications, assurances, and documentation to the U.S. Department of Housing and Urban Development for \$1,453,413.00 in 2024 CDBG funds and \$880,344.00 in 2024 HOME funds.

SECTION 3.

CDBG funds in the amount of \$1,453,413.00 and HOME funds in the amount of \$880,344.00, the 2024 allocation, are hereby budgeted and appropriated for the projects and in the amounts set forth in the 2024-2025 Action Plan. A list of the recommended projects is herein included as Attachment A.

SECTION 4.

The HOME Program requires local matching funds. The City's portion of matching funds for the 2024-2025 year is \$176,620.00. During the 2024 budget process, \$200,000.00 was budgeted and appropriated for the HOME match.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 6.

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



2024 ANNUAL ACTION PLAN

City of Pueblo and the Pueblo Consortium

DRAFT FOR PUBLIC DISPLAY

June 24, 2024 through July 26, 2024

Annual Action Plan
2024

1

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

The City of Pueblo is part of the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program. The City and Pueblo County work together as a Consortium within the HOME Investment Partnerships Program.

As an entitlement community under the CDBG Program, the City of Pueblo must prepare an Annual Plan to implement federal programs that fund housing, community development, and economic development. This Plan covers FY 2024 (March 1, 2024, through February 28, 2025). Following a 30-day comment period, the city will submit the Plan for approval by the U.S. Department of Housing and Urban Development.

The Annual Action Plan aims to guide federal funding decisions in Pueblo. The Plan is centered around three main goals:

1. Provide decent housing by preserving affordable housing, increasing its availability, reducing discriminatory barriers, and aiding homeless individuals and families.
2. Develop a suitable living environment by improving neighborhoods, integrating low- and moderate-income residents throughout the city, and reinvesting in deteriorating communities.
3. Expand economic opportunities through job creation, homeownership opportunities, and activities that promote long-term community viability.

The primary priority for using federal funds is to increase self-sufficiency and economic opportunity for lower-income residents and individuals with special needs.

The City of Pueblo expects to receive the following federal resources in FY 2024:

- Community Development Block Grant funds: \$1,453,413
- HOME Investment Partnership funds: \$880,344

The goals and results outlined in the 2024 Annual Action Plan are connected to the 2020-2024 Consolidated Plan's Strategic Plan. The planned activities aim to meet the City's needs using CDBG and HOME funds and concentrate on offering affordable housing, improving living conditions, and enhancing economic prospects. The results of these activities will demonstrate the advantages of each funded program.

All activities in Pueblo will support at least one objective and one outcome. The priorities identified in the 2020-2024 Consolidated Plan include affordable housing, public services, public infrastructure and

facilities, economic development, community revitalization, fair housing education and outreach, and administration and planning.

2. Summarize the objectives and outcomes identified in the Plan

The goals and results outlined in the 2024 Annual Action Plan are connected to the 2020-2024 Consolidated Plan's Strategic Plan. The planned activities aim to meet the City's needs using CDBG and HOME funds and concentrate on offering affordable housing, improving living conditions, and enhancing economic prospects. The results of these activities will demonstrate the advantages of each funded program.

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3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The evaluation of past performance covers the period from March 1, 2023, through February 28, 2024. The City's past performance based on the Consolidated Annual Performance and Evaluation Report (CAPER) highlighted accomplishments achieved through the expenditure of CDBG, CDBG-CV, and HOME funds. It also mentioned areas where the City fell short of its program year goals.

4. Summary of Citizen Participation Process and consultation process

Summary of citizen participation is included in section AP-12 of this plan.

5. Summary of public comments

Outside of the applicants' grant request, the reason for their request, and their presentations to the Citizen's Advisory Committee, no additional comment was received.

6. Summary of comments or views not accepted and the reasons for not accepting them

No comments were excluded from the preparation of the 2024 Annual Action Plan.

7. Summary

PR-05 Lead & Responsible Agencies - 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role		Name	Department/Agency
Participating Jurisdiction		Scott Hobson, Acting Director	City of Pueblo, Department of Planning and Community Development
CDBG Administrator	PUEBLO	Department of Planning and Community Development	
HOME Administrator	PUEBLO	Department of Planning and Community Development	

Table 1 – Responsible Agencies

Narrative

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administering each grant program and funding source.

The City of Pueblo's Division of Housing and Citizen Services within the Department of Planning and Community Development administers the CDBG grant. The City of Pueblo and Pueblo County participate as a Consortium within the HOME Investment Partnerships Program (HOME). As the participating jurisdiction, the City of Pueblo undertakes all monitoring and reporting on behalf of Pueblo County. Pueblo County undertakes its affordable housing programs.

Consolidated Plan Public Contact Information

Annual Action Plan
2024

4

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AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

The City of Pueblo's Division of Housing and Citizen Services created an outreach program to gather input from a wide range of stakeholders. The program involved public meetings, published meeting notices, and stakeholder/focus group meetings designed to involve a diverse group of stakeholders and city residents in line with the Citizen Participation Plan.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

It is becoming increasingly important to have meaningful collaboration in the development and implementation of housing and community development programs. Rising costs are stretching the federal resources allocated to these programs. Collaborating with housing and service providers helps the city maximize the benefits of its investments. It ensures that these investments strategically address both short-term needs and long-term goals. The Division of Housing and Citizen Services regularly consults with human services agencies, housing development organizations, and municipal departments throughout the program year.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Pueblo is part of the statewide State Continuum of Care and receives funding through the statewide balance. Locally, Pueblo is represented at the State Continuum of Care by housing and service providers who work to meet the needs of people experiencing homelessness and strive to find a local solution to end homelessness. The city regularly communicates with housing and service providers.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The City of Pueblo does not receive or administer ESG Funds. The City of Pueblo met with the Continuum of Care (COC) during the consultation process to coordinate between government, mental health, and other service agencies, and the Consolidated Plan reflects paired goals and objectives.

2. Agencies, groups, organizations and others who participated in the process and consultations

Table 2 – Agencies, groups, organizations who participated

1	Agency/Group/Organization	POSADA, INC.
	Agency/Group/Organization Type	Services - Housing Services-Elderly Persons Services-Persons with Disabilities Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Division of Housing and Citizen Services consulted with the agency throughout the year during large, coordinated meetings, one-on-one meetings, and while monitoring ongoing projects. The expected outcome was to coordinate funding to enable the agency and other complementing agencies to address the homeless issues within the city.
2	Agency/Group/Organization	Pueblo Rescue Mission
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homelessness Needs - Veterans Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Division of Housing and Citizen Services consulted with the agency throughout the year during large, coordinated meetings, one-on-one meetings, and during monitoring reviews of ongoing projects. The anticipated outcome was coordinating with the agency to serve the homeless community.

3	Agency/Group/Organization	SRDA Pueblo, Inc.
	Agency/Group/Organization Type	Services - Housing Services-Elderly Persons
	What section of the Plan was addressed by Consultation?	Non-Homeless Special Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Division of Housing and Citizen Services consulted with the agency one-on-one and during the monitoring review of ongoing projects. The anticipated outcome was the coordination of funding to allow the agency to address issues affecting elderly citizens within the city.
4	Agency/Group/Organization	Colorado Legal Services
	Agency/Group/Organization Type	Housing Service-Fair Housing
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Eviction Prevention
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Division of Housing and Citizen Services consulted with the agency for one-on-one consultations and coordinated intergovernmental agency consultations. The goal of the consultation was to coordinate funding and develop wraparound services to keep families housed.
5	Agency/Group/Organization	Housing Authority of the City of Pueblo
	Agency/Group/Organization Type	Housing PHA Services - Housing Services-homeless

	What section of the Plan was addressed by Consultation?	Public Housing Needs Homelessness Strategy Housing Development
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The Division of Housing and Citizen Services consulted with the agency throughout the year during one-on-one meetings and monitoring reviews of ongoing projects. The anticipated outcome was the production of additional units and the coordination of LIHTC funding.

Identify any Agency Types not consulted and provide rationale for not consulting

No agencies were excluded from consolidation.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	Health Solutions	The CoC was consulted during the development of the Strategic Plan; the CoC's goals were incorporated into the plan.

Table 3 – Other local / regional / federal planning efforts

Narrative

AP-12 Participation - 91.401, 91.105, 91.200(c)

- 1. Summary of citizen participation process/Efforts made to broaden citizen participation
Summarize citizen participation process and how it impacted goal-setting**

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comment received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper April 25, 2023	General Public	Notice of funding availability open from May 1, 2023 through May 31, 2023	Applications for programs and projects included in this 2024 AAP	All applications were accepted; not all applications were able to be funded.	Link and applications on City's Home Page
2	Newspaper April 25, 2023	Spanish Speaking	Notice of funding availability open from May 1, 2023 through May 31, 2023	None	None	
3	Public Hearing 7/18/2023	General Public	A public hearing held in City Council Chambers following the grant request presentation	None	None	
4	City Council Work Session 9/11/2023	Televised	Televised and replayed for two weeks on the City Gov. Channel 17	None	None	
5	Newspaper 6/24/2024	General Public	2024 Draft Annual Action Plan Available for Inspection	TBD	TBD	Posted on City's Home Page
6	Newspaper 6/24/2024	Spanish Speaking	2024 Draft Annual Action Plan Available for Inspection	TBD	TBD	
7	Public Meeting	June 27, 2024	1 st Public Meeting for 2024 AAP, 2631 e 4 th Street, Pueblo, CO 81001 @ 3:00pm	TBD	TBD	
8	Public Meeting	July , 2024	2 nd Public Meeting for 2024 AAP, 2631 e 4 th Street, Pueblo, CO 81001 @ 3:00pm	TBD	TBD	
9	City Council Meeting; 8/12/24	General Public	Authorization of 2024 Annual Action Plan Ordinance	TBD	TBD	

Table 4 – Citizen Participation Outreach

Annual Action Plan
2024

11

Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of Con Plan \$	Narrative Description
			Annual Allocation:	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	HUD	Community Development	\$ 1,453,413	-0-	-0-	\$1,453,413	-0-	This is the final year of the 2020-2024 Consolidated Plan
HOME	HUD	Housing	\$ 880,344	-0-	-0-	\$ 880,344	-0-	This is the final year of the 2020-2024 Consolidated Plan

Table 2 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

CDBG funds will leverage funds in the Public Service sector. Combined with \$950,000 in local funds from the City and Pueblo County, the CDBG funds will be leveraged by the non-profits to fund the services utilized within the community. HOME funds will be leveraged with other capital stack investments to create housing units in partnership with the community and investors.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The City has acquired a property at 1302 E 5th Street, Pueblo, CO 81001 using ARPA funds, the property will be developed into affordable housing. Through a grant received by the Colorado Housing Finance Authority a preliminary design is being developed for potential investors.

Discussion

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Planning and administration of federal programs	2020	2024	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	Citywide Countywide	Administration and Planning	\$378,034	Planning and administration for the successful implementation of CDBG and HOME programs.
2	Improve and maintain public infrastructure and fac	2020	2024	Non-Housing Community Development	Citywide	Public Infrastructure and Facilities	\$766,250	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 597 Persons Assisted
3	Provide housing and services to homeless/ near	2020	2024	Affordable Housing Homeless	Citywide	Public Services including Services for Homeless	\$133,745	Public service activities other than Low/Moderate Income Housing Benefit: 875 Persons Assisted
4	Preserve existing affordable units (rehab)	2020	2024	Affordable Housing	Citywide	Affordable Housing	\$183,413	Homeowner Housing Rehabilitated: 23 Household Housing Unit

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
5	New construction of affordable housing	2020	2024	Affordable Housing	Citywide Countywide	Affordable Housing	\$792,310	Rental units constructed: 4 Household Housing Unit Homeowner Housing Added: 1 Household Housing Unit
6	Provide public services to non-homeless population	2020	2024	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	Citywide	Public Services including Services for Homeless	\$80,005	Public service activities other than Low/Moderate Income Housing Benefit: 368 Persons Assisted

Table 3 – Goals Summary

Goal Descriptions

1	Goal Name	Planning and administration of federal programs
	Goal Description	Planning and administration for the successful implementation of CDBG and HOME programs.
2	Goal Name	Improve and maintain public infrastructure and fac
	Goal Description	Public facilities include neighborhood, parks/recreation, parking, senior and youth, childcare, job training, cultural, non-residential historic preservation, and homeless facilities. Public infrastructure includes: • Street and sidewalk improvements. • Lighting and streetscaping. • Water and sewer improvements. • Flood drainage improvements. • Solid waste management improvements.
3	Goal Name	Provide housing and services to homeless/ near
	Goal Description	Housing and services for the homeless and near homeless include outreach, emergency, transitional, and permanent supportive housing, Rapid Re-Housing, supporting services, and rental assistance.
4	Goal Name	Preserve existing affordable units (rehab)
	Goal Description	Rehabilitation/reconstruction of single and multi-family housing; energy efficiency improvements; accessibility modifications; lead-based paint abatement; minor housing repairs; and preservation of affordable units.

5	Goal Name	New construction of affordable housing
	Goal Description	New construction of affordable housing units.
6	Goal Name	Provide public services to non-homeless population
	Goal Description	Other public services that are needed include housing and services for persons with HIV/AIDS; services for persons with physical, developmental, and intellectual disabilities; employment and workforce development; screening for lead-based paint hazards; housing counseling; neighborhood clean-up programs; crime awareness and prevention programs; transportation; health and mental health services; services for persons recovering from addiction; youth programs, food banks and other food-related services; childcare and related services; senior programs and related services; legal services; and financial literacy.

AP-35 Projects - 91.420, 91.220(d)

Introduction

Introduction

The following is a list of the planned projects the City will fund with CDBG and HOME funds.

Project Name

#	Project Name
1	CD2401 Administration
2	CD2402 Homeless Prevention
3	CD2403 Homeless Supportive Services
4	CD2404 Homeless Youth Services
5	CD2405 It's All About Being a Teen
6	CD2406 SRDA Senior Transportation
7	CD2407 Crystal Place Sidewalk Replacement
8	CD2408 Grove Neighborhood Infrastructure Improvements
9	CD2409 ADA Curb Project I
10	CD2410 ADA Curb Ramps Project II
11	CD2411 Emergency Repair and Essential Services Program for Seniors
12	CD2412 Minor Repairs Program
13	CD2413 Housing Rehabilitation Program
14	CD2414 Eastside Child Care Improvements
15	CD2415 Posada Parking Lot Improvements
16	HO2410 - City HOME Administration
17	HO2420 Pueblo County HOME Administration
18	HO2430 - Pueblo County Housing Programs
19	HO2440 Community Development Housing Organization Project
20	HO2450 - City Housing Programs

Table 4 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

Applications received from the general public and service providers were scored by the Citizen's Advisory Committee. Based on a standardized scoring rubric designed to align with the needs and priorities identified in the Consolidated Plan, the Committee scored and ranked each application with the application's ability to address goals established in the Consolidated Plan. Funding was awarded to the highest ranked applications until all funding was allocated.

AP-38 Project Summary
Project Summary Information

1	Project Name	CD2401 Administration
	Target Area	Citywide Countywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	\$290,000
	Description	Administrative and planning activities associated with the CDBG program, fair housing education, and outreach.
	Target Date	2/28/2025
	Estimate the number and type of families that will benefit from the proposed activities	N/A – Administration Activity
	Location Description	Administration of the grant funds will occur at 2631 E 4th Street, Pueblo, CO 81001 (CT11, BLK1)
2	Planned Activities	Administrative and planning activities associated with the CDBG program and fair housing education and outreach.
	Project Name	CD2402 Homeless Prevention
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	\$ 23,745
	Description	The funding will assist low-income families with their monthly rent and provide them with case management services in financial emergencies. This support aims to help families manage and maintain a budget, increase their income, and reduce the risk of homelessness.
	Target Date	12/31/2025
	Estimate the number and type of families that will benefit from the proposed activities	Up to 25 individuals and families will benefit from the proposed activity.
	Location Description	Services provided at 501 Belmont Avenue, Pueblo, CO (CT18, BLK 1)

	Planned Activities	Provide case management and one-time subsistence payment for rent or mortgage arrears, including utilities covering up to a (3) month period.
3	Project Name	CD2403 Homeless Supportive Services
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	\$75,000
	Description	Funding will provide supportive services to low-income, newly unemployed, and homeless families and individuals. Supportive services include comprehensive case management services, basic needs assistance, and referrals and support.
	Target Date	12/31/2025
	Estimate the number and type of families that will benefit from the proposed activities	Provide service and case management to 750 unduplicated individuals over the year.
	Location Description	Services offered at 501 Belmont Ave, Pueblo, CO 81004 (CT18, BLK 1)
	Planned Activities	Supportive services include comprehensive case management services, basic needs assistance and referrals and support.
4	Project Name	CD2404 Homeless Youth Services
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	\$35,000
	Description	The funding will provide case management and services for homeless youth, including emergency shelter, transitional housing, supportive services, basic services, transportation, assistance with obtaining IDs and birth certificates, reunification support, case management in collaboration with housing, education, employment services, life skills classes, and supplies.
	Target Date	12/31/2025

	Estimate the number and type of families that will benefit from the proposed activities	Provide service and case management to 100 unduplicated individuals (Youth 18-25) over the year.100 Individuals (Youth 18-25) will benefit from the activity.
	Location Description	Services offered at 501 Belmont Ave, Pueblo, CO 81004 (CT18, BLK 1)
	Planned Activities	Funding will be used for the provision of case management and services for homeless youth, including emergency shelter, transitional housing supportive services, basic services, transportation, assistance with IDs and birth certificates, reunification, case management in conjunction with housing, education and employment services, life skills classes, and supplies for the homeless youth.
5	Project Name	CD2405 It's All About Being a Teen
	Target Area	Citywide
	Goals Supported	Provide public services to non-homeless population
	Needs Addressed	Public Services including Services for Homeless
	Funding	\$50,005

	Description	Catholic Charities of Southern Colorado (CCSoCo) will utilize funding for the agency's All About Being a Teen program. It's All About Being a Teen (IAABAT) is a dynamic interactive class designed to increase positive self-worth, personal empowerment, self-discipline, empathy, healthy attachments, and resilient-protective behaviors. Many of the families we serve have backgrounds rooted in trauma, poverty, gender and racial disparities, and limited access to resources. These characteristics contribute to teens experiencing greater percentages of risk factors and violence. Youth violence is linked to negative health and well-being outcomes and disproportionately impacts communities of color which are very prevalent in Pueblo. Violence increases the risk for behavioral and mental health difficulties including future violence perpetration and victimization, smoking, substance use, high-risk sexual behavior, depression, academic difficulties, school dropout, and suicide. It's All About Being a Teen was developed for young people at risk of disturbed and delinquent behaviors. The lessons help this population understand, define, and choose healthy and nurturing lifestyles. Through self-report inventories, role-play, discussions, and creative expression, teens in the program will address risk factors like peer pressure and bullies, substance use, and behavioral/mental health problems. Funding will support a combination of program supplies, operational expenses, and staffing costs. Operational costs include items needed to prepare hot meals for participants prior to the class time, The staff positions which would be incorporated include the Nurturing Parenting Program Coordinator (30%), a Program Facilitator (35%), and a Youth Facilitator (50%).
	Target Date	2/28/2025
	Estimate the number and type of families that will benefit from the proposed activities	CCSoCo plans to serve 54 teens through 3 sixteen-week classes during this grant period. This is an increase of about 9-10 teens for the coming program year.
	Location Description	The project will be facilitated at 429 W. 10th Street, Pueblo, CO 81003 (CT6, BLK 1)

	Planned Activities	It's All About Being a Teen encompasses 99 lessons categorized into 15 competencies. The course will run 16 weeks, three times per year, and serve on average 18 youth per cohort for a yearly total of 54 participants. The sessions will last three hours, which will include a mealtime (a hot meal is provided preceding each class). The program only hosts one session per week because it offers adequate exposure to course materials without overloading. The teens will have the opportunity to practice what they learn through homework assignments. Our program will be held on Fridays and will not compete with school commitments. Neither of the local school districts (District 60 and District 70) hold classes on Fridays. The weekly, semester-long course will balance the needed exposure for impact with consideration for retention and keeping the target population engaged. Although it was initially designed by the evidence-based Nurturing Parenting Program as a tertiary intervention (i.e. working with individual who have already experienced maltreatment, correctional issues, etc.), for the purpose of our program and our population, we use the It's All About Being a Teen program as a secondary intervention. This means that our target population consists of teens who are at high-risk (or have increased risk factors) of experiencing maltreatment, abuse, mental health issues, correctional issues, and more. This approach takes a more preventative stance which improves chances for ultimately positive outcomes for the teens involved in the program. The target population for this program (high-risk youth) typically experiences high instances of generational poverty, gender and racial disparities, limited access to resources and education, and in many cases, trauma. CCSoco is Pueblo's designated Family Resource Center (FRC). As such, we use a Family Strengthening approach to increase protective factors and build upon the strengths of the youth and families we serve. The IAABAT program helps to increase protective factors by providing teens with opportunities to practice association with prosocial peers, gain skills and opportunities in solving problems non-violently, and build high self-esteem. Class text is individualized and developed by the participant using reflection activities as they apply the course material to their own life and values. Activities are aimed at helping teens understand their values and self-worth along with what's happening in the world and relationships around them. We have experienced tremendous success in our programs due to the inclusivity
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		of the entire family so that no one family member is struggling in a silo to work toward self-sufficiency and well-being.
6	Project Name	CD2406 SRDA Senior Transportation
	Target Area	Citywide
	Goals Supported	Provide public services to non-homeless population
	Needs Addressed	Public Services including Services for Homeless
	Funding	\$30,000
	Description	The SRDA Transportation program is planning to purchase a twelve-passenger vehicle equipped to accommodate five wheelchairs. The CDBG funding will provide 20% of the funds required to secure the vehicle, and CDOT (Colorado Department of Transportation) will provide the balance of the funds needed. This purchase is part of SRDA's vehicle replacement schedule, allowing them to replace older, higher-cost, higher-mileage vehicles in their fleet. Additionally, the funds may fuel the existing fleet providing daily service.
	Target Date	6/1/2025
	Estimate the number and type of families that will benefit from the proposed activities	314 Individuals will be served by the program.
	Location Description	The program will be operated from the SRDA facilities at 230 N. Union Avenue, Pueblo, CO 81003
	Planned Activities	The Program will provide transportation for seniors to needed appointments and essentials.
7	Project Name	CD2407 Crystal Place Sidewalk Replacement
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$107,500
	Description	Replace the deteriorated sidewalk and install ADA curb ramps on both sides of Crystal Place on the one-block street between Lake Avenue and the Bessemer Ditch. Improve ADA pedestrian poles/traffic signals at the intersection of Orman and Jones Avenues.
	Target Date	2/28/2025

	Estimate the number and type of families that will benefit from the proposed activities	Nineteen families will be assisted by this project.
	Location Description	Bessemer (CT25; BLK 1)
	Planned Activities	Sidewalk replacement and installation of ADA curb ramps.
8	Project Name	CD2408 Grove Neighborhood Infrastructure Improvements
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$153,600
	Description	Selective replace the deteriorated sidewalk and installation ADA curb ramps throughout the Grove Neighborhood.
	Target Date	5/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	Twenty-five families will benefit from the project.
	Location Description	Bound by Rush, Palm, Clark, Spring, and Plum Streets between the levee and C Streets (CT35, BLK 1).
	Planned Activities	Sidewalk replacement and installation of ADA curb ramps.
9	Project Name	CD2409 ADA Curb Project I
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$200,000

	Description	Install ADA-compliant accessible curb ramps at street intersections and crosswalks in the Belmont neighborhood along Bonforte Blvd. The project will entail the replacement of existing curb and gutter, concrete cross pans, asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. The project may include the relocation of existing street lighting, signal lights, associated electrical boxes, and wiring. Relocation of adjacent utilities may be required to complete the proposed project.
	Target Date	12/31/2024
	Estimate the number and type of families that will benefit from the proposed activities	The project will install 10 ADA compliant curb ramps.
	Location Description	The project will replace multiple ADA curb ramps in Census Tract 9.02 BLK 1 (56.9% LMI) and Census Tract 9.04 BLK 1 (59.7% LMI).
	Planned Activities	The project will entail replacing the existing curb and gutter, 7" concrete cross pans, 4" asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. It may also include relocating existing street lighting, signal lights, associated electrical boxes, and wiring. Relocating adjacent utilities may be required to complete the proposed project.
10	Project Name	CD2410 ADA Curb Ramps Project II
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$200,000
	Description	Install ADA-compliant accessible curb ramps at street intersections and crosswalks throughout the City of Pueblo. Install a connecting sidewalk between ADA ramps where a sidewalk does not exist. The project will entail the replacement of existing curb and gutter, concrete cross pans, asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. The project may include relocating existing street lighting, signal lights, associated electrical boxes, and wiring. Relocation of adjacent utilities may be required to complete the proposed project.
	Target Date	12/31/2024

	Estimate the number and type of families that will benefit from the proposed activities	15 ADA Curb Ramps will be installed. The project will help the community and allow the City to comply with American's with Disabilities Act.
	Location Description	The project will replace multiple ADA curb ramps in Census Tract 9.02 BLK 1 (56.9% LMI) and Census Tract 9.04 BLK 1 (59.7% LMI)
	Planned Activities	The project will entail replacing the existing curb and gutter, 7" concrete cross pans, 4" asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. It may also include relocating existing street lighting, signal lights, associated electrical boxes, and wiring. Relocating adjacent utilities may be required to complete the proposed project.
11	Project Name	CD2411 Emergency Repair and Essential Services Program for Seniors
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	\$40,000
	Description	The ERESP program is a successful emergency rehabilitation program in its 22nd year. The program has assisted over 873 senior citizens. The CDBG funds will provide emergency repairs to low-income senior households within the Pueblo City limits. ERESP provides emergency repairs for faulty plumbing, lack of water and heat, faulty electrical wiring, leaking roofs, and other emergencies. There has also been a tremendous increase in demand for accessibility modifications such as handrails, ramps, handicapped showers, and grab bars.
	Target Date	12/31/2025
	Estimate the number and type of families that will benefit from the proposed activities	Eight low to moderate income elderly household will be served by this project.
	Location Description	The project will assist participants with in the city limits.

	Planned Activities	ERESP offers emergency repairs for issues such as faulty plumbing, lack of water, heat, faulty electrical wiring, leaking roofs, and other emergencies. There has also been a significant rise in requests for accessibility modifications like handrails, ramps, handicapped showers, and grab bars.
12	Project Name	CD2412 Minor Repairs Program
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	\$ 75,000
	Description	The City of Pueblo established the Minor Repair Program in 2009 to provide repair services to low- to moderate-income, owner-occupied housing. The Program can make singular-type repairs in people's homes for those who cannot afford to make the repairs themselves. The program aims to restore the services to the home, make necessary improvements to the home's habitability, and increase the home's longevity through the restoration of deferred maintenance.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	(12) Owner-occupied households will be assisted by the program through code-compliant housing repairs during the year.
	Location Description	The Program will be operated within the city limits.
13	Planned Activities	Each minor repair project is limited to \$5,000 and can cover the repair of one item in the home or one category within the home. For example, this could involve replacing an exterior door as a single item or replacing the water supply lines throughout the home as an item within the plumbing category.
	Project Name	CD2413 Housing Rehabilitation Program
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	\$68,413

	Description	The project aims to offer housing rehabilitation services to low-income, owner-occupied, single-family homes. The program has a limit of \$25,000 per home. The funds can be used to repair or replace mechanical, electrical, and plumbing systems within the home. They can also cover other structural repairs or weatherization elements such as roofing, siding, painting, doors, and windows. Cosmetic items are allowed as long as they contribute to the goal of providing decent, safe, and sanitary housing.
	Target Date	2/28/2025
	Estimate the number and type of families that will benefit from the proposed activities	Three families will be assisted. Eligible applicants are homeowners within the city of Pueblo, who have lived in their home for more than two years and are income qualified below 80% Area Median Income.
	Location Description	The Program will be operated with in the city limits.
	Planned Activities	CDBG funds will be used for direct construction expenses of the projects and required services, including LBP inspection, LBP risk assessment, clearance testing, asbestos and other environmental consulting, engineering, credit and ownership reports, printing, and publication.
14	Project Name	CD2414 Eastside Childe Care Improvements
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$65,000
	Description	Construct a two-van garage to protect and store vehicles overnight. The project will also replace the flooring in the toddler room to remediate water damage from a plumbing leak.
	Target Date	6/30/2025
	Estimate the number and type of families that will benefit from the proposed activities	One public facility will be upgraded. The facility serves young families in a low-mod area allowing the parents to work outside of the home.
	Location Description	The project is located at 2717 E. 8th Street, Pueblo, CO 81001 (CT10, BLK1).

	Planned Activities	Construct a two-van garage to protect and store vehicles overnight. The project will also replace the flooring in the toddler room to remediate water damage from a plumbing leak.
15	Project Name	CD2415 Posada Parking Lot Improvements
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and fac
	Needs Addressed	Public Infrastructure and Facilities
	Funding	\$40,150
	Description	Install an ADA compliant entry ramp with railing and re-surface the existing parking lot to included striping and ADA signage. The project will improve accessibility and designate ADA parking from the other spaces.
	Target Date	2/28/2025
	Estimate the number and type of families that will benefit from the proposed activities	Posada's public services are operated out of their office at 501 Belmont Avenue, the parking lot improvements will allow the non-profit to serve the homeless in the community. The agency serves 1000 clients annually.
	Location Description	The project will take place at 501 Belmont Avenue, Pueblo, CO 81004 (CT18, BLK1).
	Planned Activities	Install an ADA compliant entry ramp with railing and re-surface the existing parking lot to included striping and ADA signage. The project will improve accessibility and designate ADA parking from the other spaces.
16	Project Name	HO2410 - City HOME Administration
	Target Area	Citywide Countywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	\$76,589
	Description	Administration and planning activities for the HOME program.
	Target Date	2/28/2025

	Estimate the number and type of families that will benefit from the proposed activities	N/A -Administration Activity
	Location Description	Division of Housing and Citizen Services, 2631 E 4th Street, Pueblo, CO 81001
	Planned Activities	Administration of the HOME program.
17	Project Name	HO2420 Pueblo County HOME Administration
	Target Area	Countywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	\$ 11,445
	Description	Pueblo County's administration of the HOME Program.
	Target Date	2/28/2025
	Estimate the number and type of families that will benefit from the proposed activities	N/A -Administration Activity
	Location Description	Pueblo County Department of Human Services, 405 W. 9th Street, Pueblo, CO 81003
18	Planned Activities	
	Project Name	HO2430 - Pueblo County Housing Programs
	Target Area	Countywide
	Goals Supported	New construction of affordable housing
	Needs Addressed	Affordable Housing
	Funding	\$85,834
	Description	This includes a range of activities, including TBRA, new construction, rehabilitation, acquisition/rehab, in-fill development, and other housing activities allowed by HOME regulations.
	Target Date	2/28/2026

	Estimate the number and type of families that will benefit from the proposed activities	One rental unit will be constructed with the funding. The Unit will serve individuals at or below 60% Area Median Income.
	Location Description	Pueblo County Department of Human Services, 405 W. 9th Street, Pueblo, CO 81003
	Planned Activities	This includes a range of activities, including TBRA, new construction, rehabilitation, acquisition/rehab, in-fill development, and other housing activities allowed by HOME regulations.
19	Project Name	HO2440 Community Development Housing Organization Project
	Target Area	Citywide
	Goals Supported	New construction of affordable housing
	Needs Addressed	Affordable Housing
	Funding	\$132,052
	Description	A CHDO project has not yet been identified. The funds will target the production of one of the following activities: New construction or rehabilitation of housing units for rental or homebuyer projects.
	Target Date	12/31/2026
	Estimate the number and type of families that will benefit from the proposed activities	One unit will be constructed or rehabilitated. The unit will serve individuals at or below 60% Area Median Income.
	Location Description	TBD
20	Planned Activities	A CHDO project has not yet been identified. The funds will target the production of one of the following activities: • New construction or rehabilitation of housing units • For rental or homebuyer projects.
	Project Name	HO2450 - City Housing Programs
	Target Area	Citywide
	Goals Supported	New construction of affordable housing
	Needs Addressed	Affordable Housing
	Funding	\$574,424

	Description	This includes a range of activities, including TBRA, new construction, rehabilitation, acquisition/rehab, in-fill development, and other housing activities allowed by HOME regulations.
	Target Date	12/31/2026
	Estimate the number and type of families that will benefit from the proposed activities	(3) families will benefit from this activity: One family whose income is below 50% of the Area Median Income; One family whose income is above 50% of the Area Median Income; One family whose income is below 80% of the Area Median Income;
	Location Description	City Limits
	Planned Activities	The City intends to use its HOME allocation to support the infill construction of two affordable housing units for low—and moderate-income homeowners. Additionally, HOME funds may support the rehabilitation of rental projects, although specific projects have not yet been determined. For rental rehabilitation activities, recapture provisions will be set in place for the amount invested in the property. HOME funds will be utilized for the construction of one infill home. A direct subsidy may be offered to buyers below 80% AMI who qualify for an FHA mortgage or other 30-year fixed-rate mortgage but are unable to secure a mortgage for the appraised value. The amount of the direct subsidy provided will determine the length of the affordability period, with the subsidy amount falling within established limits.

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

CDBG funds are eligible within the city limits, and will be targeted to serving a low income population. HOME funds are eligible to be expended within Pueblo county. Rental housing or rental units are the primary focus with these funds. The majority of rental housing is located within the city of Pueblo. There are no identified geographic priorities within the City or County. The funds will be expended as described below.

Geographic Distribution

Target Area	Percentage of Funds
Citywide	94
Countywide	6

Table 5 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The majority of funds are allocated to the City of Pueblo. The City receives an additional \$1.4 million in CDBG funds compared to the County, making it seem like a higher percentage of funds are being spent. The HOME funds are distributed between consortia partners based on percentages determined by HUD. The City receives 87% of the funds, and the County receives 13%. These percentages are typically updated each June. Within the city, funds are allocated to different neighborhoods to address the needs of residents.

Discussion

Access to transit, services, and broadband is limited outside the city limits. Directing the majority of the funding to promote housing and services within the city limits will benefit more low-income individuals and families and provide greater coordinated access to the funded services and amenities.

Affordable Housing

AP-55 Affordable Housing - 91.420, 91.220(g)

Introduction

The following tables outline the affordable housing goals funded with CDBG and HOME funds using 2024 dollars.

One Year Goals for the Number of Households to be Supported	
Homeless	3
Non-Homeless	26
Special-Needs	2
Total	31

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	3
The Production of New Units	5
Rehab of Existing Units	23
Acquisition of Existing Units	0
Total	31

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

In accordance with 24 CFR 91.220(1), the HOME program has specific requirements on applicant eligibility for HOME-funded programs serving low—and moderate-income households within the community and the developers working on projects to build or renovate income-restricted units. HOME requirements also apply to applications for HOME funds for Low-Income Housing Tax Credit (LIHTC) projects or RAD conversions carried out by the Housing Authority.

AP-60 Public Housing - 91.420, 91.220(h)

Introduction

The following action plan will address the needs of public housing.

Actions planned during the next year to address the needs to public housing

This year, the Housing Authority of the City of Pueblo completed the third phase of the Rental Assistance Demonstration program. The phase involved transferring 47 tenants from the Sangre de Cristo Apartments to the new Crawford Townhomes complex. The next and final phase of the program will be the Sitter Townhomes project, which will involve demolishing the remaining units of the Sangre de Cristo Apartments and building up to 40 new units.

Additionally, the City of Pueblo now has nine new homeowners as a result of the Low-Income Housing Tax Credit (LIHTC) project, Oakshire. Nine more units were sold to eligible tenants who had signed an option agreement with HACP, and four or more tenants are awaiting their opportunity to buy their homes. The sale of these homes was part of an agreement between HACP and the Colorado Housing and Finance Authority upon the completion of the project.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

The Housing Authority of the City of Pittsburgh (HACP) actively encourages public housing residents to participate in programs that promote self-sufficiency and homeownership. One such program is the Home Ownership Program (HOP). It allows families receiving assistance through the Housing Choice Voucher program to use their vouchers towards homeownership while providing monthly assistance for homeownership expenses. Currently, HACP has 28 participants in the HOP program.

Additionally, HACP runs the Family Self-Sufficiency Program (FSS), a voluntary five-year program designed to help participants in both the Housing Choice Voucher and Public Housing programs improve their economic status and reduce reliance on public assistance. Currently, there are 76 participants enrolled in the program, with 298 FSS contracts completed since October 1998. The Family Self-Sufficiency Coordinator is crucial in helping participants create personalized plans for self-reliance, identify necessary steps and activities to achieve their goals, and provide referrals to supportive social services such as childcare, job preparation, credit counseling, education, transportation, and vocational training.

If the PHA is designated as troubled, describe the manner in which financial assistance will be

provided or other assistance

The Housing Authority of the City of Pueblo is not designated as a troubled PHA.

Discussion

AP-65 Homeless and Other Special Needs Activities - 91.420, 91.220(i)

Introduction

This section describes the goals and actions for reducing and ending homelessness. The City of Pueblo does not directly receive ESG funds. Instead, a portion of its CDBG funds is used for public services to support individuals experiencing homelessness or at risk of becoming homeless. These services include initiatives such as youth outreach, homeless prevention, and covering operating costs for housing providers.

The Pueblo CoC is committed to assisting families and individuals experiencing or at risk of homelessness, aligning its goals with the Colorado Balance of State Continuum of Care goals. These goals include expanding access to quality, integrated healthcare, increasing housing opportunities, advocating for improved public policy and community engagement to end homelessness, developing a highly trained and equipped workforce for the Colorado Coalition for the Homeless (CCH), and enhancing CCH's financial stability.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Pueblo Continuum of Care (CoC), part of the Colorado Balance of State, aims to reduce homelessness by helping individuals and families move into permanent housing. To achieve this goal, the CoC regularly meets to identify ongoing needs and discuss issues affecting homeless individuals. Health Solutions is the lead agency that provides outreach to assess the needs of those experiencing homelessness. The CoC is involved in the Built for Zero campaign, which aims to end homelessness by maintaining a By-Name list for each category (e.g., veterans and families).

Addressing the emergency shelter and transitional housing needs of homeless persons

Posada and the Pueblo Rescue Mission, along with the Pueblo Health Department, Police, and Fire Departments, provide outreach to local camps and areas of town where individuals are homeless or stranded, such as the railroad tracks, interstate, and Fountain Creek. The team includes medical and mental health professionals, veteran representatives, Medevac personnel, and law enforcement. They document the camps, take pictures, and offer basic medical care and other resources, including shelter, to individuals and families. The goal is to build trust among the homeless population and help them transition off the streets.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to

permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Funding has been and continues to be the main challenge in expanding housing and services for people and families experiencing homelessness and those at risk of becoming homeless. The City of Pueblo plans to use CDBG funds to provide services. However, tenant-based rental assistance through HOME funding is limited due to a lack of available housing and market rents that exceed the HOME rental limit.

The Pueblo CoC aims to assist families and individuals experiencing or at risk of homelessness in line with the BoS goals:

- Expand access to quality, integrated healthcare
- Expand housing opportunities
- Improve public policy and community engagement to end homelessness

Local agencies working to end homelessness collaborate to provide services and housing. However, one of the biggest challenges is finding safe and affordable units for individuals and families. The City will continue participating in the Continuum of Care and support the Pueblo CoC in seeking additional funding.

In 2019, the City established a 92-bed homeless shelter to help meet the emergency shelter needs of people experiencing homelessness. In 2021, the Right Place, a 35-unit permanent supportive housing facility, began operating at full capacity. Planned for 2024 is the redevelopment of a strip mall to provide emergency shelter during inclement weather. The additional facility will provide increased service and allow for isolation should shelter residents be ill.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

At-risk populations include individuals released from the correctional system, the Colorado Mental Health Institute, and youth transitioning out of foster care. The City's Tenant-Based Rental Assistance Program targets these populations with its funding. All three systems have discharge plans that provide short-term housing funding. However, the issue arises when these individuals have used up the program's resources but have yet to become self-sufficient. In such cases, the CoC steps in to assist these individuals.

Stakeholders emphasized the need to involve healthcare institutions in adhering to discharge policies and

ensuring that people with significant medical needs are not released directly into homelessness. If they are, medical respite beds in emergency shelters are required to meet these individuals' needs.

Discussion

The Pueblo Consortium will coordinate its efforts to administer the HOME-ARP received in 2021, using the strategies outlined in the program requirements and the needs and obstacles outlined above.

AP-75 Barriers to affordable housing -91.420, 91.220(j)

Introduction

The Draft Analysis of Impediments to Fair Housing Choice has been completed. The AI identifies barriers to fair housing that are also barriers to affordable housing. The City may select additional actions to take than the ones listed below.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Provide financial assistance to renters and owners through Tenant-Based Rental Assistance (TBRA), down payment and closing cost assistance, and security deposit assistance.

Invest Community Development Block Grant (CDBG) and HOME funds in affordable housing development.

Revise zoning regulations to improve the ability of developers to build missing middle housing.

Revise zoning definitions to expand areas allowing manufactured housing.

Revise zoning definitions to redefine a family unit to permit group homes, where allowed by State law.

Revise the city's limited English proficiency policy to conform to updated guidance.

Update the City's Anti-displacement and Relocation Plan to ensure that low-income individuals and households at risk are protected.

Provide fair housing education and outreach to landlords, management companies, renters, lenders, potential homebuyers, real estate agents, and others in the real estate industry, as well as provide legal assistance to move housing through probate.

Discussion

In 2021, the City and County conducted a strategic housing assessment that identified the lack of market-rate housing as a severe impediment to affordable housing. This lack of market housing does not allow the real estate market to operate effectively, leading to sales price escalations and increasing rents. The city's number one goal is to increase the housing supply of all types, increase the vacancy rate, and relieve rents.

In 2022, the City designated NeighborWorks of Southern Colorado as a non-profit instrument of the government. This distinction allows the non-profit to provide additional down payment assistance to homebuyers. The non-profit can now assist homebuyers who cannot raise the minimum down payment

equal to 3.5% of the purchase price required by FHA. Previously, the non-profit could only assist homebuyers who contributed 3.5% towards the down payment with personal funds.

In 2022, the City authorized the Multi-Family Zoning Code to provide more design flexibility and reduce development time and cost. Previously, multi-family developments were classified as commercial projects and required to meet the same standards as grocery stores or large box stores. The new code allows for more design options and a more comprehensive range of materials, which makes for a better or more economical product and saves time without requesting unnecessary variances.

AP-85 Other Actions - 91.420, 91.220(k)

Introduction

The following section describes other actions to be taken to meet the needs of the community.

Actions planned to address obstacles to meeting underserved needs

The main challenge in meeting the needs of underserved populations is the limited funding available to address their priorities. The gap between what households can afford to pay for housing and the actual cost of housing is increasing, making it challenging to meet the needs of underserved communities. Additionally, the city lacks affordable housing options to cater to the community's needs.

The reduced ability to afford rising housing expenses has led to increased homelessness, higher demand for supportive services, rising housing costs, stagnant wages adjusted for inflation, and an aging housing inventory that needs refurbishment. To address these challenges, the City of Pueblo will collaborate with public agencies and non-profit organizations to maximize resources and outcomes in housing and community development. Utilizing funds such as CDBG and CDBG-CV, the city will work with local service providers to prevent homelessness by providing rent assistance and utility aid to very low-income households. Additionally, housing counseling and case management services will be provided.

The city and the County will continue to allocate general revenue to fund various public services. While the demand for resources is more significant than what is available, local funding supports several agencies working to assist vulnerable residents. It enables these agencies to attract outside financing through local support.

To promote and maintain affordable housing, the city plans to use CDBG funds for housing rehabilitation programs tailored for seniors and individuals requiring accessibility modifications to age in place. Furthermore, HOME funds will be used to construct new homebuyer and rental housing units.

The City of Pueblo Department of Public Health and Environment operates a lead blood testing program for residents. The program includes lead risk and hazard reduction education for property owners, managers, and tenants, environmental testing for lead hazard screening, blood lead screening for children and women, and monitoring programs for children with elevated blood lead levels. The department also provides information on common sources of lead exposure, potential health effects, and methods to reduce exposure.

Efforts to reduce the number of families living in poverty will involve coordinating with existing agencies to evaluate needs, deliver services, and provide funding assistance through the CDBG Program when resources are insufficient. Additionally, the city will work to coordinate community development strategies, facilitate access to financial services, and support agencies' fundraising efforts.

The City of Pueblo is committed to coordinating Anti-Poverty and Community Development initiatives. It

has established intergovernmental agreements to administer funds to non-profit agencies and economic development organizations that enhance the quality of life in the community. The city is also working to foster collaboration among various community groups.

Actions planned to foster and maintain affordable housing

The City will continue to work directly with developers to spur development to construct and rehabilitate affordable housing. The Planning and Housing Divisions have been combined to better coordinate development issues as they are encountered. The Department of Planning and Community Development is currently developing the Unified Zoning Code for the City of Pueblo. The re-working of the city's current 1968 zoning code will be more inclusive of affordable housing. The Division will fund four programs to assist existing low-income homeowners maintain their homes and maintain housing stock.

Actions planned to reduce lead-based paint hazards

The EPA reports a large percentage of non-compliance from its on-site investigation and monitoring of RRP activities occurring in the city. The Division of Housing and Citizen Services will facilitate Lead Safe Work Practices training and/or Repair, Remodeling, and Painting training in the upcoming program year. The Division will continue to require lead safe work practices on all of its rehabilitation and repair projects.

Actions planned to reduce the number of poverty-level families

The Pueblo Economic Development Corporation receives one-half of one-percent of the City's sales tax collected. The organization provides incentives to attract a new business to Pueblo. The incentives are instrumental in attracting new business and new jobs to the community.

The City of Pueblo will continue its investment in the Pueblo Economic & Workforce Development Dashboard. Developed and maintained by Dr. Tatiana Bailey, an economics professor at UCCS in Colorado Springs. The Dashboard serves as a vital resource offering real-time insights into the regional economy in comparison to state and national economic landscapes. By identifying trends and providing valuable data, the Dashboard empowers local businesses to adapt and thrive amidst market fluctuations.

Actions planned to develop institutional structure

The City of Pueblo's Division of Housing and Citizen Services through its involvement with the Community Commission on Housing and Homelessness, the Community Services Advisory Commission, the DICE Team, and the Continuum of Care will coordinate efforts to reduce duplication and reinforce community structure.

The main gaps within the agencies are those that are created through regulations and funding eligibility. Pueblo agencies work well together referring clients and sharing information. Agencies continue to use the coordinated entry model and the “by Name” list to coordinate assistance for their clients.

Actions planned to enhance coordination between public and private housing and social service agencies

The City has established the Community Commission on Housing and Homelessness, a twenty-five member commission created to develop housing strategies and to roundtable solutions to existing housing issues. The Commission is made up of government officials, non-profit service providers, medical providers, and first responders. Current focus groups are:

- Neighbors In Need (The workgroup focused on the current needs of the un-housed: Pallet Shelter/Ice Tent camping sites, safe parking sites, text alerts and direct services notifications.)
- Housing (The workgroup identifies barriers to affordable housing and development in general; evaluates use and re-use of existing assets within the community.)
- Shift the Narrative (The workgroup focuses on humanizing homeless individuals, and from a Fair Housing point of view, builds empathy for proposed housing projects to support the un-housed.)

Discussion

Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(I)(1,2,4)

Introduction

Community Development Block Grant Program (CDBG)

Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed.	\$ -0-
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	\$ -0-
3. The amount of surplus funds from urban renewal settlements.	\$ -0-
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan.	\$ -0-
5. The amount of income from float-funded activities	\$ -0-
Total Program Income	\$ -0-

Other CDBG Requirements

- | | |
|---|-----------|
| 1. The amount of urgent need activities: Eviction Diversion Program | \$100,000 |
|---|-----------|

HOME Investment Partnership Program (HOME)

Reference 24 CFR 91.220(I)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:
2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:
3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:
4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:
5. If applicable to a planned HOME TBRA activity, a description of the preference for persons with special

needs or disabilities. (See 24 CFR 92.209(c)(2)(i) and CFR 91.220(l)(2)(vii)).

6. If applicable to a planned HOME TBRA activity, a description of how the preference for a specific category of individuals with disabilities (e.g. persons with HIV/AIDS or chronic mental illness) will narrow the gap in benefits and the preference is needed to narrow the gap in benefits and services received by such persons. (See 24 CFR 92.209(c)(2)(ii) and 91.220(l)(2)(vii)).
7. If applicable, a description of any preference or limitation for rental housing projects. (See 24 CFR 92.253(d)(3) and CFR 91.220(l)(2)(vii)). Note: Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a).



2024 Annual Action Plan

Attachment A

Community Development Block Grant Program Funds			
2024	CDBG Entitlement Allocation		\$ 1,453,413.00
Project No.	Project Name	Project Agency	Amount
	Public Services		
CD2401	Administration	DHCS	\$ 290,000.00
CD2402	Homeless Prevention	Posada	\$ 23,745.00
CD2403	Homeless Supportive Services	Posada	\$ 75,000.00
CD2404	Homeless Youth Services	Posada	\$ 35,000.00
CD2405	It's All About Being A Teen	Catholic Charities	\$ 50,005.00
CD2406	Senior Transportation	SRDA	\$ 30,000.00
	Public Facilities/Neighborhood Improvements		
CD2407	Orman Sidewalks - 1600 Block	Richard Coleman	\$ 107,500.00
CD2408	Van Buren Sidewalks - 200 Block	Kimberly Pease	\$ 153,600.00
CD2409	ADA Curb Ramps - Bonforte BLVD	Public Works	\$ 200,000.00
CD2410	ADA Curb Ramps - Citywide	Public Works	\$ 200,000.00
CD2414	Eastside Child Care Improvements	Eastside Child Care Center	\$ 65,000.00
CD2415	Parking Lot Improvements - 501 Belmont Ave	Posada	\$ 40,150.00
	Housing Activities		
CD2411	ERESP	Pueblo County	\$ 40,000.00
CD2412	Minor Repair Program	DHCS	\$ 75,000.00
CD2413	Rehabilitation	DHCS	\$ 68,413.00
		CDBG Total	\$ 1,453,413.00
HOME Partnership Investement Act Program Funds			
2024	HUD HOME Allocation		\$ 880,344.00
Project No.	Project Name	Project Agency	Amount
HO2410	City Administration	City of Pueblo	\$ 76,589.00
HO2420	County Administration	Pueblo County	\$ 11,445.00
HO2430	County Programs	Pueblo County	\$ 85,834.00
HO2340	Community Housing Development Organization	TBD	\$ 132,052.00
HO2450	City Programs	City of Pueblo	\$ 574,424.00
HO2460	City Match	City of Pueblo	\$ 176,620.00
		Allocation w/ City Match	\$ 1,056,964.00

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Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT FOR THE CITY OF PUEBLO FROM THE STATE OF COLORADO DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE FOR THE BETTER LED AND SOLAR SPACES PROJECT, AUTHORIZING THE MAYOR TO EXECUTE THE SAME, ESTABLISHING PROJECT NUMBER CI2445, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$853,413 TO PROJECT NUMBER CI2445

SUMMARY:

This Ordinance approves and accepts the Better LED and Solar Spaces Grant awarded by the State of Colorado Department of Public Safety, Division of Criminal Justice, which would improve public safety by bettering park lighting and to deter areas of crime via environmental design with upgrades and additions of LED and solar lighting at the Arkansas River Whitewater Park and pedestrian bridge, and four different parks within the City of Pueblo.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On January 23, 2023, City Council approved and accepted a similar grant agreement from the State of Colorado Department of Public Safety, Division of Criminal Justice relating to their Crime Prevention through Safer Streets Grant Program in the amount of \$744,000 to upgraded LED lighting in an effort to deter crime in our parks system. City Park, Mitchell Park, and Ray Aguilera Park have benefited from the additional LED park lighting.

In mid-July 2024, the City received notice that we are receiving a grant in the amount of \$853,413 for the installation of LED lighting at J.J. Raigoza, Plaza Verde, St. Anne's,

and Portland Parks and solar lighting at the Arkansas River Whitewater Park and pedestrian bridge between 4th and Main Streets. The City plans to address and deter crime via environmental design with the installation of these new lights.

FINANCIAL IMPLICATIONS:

There is no match for this grant. The State of Colorado per the terms of the grant agreement will reimburse up to \$853,413.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Should the Council choose not to approve this grant agreement, additional and upgraded LED and solar lighting will not be installed and other funding sources must be found to cover the costs of improving the park lighting to deter crime in those areas.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2023-SS-24-29-GrantAgreement-CityofPueblo

ORDINANCE NO. 10758

AN ORDINANCE APPROVING AND ACCEPTING A GRANT AGREEMENT FOR THE CITY OF PUEBLO FROM THE STATE OF COLORADO DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE FOR THE BETTER LED AND SOLAR SPACES PROJECT, AUTHORIZING THE MAYOR TO EXECUTE THE SAME, ESTABLISHING PROJECT NUMBER CI2445, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$853,413 TO PROJECT NUMBER CI2445

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo to accept funding from the State of Colorado Department of Public Safety, Division of Criminal Justice, for public and municipal purposes; and

WHEREAS, the State of Colorado Department of Public Safety, Division of Criminal Justice has tendered a grant award in the total amount of \$853,413.00 upon conditions recited therein or incorporated therein by reference; and

WHEREAS, acceptance of the funding for the purposes for which it has been made is in the best interest of the City and will benefit the health, welfare, and safety of the citizens of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Grant Award Letter (Intergovernmental Grant Agreement), DCJ Grant #: 2023-SS-24-29, ("Agreement") between the City of Pueblo, a Municipal Corporation, and the State of Colorado Department of Public Safety, Division of Criminal Justice, for the Better LED and Solar Spaces project, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Agreement in the name and on behalf of the City of Pueblo, where the Mayor may execute the Agreement by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

Project Number CI2445 – Better LED and Solar Spaces Project is hereby established.

SECTION 4.

The grant award from the State of Colorado Department of Public Safety, Division of Criminal Justice, totaling \$853,413.00 is hereby approved and accepted in accordance with the Agreement.

SECTION 5.

All funds accepted pursuant to this Ordinance shall be budgeted and appropriated into Project Number CI2445. Said funds shall only be expended and used for this project.

SECTION 6.

Pursuant to the Agreement, the State of Colorado Department of Public Safety, Division of Criminal Justice, may unilaterally amend the terms of the Agreement or the amount of grant funds pursuant to an Option Letter or Grant Funding Change Letter. In the event the State increases the grant award via such a letter, the additional funds may be accepted pursuant to this Ordinance and budgeted and appropriated into Project Number CI2445, where said funds shall only be expended and used for this project.

SECTION 7.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 8.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4F51623AB962...

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:13 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:

3A85950B7BCA462...

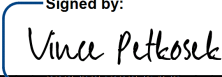
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


Deputy City Clerk

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

GRANT AWARD LETTER
(Intergovernmental Grant Agreement)
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

State Agency Department of Public Safety, Division of Criminal Justice	DCJ Grant Number 2023-SS-24-29
Grantee City of Pueblo	Federal Unique Entity Identifier (UEI) NJK3BNUDRHJ7
Grant Issuance Date (Start Date) The later of July 1, 2024 or the date the State Controller or an authorized delegate signs this Grant Letter	Grant Expiration Date (End Date) June 30, 2026
Grant Amount State Fiscal Years 2024-26: \$853,413.00 Total for all State Fiscal Years: 853,413.00	Grant Authority (State Authority) The Division of Criminal Justice is authorized to disburse these funds by Colorado Revised Statute 24-33.503 and 507. C.R.S.24-33.5-117. Crime prevention through safer streets grant program.
Grant Description This project is to fund and install LED lighting and solar lighting at Arkansas trail, a pedestrian bridge, and four different parks within the City of Pueblo. With the installation of these new light fixtures, the City of Pueblo plans to address and deter areas of crime via environmental design.	
Grant Purpose To award grant funding to eligible recipients for the evaluation of and design of safer streets and neighborhood models that discourage crime, revitalize community image, and establish place-specific crime prevention strategies that account for geographic, cultural, economic, and social characteristics of the target areas.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: 1. Exhibit A1, Sample Option Letter. 2. Exhibit A2, Sample Grant Funding Change Letter 3. Exhibit B, Grant Requirements. 4. Exhibit C, Special Conditions. 5. Exhibit D, Statement of Work. 6. Exhibit E, Budget. In the event of a conflict or inconsistency between this Grant and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: 1. Exhibit C, Special Conditions. 2. The provisions of the other sections of the main body of this Agreement. 3. Exhibit B, Grant Requirements. 4. Exhibit D, Statement of Work. 5. Exhibit E, Budget.	

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

SIGNATURE PAGE

THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT

STATE OF COLORADO

Jared S. Polis, Governor
Department of Public Safety
Stan Hilkey, Executive Director

DocuSigned by:

Matthew M. Lunn, PhD

868341EFA612464...

By: Matthew M. Lunn, PhD, Director, Division of Criminal Justice

06/26/2024 | 1:11:33 PM PDT
Date: _____

In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER

Robert Jaros, CPA, MBA, JD

DocuSigned by:

Lyndsay Clelland

363D680603F0405...

By: Lyndsay J. Clelland, Contract and Grant Coordinator, Division of Criminal Justice

06/26/2024 | 2:16:31 PM MDT
Effective Date: _____

TABLE OF CONTENTS

1. GRANT.....3

2. TERM3

3. DEFINITIONS4

4. STATEMENT OF WORK6

5. PAYMENTS TO GRANTEE.....6

6. REPORTING - NOTIFICATION7

7. GRANTEE RECORDS7

8. CONFIDENTIAL INFORMATION-STATE RECORDS.....8

9. CONFLICTS OF INTEREST.....9

10. INSURANCE9

11. REMEDIES9

12. DISPUTE RESOLUTION.....10

13. NOTICES AND REPRESENTATIVES10

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION.....10

15. GOVERNMENTAL IMMUNITY10

16. GENERAL PROVISIONS10

EXHIBIT A1, SAMPLE OPTION LETTER1

EXHIBIT A2, GRANT FUNDING CHANGE LETTER1

EXHIBIT B, GRANT REQUIREMENTS1

EXHIBIT C, SPECIAL CONDITIONS1

EXHIBIT D, STATEMENT OF WORK1

EXHIBIT E, BUDGET.....1

1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the “State”) hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the “Grantee”) an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties’ respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter in accordance with **§16.D**.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the total reimbursement payable under this Grant Award Letter that corresponds to the Work satisfactorily completed, as determined by the State, less payments previously made. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **“Budget”** means the budget for the Work described in **Exhibit E, Budget**.
- B. **“Business Day”** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- C. **“CJI”** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- D. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S.
- E. **“Grant Award Letter”** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- F. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- G. **“Grant Expiration Date”** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- H. **“Grant Issuance Date”** means the Grant Issuance Date shown on the first page of this Grant Award Letter.
- I. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- J. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- K. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- L. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- M. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- N. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

- O. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- P. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- Q. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- R. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- S. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- T. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- U. **“State Fiscal Year”** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- V. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- W. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. This establishes a **procurement** relationship. The subcontractor provides goods or services for the benefit of the purchaser.

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

- X. **“Subgrantee”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. This establishes a **grant** relationship. The beneficiary, not the purchaser, receives benefit from the work. There may be multiple tiers of subgrantees that do not include procurement transactions.
- Y. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- Z. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Grant Issuance Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of **Exhibit E, Budget**. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount for each State Fiscal Year shown on the first page of this Grant Award Letter. Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date.

B. Reimbursement of Grantee Costs

The State shall reimburse Grantee’s allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to and receives approval from the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall only reimburse allowable costs if those costs are: **(i)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(ii)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

C. Close-Out

Grantee shall close out this Grant within 45 days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee's final reimbursement request or invoice. The State will withhold allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in §5.C, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting this Award. The State may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. Grantee shall allow the State to perform all monitoring based on the State's risk analysis of Grantee. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. If Grantee enters into a subcontract or subgrant then Grantee shall contain provisions permitting both Grantee and the State to perform all monitoring of that subcontractor or subgrantee.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subgrantees and Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subgrantees or Subcontractors will or may receive the following types of data, Grantee or its Subgrantees or Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and (iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns, Subgrantees and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns, Subgrantees and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, Subgrantees and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign, Subgrantees or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

C. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding PII

If Grantee or any of its Subgrantees or Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"). Grantee shall ensure that any Subgrantees and Subcontractors maintain all insurance customary for the completion of the Work done by that Subgrantee or Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Grant Award Letter represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Grant Award Letter.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

D. Modification

The State may modify the terms and conditions of this Grant by issuance a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Grant Award Letter to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Grant Issuance Date. Grantee shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

G. Severability

The invalidity or unenforceability of any provision of this Grant Award Letter shall not affect the validity or enforceability of any other provision of this Grant Award Letter, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Grant in accordance with the intent of the Grant.

H. Survival of Certain Grant Award Letter Terms

Any provision of this Grant Award Letter that imposes an obligation on a Party after termination or expiration of the Grant shall survive the termination or expiration of the Grant and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

K. Accessibility

Grantee shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended, and §§24-85-101, *et seq.*, C.R.S. Grantee shall comply with all State of

Grantee: City of Pueblo

Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards and available at <https://www.w3.org/TR/WCAG21/>.

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT A1, SAMPLE OPTION LETTER

State Agency Insert Department's or IHE's Full Legal Name	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Grantee Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Agreement Number of the Original Contract
Current Agreement Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Option Agreement Number Insert CMS number or Other Agreement Number of this Option Agreement Performance Beginning Date Month Day, Year Current Agreement Expiration Date Month Day, Year

1. OPTIONS:

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Agreement
- C. Option to change the quantity of Services under the Agreement
- D. Option to modify Agreement rates
- E. Option to initiate next phase of the Agreement

2. REQUIRED PROVISIONS:

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Agreement, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to modify the Agreement rates specified in Exhibit/Section Number/Letter. The Agreement rates attached to this Option Letter replace the rates in the Original Agreement as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. OPTION EFFECTIVE DATE:

- F. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE By: _____ Name & Title of Person Signing for Agency or IHE Date: _____	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Name of Agency or IHE Delegate-Please delete if agreement will be routed to OSC for approval Option Effective Date: _____
---	---

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT A2, GRANT FUNDING CHANGE LETTER

State Agency Insert Department's or IHE's Full Legal Name	Grant Funding Change Letter Number Insert the Option Number (e.g. "1" for the first option)
Contractor Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	Original Grant Number Insert CMS number or Other Contract Number of the Original Contract
Current Contract Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Grant Funding Change Letter Contract Number Insert CMS number or Other Contract Number of this Option Contract Performance Beginning Date Month Day, Year Current Contract Expiration Date Month Day, Year

1. GRANT FUNDING CHANGE

In accordance with **§Insert Section Number** of the Original Grant referenced above, the State Agency listed above commits the following funds to the grant:

- A. The funding available for State Fiscal Year 20xx is Increased/Decreased by \$Amount of Change, because Insert Reason For Change.
- B. The total funding avail for all State Fiscal Years as of the effective date of this Grant Funding Change Letter is shown as the current contract maximum above.

2. TERMINOLOGY

All terminology used in this Grant Funding Change Letter shall be interpreted in accordance with the Original Grant referenced above.

3. NO ORDER FOR WORK

This Grant Funding Change Letter modifies the available funding only and does not constitute an order or authorization for any specific services or goods under the Grant.

4. GRANT FUNDING CHANGE LETTER EFFECTIVE DATE:

The effective date of this Grant Funding Change Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE _____ By: Name & Title of Person Signing for Agency or IHE Date: _____
In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval Grant Funding Change Letter Effective Date: _____

Grantee: City of Pueblo
 Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT B, GRANT REQUIREMENTS

The following terms as used herein shall be construed and interpreted as follows:

1. AUDIT REQUIREMENTS

A. DUE DATE:

I. PROJECT START:

The Grantee must submit the most recent audit or financial review, including the corresponding governance/management letter, to DCJ within thirty (30) days of request; and, if the most recent audit/financial review has not already been submitted to DCJ, it must be submitted within thirty (30) days of the start of this project.

II. PROJECT DURATION AND END:

The Grantee assures that it will procure an audit or financial review, incorporating this grant award, by an independent Certified Public Accountant (CPA), licensed to practice in Colorado. The audit or financial review incorporating this grant award must be completed and received by DCJ within nine (9) months of the end of the fiscal years that includes the end date of the grant, or within thirty (30) days of the completion of such audit or review, whichever is earlier.

B. REPORT/AUDIT TYPE:

I. If your entity expended \$750,000 or more in Federal funds (from all sources including pass-through subawards) in your organization's fiscal year (12-month turnaround reporting period), your organization is required to arrange for a single organization-wide audit conducted in accordance with the provisions of Title 2 C.F.R. Subpart F (§ 200.500 et seq.)

II. [NOT APPLICABLE TO SUBGRANTEES AS DEFINED IN §3.DD. "SUBGRANTEE"] If your entity expends less than \$750,000 in Federal funds (from all sources including pass-through subawards) in your organization's fiscal year (12-month turnaround reporting period), your organization is required to arrange for either an audit or financial review as follows:

- 1.** Grantees that have revenue greater than \$300,000 from all sources during the entity's fiscal year are required by DCJ to obtain a financial audit.
- 2.** Grantees that have revenue less than \$300,000 from all sources during the entity's fiscal year are required by DCJ to obtain a financial audit or financial review. A compilation is not sufficient to satisfy this requirement.

C. REPORT/AUDIT COSTS:

The Grantee accepts responsibility for the costs of a financial program audit to be performed by the Department of Public Safety in the event that the audit report or financial review:

- I.** does not meet the applicable federal audit or DCJ standards;

II. is not submitted in a timely manner; or,

III. does not provide an audit response plan with corresponding corrections made sufficient to satisfy any audit findings.

D. FAILURE TO COMPLY:

The grantee understands and agrees that DCJ or the federal awarding office (DOJ) may withhold award funds, or may impose other related requirements, if the grantee does not satisfactorily and promptly address outstanding issues from audits required by Part 200 Uniform Requirements, by the terms of this award, by the current addition of the DOJ Grants Financial Guide, or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

2. ADDITIONAL REPORTING REQUIREMENTS

In addition to quarterly report requirements these grant funds may have additional report requirements. The additional reports may include, but is not limited to, reporting progress and statistics directly into a federal Performance Management Tool (PMT).

3. FINANCIAL AND ADMINISTRATIVE MANAGEMENT

- A. The Grantee assures that fund accounting, auditing, monitoring, evaluation procedures and such records as necessary will be maintained to assure adequate internal fiscal controls, proper financial management, efficient disbursement of funds received, and maintenance of required source documentation for all costs incurred. These principles must be applied for all costs incurred whether charged on a direct or indirect basis.
- B. All expenditures must be supported by appropriate source documentation. Only actual, approved, allowable expenditures will be permitted.
- C. The Grantee assures that it will comply with the applicable Administrative Guide of the Division of Criminal Justice (Guide), located at the Division of Criminal Justice Grants website. However, such a guide cannot cover every foreseeable contingency, and the Grantee is ultimately responsible for compliance with applicable state and federal laws, rules and regulations. In the event of conflicts or inconsistencies between the Guide and any applicable state and federal laws, rules and regulations, such conflicts or inconsistencies shall be resolved by applicable state and federal laws, rules and regulations.

4. PROCUREMENT AND CONTRACTS

- A. Grantee assures that open, competitive procurement procedures will be followed for all purchases under the grant. All contracts for professional services, of any amount, and equipment purchases over five thousand dollars (per item, with a useful life of at least one year) must receive prior approval by the DCJ. Grantee shall submit Form 16 – Professional Services/Consultant Certification and/or Form 13 – Equipment Procurement Certification Form.
- B. Grantee may not assign its rights or duties under this grant without the prior written consent of the DCJ.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

5. AWARD CHANGE REQUESTS

- A. Grantee may request budget modifications by submitting a request to DCJ. DCJ reserves the right to make and authorize modifications, adjustments, and/or revisions to the Contract for the purpose of making changes in budget categories, extensions of grant award dates, changes in goals and objectives, and other modifications as described in the body of the Contract.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT C, SPECIAL CONDITIONS

The following program specific requirements are imposed by the State concerning special requirements of law, program requirements, and other administrative requirements. These requirements apply to this Agreement and must be passed on to subgrant award recipients.

The following Special Conditions documents, if checked, are incorporated herein.

1. Grantee and all Subgrantees or Subgrants shall comply with Colorado law including, SB20-200 (CO Secure Savings Program). <https://treasury.colorado.gov/colorado-secure-savings-program>
2. Grant funds are to be utilized for improvements designed to decrease the incidence of crime and create safer streets.
3. Eligible grantees are local Governmental agencies.
4. Money from the grant award must enhance community safety both inside and outside of urban areas.
5. Grant-Supported strategies must not displace homeless populations.
6. Grant-Supported activities must not harm communities of color or other vulnerable populations.
7. Funds for this agreement cannot be used for the following:
 - Hiring law enforcement or code enforcement personnel or peace officers.
 - Facial recognition purposes.
 - Surveillance programs that utilize networks of sensors to detect gunshots, commonly referred to as "ShotSpotter" program.
 - License plate reader purposes.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT D, STATEMENT OF WORK

The Statement of Work contained within the DocuSign Envelope is incorporated herein.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

EXHIBIT E, BUDGET

The Budget and Budget Narrative contained within the DocuSign Envelope is incorporated herein.

EXHIBIT D – STATEMENT OF WORK

Project Summary: Public safety will be improved by bettering trail, park, and parking garage lighting with upgrades and additions of LED lighting fixtures. Investments will be most worthwhile in Pueblo's highest-crime neighborhoods. This strategy will not only act as a situational deterrent to crime, but will also improve community cohesion and pride, which in turn increases the willingness of residents to intervene in crime and cooperate with the police. Improvements to the physical environment of crime-susceptible areas will dissuade potential offenders. Improved lighting will send a message to potential offenders that the City no longer offers easy opportunities for crime.

Project Plan: The Census Bureau data detail the poverty rate to be 24.4% and meets the definition of a Historically Disadvantaged Community. Of the 54 census tracts in Pueblo County, 28 are Areas of Persistent Poverty. The City has eight designated Opportunity Zones. Darkness weakens the ability of guardians to identify potential offenders. Hence darkness can be thought of as a key inhibitor to capable guardianship. An analysis of Pueblo's Police incident reports reveals that violent crimes occur most often at night. Larceny/theft, drug violations, simple assaults, and property crimes are slightly more likely to happen in daylight hours, but more violent crimes such as murder, rape/sexual assault, and robbery are more frequently reported at night. Additionally, darkness affords offenders the advantageous conditions of anonymity; they may behave differently in the dark because they have some anonymity.

Improved lighting is an appropriate response to a crime or disorder problem confronting a particular neighborhood. Funds will be used to install lighting in four public parks based on crime rates.

1. JJ Raigoza Park, in the city's far south side, has no streetlights. It's in QCT 23 and identified in a Disproportionately Impacted (DI) neighborhood according to CEJEST screening tool. It is also in an Opportunity Zone (08101002300) and an Urban Renewal Area.

Three other parks, all in Pueblo's East Side neighborhood, will be improved with lighting. Every census tract in the East Side is designated as an underserved community. The East Side is in Opportunity Zone number 08101003500. Lighting improvements will be made to:

2. Plaza Verde Park, a popular site for celebrations like Cinco de Mayo and gatherings for the Latino community, features tennis courts and cultural murals protected by Colorado's Chicano Preservation Project. It's in QCT 12 and identified as DI.

3. St. Anne's Park features a baseball field, basketball court, gazebo, and a playground. The park is in QCT 13 and identified as a DI.

4. Portland Park offers a playground, gazebo, basketball and tennis courts – but no street nor interior lights. It is in QCT 36 and DI.

In terms of how to light a public park, LED park lighting fixtures are the clear winner because of durability, rapid turn-on, and benefits to green the grid. Funds will also be used to install solar lighting on Pueblo's most active multimodal trail:

5. The trail along the Arkansas River Whitewater Park, downtown, has no lights. This project is in Opportunity Zone 08101003500.

Grantee: City of Pueblo

Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

6. The Main St. and the 4th St. pedestrian bridges complete the 4.25 mi circuit between the Arkansas River Whitewater Park trails on the east and west sides of the river.

Better LED and Solar Spaces will help the city achieve its energy saving goals including reducing its carbon footprint (reduced GHG), energy usage, electricity bill and maintenance personnel working on lighting issues, and increase public safety.

Goals & Outcomes

GOAL 1

Goal 1 Improved lighting reduces crime at night.

Objective 1.1

Objective Violent crime decreases

Measurement Crime statistics of robbery, assault, and burglary

Timeframe Incrementally, each quarter

Objective 1.2

Objective Property crimes decrease

Measurement Incidents of vandalism

Timeframe Incrementally, each quarter

Objective 1.3

Objective Calls for service increase in Q1 and Q2 as informal surveillance increases and willingness to assist the police increases.

Measurement Number of calls for service, especially Community Oriented Policing.

Timeframe Q2

GOAL 2

Goal 2 Light trespass and pollution is minimized while maintaining desired standards of brightness.

Objective 2.1

Objective Minimize the emission of skyglow, glare, spill light, and over-lighting, indoor and outdoor lighting beyond the intended target.

Measurement Actual illumination levels will be evaluated by accredited professional bodies.

Timeframe Q1, may be completed as supplies are ordered.

Objective 2.2

Objective New installations will have active controls to reduce illumination levels or extinguish lighting completely based on time of day or occupancy.

Measurement Observation

Timeframe Q1, may be completed as lights are installed.

Objective 2.3

Objective The spectral content, or color, of light should be limited to only what is necessary for the task.

Grantee: City of Pueblo
Project: Better LED and Solar Spaces

DCJ Grant #: 2023-SS-24-29

Measurement	Total emissions of short-wavelength or “blue” light are evaluated by accredited professional bodies.
Timeframe	Q1, may be completed as lights are installed.

Exhibit E – Budget

	Grant Funds	Match Funds	Project Total
Personnel	\$0	\$0	\$0
Supplies & Operating	\$654,038	\$0	\$654,038
Travel	\$0	\$0	\$0
Equipment	\$199,375	\$0	\$199,375
Consultants / Contracts	\$0	\$0	\$0
Indirect	\$0	\$0	\$0
Total	\$853,413	\$0	\$853,413

Personnel: Budget & Budget Narrative Details													
Position Title	Annual Base Salary	Annual Base Salary To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Annual Fringe	Annual Fringe To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Total Annual Base Salary + Fringe	Total Base Salary + Fringe To Be Paid By Grant Funds	OT - Annual Base Salary	OT - Annual Base Salary To Be Paid By Grant Funds	OT - Annual Fringe	OT - Annual Fringe To Be Paid By Grant Funds	Total To Be Paid By Grant Funds (including overtime)
	\$	\$	%	\$	\$	%	\$	\$	\$	\$	\$	\$	\$
Budget Narrative and Justification:													
	\$	\$	%	\$	\$	%	\$	\$	\$	\$	\$	\$	\$
Budget Narrative and Justification:													
	\$	\$	%	\$	\$	%	\$	\$	\$	\$	\$	\$	\$
Budget Narrative and Justification:													
	\$	\$	%	\$	\$	%	\$	\$	\$	\$	\$	\$	\$
Budget Narrative and Justification:													
	\$	\$	%	\$	\$	%	\$	\$	\$	\$	\$	\$	\$
Budget Narrative and Justification:													
Personnel Total:	\$0	\$0	0%	\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Non-Personnel: Budget & Budget Narrative Details		
Budget Item	Amount To Be Paid By Grant Funds	Budget Narrative and Justification
SUPPLIES & OPERATING		
Solar on Arkansas Trail	\$ 220,640	Placement every 200 LF (Beyond Solar 130 lumens per watt and IP65 rated). 112 fixtures @ \$1970
Solar on pedestrian bridg	\$ 49,250	Placement every 200 LF (Beyond Solar 130 lumens per watt and IP65 rated). 25 fixtures @ \$1970

Grantee: City of Pueblo

Project: Better LED and Solar Spaces

DCJ Grant #:2023-SS-24-29

Installation	\$ 384,148	Permitting, site work, traffic control, install, inspection. 137 sites at \$2804 each
Supplies & Operating Total	\$654,038	
TRAVEL		
Travel Total	\$0	
EQUIPMENT		
Equipment Total	\$0	
CONSULTANTS/CONTRACTS (PROFESSIONAL SERVICES)		
JJ Raigoza Park LEDs	\$ 41,250	New LED light fixtures and poles for park interior and street side, installed: 6 @ \$6,875. This price is based on purchases made with the last round of CPSS funding for Better LED Spaces
Plaza Verde Park LEDs	\$ 48,125	New LED light fixtures and poles for park interior and street side, installed: 7 @ \$6,875. This price is based on purchases made with the last round of CPSS funding for Better LED Spaces
St. Anne's Park	\$ 55,000	New LED light fixtures and poles for park interior and street side, installed: 8 @ \$6,875. This price is based on purchases made with the last round of CPSS funding for Better LED Spaces
Portland Park	\$ 55,000	New LED light fixtures and poles for park interior and street side, installed: 8 @ \$6,875. This price is based on purchases made with the last round of CPSS funding for Better LED Spaces
Consultants/Contracts Total	\$199,375	
INDIRECT		
Indirect Total	\$0	
Total Non-Personnel	\$853,413	

Certificate Of Completion

Envelope Id: E4E038689B5B42CA94BF4233E2D47747

Status: Completed

Subject: DCJ Grant Safer Streets 2023-SS-24-29 City of Pueblo

Source Envelope:

Document Pages: 25

Signatures: 2

Envelope Originator:

Certificate Pages: 5

Initials: 0

OAJJA Grants

AutoNav: Enabled

700 Kipling St

Envelopeld Stamping: Enabled

Lakewood, CO 80215

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

cdps_dcj_oajjagrants@state.co.us

IP Address: 165.127.87.1

Record Tracking

Status: Original

Holder: OAJJA Grants

Location: DocuSign

6/26/2024 10:51:16 AM

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Pool: FedRamp

Storage Appliance Status: Connected

Pool: CDPS Contracts and Grants

Location: DocuSign

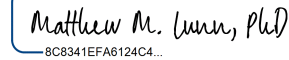
Signer Events

Matthew M. Lunn, PhD

matthew.lunn@state.co.us

Security Level: Email, Account Authentication
(None)**Signature**

DocuSigned by:


8C8341EFA6124C4...**Timestamp**

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ID: 784e1bfd-b72f-4f10-aad3-7266fdda3780

Lyndsay Clelland

lyndsay.clelland@state.co.us

Contract, Grant and Compliance Coordinator

Division of Criminal Justice

Security Level: Email, Account Authentication
(None)

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363D680603F0405...

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In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

Gary Fugo

gary.fugo@state.co.us

Security Level: Email, Account Authentication
(None)**COPIED**

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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Carbon Copy Events	Status	Timestamp
Meghan Moore meghan.moore@state.co.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/26/2024 2:16:32 PM
Michael Burtis Michael.Burtis@state.co.us Analyst IV DCJ CDPS Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 6/26/2024 2:16:33 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/26/2024 10:58:05 AM
Certified Delivered	Security Checked	6/26/2024 2:16:23 PM
Signing Complete	Security Checked	6/26/2024 2:16:31 PM
Completed	Security Checked	6/26/2024 2:16:33 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, CDPS Contracts and Grants (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact CDPS Contracts and Grants:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: sarah.white@state.co.us

To advise CDPS Contracts and Grants of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at sarah.white@state.co.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from CDPS Contracts and Grants

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to sarah.white@state.co.us and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with CDPS Contracts and Grants

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to sarah.white@state.co.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify CDPS Contracts and Grants as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by CDPS Contracts and Grants during the course of your relationship with CDPS Contracts and Grants.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-050-2024 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$253,073 FOR COSTS RELATED TO THE REHABILITATION OF EAST (NORTH) APRON (DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$253,073 TO PROJECT AP2401 – EAST APRON (N) TAXILANE REHAB, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance will approve and accept an Airport Improvement Program (AIP) grant agreement from the United States of America acting through the Federal Aviation Administration (FAA) to provide funding for costs related to the rehabilitation of the East (North) Apron, budgeting and appropriating funds to Project No. AP2401 – East Apron (N) Taxilane Rehab.

PREVIOUS COUNCIL ACTION:

Ordinance 10728, established Project AP2401, accepted CDOT Grant # 24-PUB-01, and budget and appropriated CDOT and local matching funds.

BACKGROUND:

The Colorado Department of Transportation (CDOT) Aeronautics Division conducted a pavement condition assessment of this portion of the East apron, and it was determined that the pavement needs rehabilitation. This project is on the Capital Improvement Plan schedule for 2025, approved by both the FAA and CDOT for Entitlement Fund use.

FINANCIAL IMPLICATIONS:

The total design project cost is \$259,893.54. The FAA AIP Grant is (95%) of the total project costs not to exceed \$253,073. The CDOT approved grant amount (2.5%) of the total design project costs not to exceed \$6,546.00 which was budgeted and appropriated in a previous ordinance. The City's match of (2.5%) not to exceed \$6,548.00, was transferred, and budgeted and appropriated from the Airport Improvement Trust Fund in a previous ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the grant will not be accepted from the federal government and the project will not occur.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. FAA Grant 3-048-0046-050-2024 Certification Memo
2. PUB-NMG-3-08-0046-050-2024-DRAFT Grant Agreement (No Watermark)

ORDINANCE NO. 10759

AN ORDINANCE APPROVING AND ACCEPTING AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT AGREEMENT NO. 3-08-0046-050-2024 FROM THE UNITED STATES OF AMERICA ACTING THROUGH THE FEDERAL AVIATION ADMINISTRATION FOR FUNDS IN THE AMOUNT OF \$253,073 FOR COSTS RELATED TO THE REHABILITATION OF EAST (NORTH) APRON (DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$253,073 TO PROJECT AP2401 – EAST APRON (N) TAXILANE REHAB, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo has received a Grant Agreement from the Federal Aviation Administration (FAA) for costs related to the Rehabilitation of East (North) Apron (Design); NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Federal Aviation Administration Grant Agreement No. 3-08-0046-050-2024 ("Grant Agreement"), a copy of which is attached hereto and made a part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, and the United States of America through the Federal Aviation Administration ("FAA"), making available \$253,073.00 in federal funds for costs related to the Rehabilitation of East (North) Apron (Design), after having been approved as to form by the City Attorney, is here by accepted and approved.

SECTION 2.

The Mayor is hereby authorized to execute the Grant Agreement in the name and on behalf of the City of Pueblo, where the Mayor may execute the Grant Agreement by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

Funds in the amount of \$253,073.00 shall be accepted pursuant to the Grant Agreement and budgeted and appropriated to Project No. AP2401 – East Apron (N) Taxilane Rehab.

SECTION 4.

Pursuant to the Grant Agreement, the FAA may make unilateral amendments to the grant terms and its obligation thereunder, including the increasing or decreasing of its grant obligation. In accordance therewith, such amendments shall be effective without the need for an additional ordinance or other action by City Council. Should the FAA increase the maximum grant obligation, said funds shall be automatically budgeted and appropriated to Project No. AP2401 – East Apron (N) Taxilane Rehab without the need for further action.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent ith this Ordinance to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:
Mark Duff
B7A4E51823AB462...
President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:13 AM MDT.
- ☐ Disapproved on based on the following objections:

Signed by:
Heather Graham
3A65950B7BCA402...
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of , on
- ☐ Council action on failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:
Vince Petkosek
330F90D300E24F8...
Deputy City Clerk

GRANT CERTIFICATION

To: Mark Aliff, President of the City Council
Heather Graham, Mayor

Re: Grant No. 3-08-0046-050-2024

Rehabilitate East (North) Apron (Design)

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Greg Pedroza

Date: 7-23-24

Signature: 

Title: Director of Aviation



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Northwest Mountain Region
Colorado, Utah, Wyoming

Denver Airports District Office
26805 E 68th Ave, Ste 224
Denver, CO 80249-6339

{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}

The Honorable Heather Graham
Mayor, City of Pueblo
1 City Hall Place
Pueblo, Colorado 81003

Dear Mayor Graham:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-08-0046-050-2024 at Pueblo Memorial Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **August 30, 2024**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws

on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Paulette Lugo, (303) 342-1256, paulette.lugo@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

{Sig_es_:signer1: signature}}

John P. Bauer
Manager, Denver Airports District Office



U.S. Department
of Transportation
Federal Aviation
Administration

FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM (AIP)

FY 2024 AIP

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date **{{DateTime_es_:signer1:calc(now()):format(date," mmmm d, yyyy")}}**

Airport/Planning Area Pueblo Memorial Airport

Airport Infrastructure Grant Number 3-08-0046-050-2024 [Contract No. DOT-FA24NM-1040]

Unique Entity Identifier NJK3BNUDRHJ7

TO: City of Pueblo, Colorado
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated January 16, 2024 and amended on July 9, 2024, for a grant of Federal funds for a project at or associated with the Pueblo Memorial Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Pueblo Memorial Airport (herein called the "Project") consisting of the following:

Rehabilitate East (North) Apron (Design)

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number (P.L.) 115-254); the Department of Transportation Appropriations Act, 2021 (P.L. 116-260, Division L); the Consolidated Appropriations Act, 2022 (P.L. 117-103); Consolidated

Appropriations Act, 2023 (P.L. 117-328); Consolidated Appropriations Act, 2024 (P.L. 118-42); FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances dated May 2022, interpreted and applied consistent with the FAA Reauthorization Act of 2024 per Reauthorization Grant Condition 30 below; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay (95) % of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$253,073.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):

\$0 for planning

\$253,073 for airport development or noise program implementation; and,

\$0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

- a. Period of Performance:

1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods (2 Code of Federal Regulations (CFR) § 200.1).

- b. Budget Period:

1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

- c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later

than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before August 30, 2024, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.

11. System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).

- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

12. Electronic Grant Payment(s). Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. Informal Letter Amendment of AIP Projects. If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

14. Environmental Standards. The Sponsor is required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. Financial Reporting and Payment Requirements. The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. Buy American. Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

17. Build America, Buy America. The Sponsor must comply with the requirements under the Build America, Buy America Act (P.L. 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant:

- a. May not be increased for a planning project;
- b. May be increased by not more than 15 percent for development projects, if funds are available;
- c. May be increased by not more than the greater of the following for a land project, if funds are available:
 - 1. 15 percent; or
 - 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 - 1. Checking the System for Award Management Exclusions in the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 - 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 - 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. **Ban on Texting While Driving.**

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. Trafficking in Persons.

- a. *Posting of contact information.*
 - 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
 - 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
 - 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph (b) of this Grant Condition; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (b) of this Grant Condition through conduct that is either –
 - a) Associated with performance under this Grant; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.

- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –
 - 1. Is determined to have violated an applicable prohibition in paragraph (b) of this Grant Condition; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (b) of this Grant Condition through conduct that is either –
 - i. Associated with performance under this Grant; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
 - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (b) of this Grant Condition.
 - 2. Our right to terminate unilaterally that is described in paragraph (b) or (c) of this Grant Condition:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
 - 3. You must include the requirements of paragraph (b) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
 - 1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 - 2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - 3. “Private entity”:
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:

- a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
 - b) A for-profit organization.
- 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
- 23. **AIP Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.
- 24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated January 6, 2022, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
- 25. **Employee Protection from Reprisal.**
 - a. Prohibition of Reprisals.
 - 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
 - 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
 - vii. An authorized official of the Department of Justice or other law enforcement agency.
 - b. Investigation of Complaints.

1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
- c. Remedy and Enforcement Authority.
1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [P.L. 115-232 § 889(f)(1)] and 2 CFR § 200.216.
27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in their project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.
28. **Title VI of the Civil Rights Act.** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities. This may include, as applicable, providing a current Title VI Program Plan and a Community Participation Plan (alternatively may be called a Public Participation Plan) to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is also required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin (including limited English proficiency), sex (including sexual orientation and gender identity), creed, age, disability, genetic information, or environmental justice in consideration for federal financial assistance. The Sponsor, who has not sufficiently demonstrated the conditions of compliance with civil rights requirements will be required to do so before receiving funds. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

29. **FAA Reauthorization Act of 2024.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on May 2022. On May 16, 2024, the FAA Reauthorization Act of 2024 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the FAA Reauthorization Act of 2024 is at <https://www.congress.gov/bill/118th-congress/house-bill/3935/text>.

SPECIAL CONDITIONS

30. **Solid Waste Recycling Plan.** The Sponsor certifies that it has a solid waste recycling plan as part of an existing Airport Master Plan, as prescribed by 49 U.S.C. § 47106(a)(6).
31. **Design Grant.** This Grant Agreement is being issued in order to complete the design of the project. The Sponsor understands and agrees that within two (2) years after the design is completed that the Sponsor will accept, subject to the availability of the amount of Federal funding identified in the Airport Capital Improvement Plan (ACIP), a grant to complete the construction of the project in order to provide a useful and usable unit of work. The Sponsor also understands that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the FAA may suspend or terminate grants related to the design.
32. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
33. **Final Project Documentation.** The Sponsor understands and agrees that in accordance with 49 USC 47111, and with the Airport District Office's (ADO) concurrence, that no payments totaling more than 90.0 percent of United States Government's share of the project's estimated allowable cost may be made before the project is determined to be substantially complete. Substantially complete means the following: (1) The project results in a complete, usable unit of work as defined in the grant agreement and (2) The sponsor submits necessary documents showing that the project is substantially complete per the contract requirements, or has a plan (that FAA agrees with) that addresses all elements contained on the punch list. Furthermore, no payments totaling more than 97.5 percent of the United States Government's share of the project's estimated allowable cost may be made until: (1) The sponsor submits all necessary closeout documentation and (2) The sponsor receives final payment notification from the ADO.
34. **Leaded Fuel.** FAA Reauthorization Act of 2024 (P.L. 118-63) Section 770 "Grant Assurances" requires airports that made 100-octane low lead aviation gasoline (100LL) available, any time during calendar year 2022, to not prohibit or restrict the sale, or self-fueling, of such aviation gasoline. This requirement remains until the earlier of 2030, or the date on which the airport or any retail fuel seller at the airport makes available an FAA-authorized unleaded aviation gasoline replacement for 100LL meeting either an industry consensus standard or other standard that facilitates the safe use,

production, and distribution of such unleaded aviation gasoline as deemed appropriate by the Administrator. The Sponsor understands and agrees, that any violations are subject to civil penalties.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**

{{Sig_es_:signer1:signature:dimension(height=12mm,width=70mm)}}

(Signature)

{{N_es_:signer1:fullname }}

(Typed Name)

{{N_es_:signer1:title }}

(Title of FAA Official)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated **{{DateTime_es_:signer2:calc(now()):format(date," mmmm d, yyyy")}}**

CITY OF PUEBLO, COLORADO

(Name of Sponsor)

{{Sig_es_:signer2:signature:dimension(height=12mm, width=70mm)}}

(Signature of Sponsor's Authorized Official)

By: {{N_es_:signer2:fullname }}

(Typed Name of Sponsor's Authorized Official)

Title: {{*Ttl_es_:signer2:title }}

(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, **{{N_es :signer3: fullname}}**, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (P.L. 115-254); the Department of Transportation Appropriations Act, 2021 (P.L. 116-260, Division L); the Consolidated Appropriations Act, 2022 (P.L. 117-103); Consolidated Appropriations Act, 2023 (P.L. 117-328); Consolidated Appropriations Act, 2024 (P.L. 118-42); FAA Reauthorization Act of 2024 (P.L. 118-63); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at **{{DateTime_es :signer3:calc(now()):format(date," mmmm d, yyyy")}}**

By: **{{Sig_es :signer3:signature:dimension(height=12mm, width=70mm)}}**

(Signature of Sponsor's Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.¹
- g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act – 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.²

- y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 - Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. ^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹

- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1, 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the

Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
 - 1. Operating the airport's aeronautical facilities whenever required;
 - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
 1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities

which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The City of Pueblo, Colorado, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-

sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of January 16, 2024.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE TRANSFERRING, BUDGETING, AND APPROPRIATING REIMBURSEMENT PROCEEDS IN THE AMOUNT OF \$7,526.70 INTO THE AIRPORT OPERATING BUDGET ACCOUNT NO. 54070100-56012 - REPAIR AND MAINTENANCE SUPPLIES

SUMMARY:

This Ordinance transfers, budgets, and appropriates reimbursement proceeds in the amount of \$7,526.70 for crack fill material purchased for the Pueblo Memorial Airport.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Colorado Department of Transportation (CDOT) Aeronautics Division Crack Fill program will reimburse airports 90% of the crack fill material cost up to \$10,000 annually.

FINANCIAL IMPLICATIONS:

Pueblo Memorial Airport purchased \$8,363.00 in crack fill material and CDOT reimbursed 90% of the total cost. Reimbursement funds in the amount of \$7,526.70 will be transferred into Account No. 54070100-56012-Repair and Maintenance Supplies from the Airport Revenue Fund and will be used to purchase supplies for the airport.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the reimbursement funds will not be transferred.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10760

AN ORDINANCE TRANSFERRING, BUDGETING, AND APPROPRIATING REIMBURSEMENT PROCEEDS IN THE AMOUNT OF \$7,526.70 INTO THE AIRPORT OPERATING BUDGET ACCOUNT NO. 54070100-56012 - REPAIR AND MAINTENANCE SUPPLIES

WHEREAS, the Colorado Department of Transportation (CDOT) Aeronautics Division has reimbursed the Pueblo Memorial Airport for crack fill material purchased; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Upon receipt, reimbursement proceeds in the amount of \$7,526.70 shall be budgeted, appropriated, and transferred into Operating Budget Account No. 54070100-56012-Repair and Maintenance Supplies from the Airport Revenue Fund.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

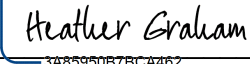
DocuSigned by:

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President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:14 AM MDT.
- ☐ Disapproved on _____ based on the following objections:

Signed by:

3A85950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:

330F90D300E24F8...

Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

SUMMARY:

This proposed ordinance approves and ratifies a Supplemental Environmental Project (SEP) Agreement between the City of Pueblo and the Colorado Department of Public Health and Environment (CDPHE), approves a modification to said Agreement, and authorizes the Mayor to execute the modification. The Supplemental Environmental Project Agreement provides \$378,880 for the establishment of a Household Hazardous Waste collection program, which will be accepted and budgeted and appropriated into Project Account No. PL2302 - Household Hazardous Waste Program.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City has entered into a SEP Agreement which will provide funding for the establishment of a Household Hazardous Waste program. This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items

such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area. Funds provided under the program will be used to procure and install a prefabricated household hazardous waste storage building at the Pueblo RecycleWorks facility on Stockyard Road; fund the disposal of collected Household Hazardous Waste items; procure materials, supplies, and equipment necessary to operate the program; and provide necessary safety training for employees.

FINANCIAL IMPLICATIONS:

The City will accept funds from CDPHE in the amount of \$388,870.00 and budget and appropriate said funds into Project Account No. PL2302 - Household Hazardous Waste Program.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failing to approve this Ordinance will preclude the City of Pueblo from accepting the funds from CDPHE and prevent the establishment of the Household Hazardous Waste program.

RECOMMENDATION:

Recommend approval of this Ordinance.

ATTACHMENTS:

1. Pueblo_Bechtell_HHW_SEPAgreement
2. SEP Modification

ORDINANCE NO. 10761

AN ORDINANCE APPROVING AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Supplemental Environmental Project (SEP) Agreement between the City of Pueblo, a Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, is hereby ratified and approved subject to approval of the Modification to the SEP Agreement as set forth in Section 2 of this Ordinance.

SECTION 2.

The Modification to the SEP Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor is authorized to execute and deliver the modification to the SEP Agreement in the name of the City.

SECTION 4.

Project No. PL2302 - Household Hazardous Waste Program is hereby established and funds received from the Colorado Department of Public Health and Environment in the amount of \$378,880.00 are hereby accepted and budgeted and appropriated into said project account.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein. Furthermore, all actions previously taken by officers and staff of the City consistent with the agreement are hereby ratified.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:
Mark Cliff
B7A4F51823AB462...
President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:12 AM MDT.
- ☐ Disapproved on based on the following objections:

Signed by:
Heather Graham
3A85950B7BCA46Z...
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of , on
- ☐ Council action on failed to override the Mayor's veto.

President of City Council

ATTEST
Signed by:
Vince Petkosek
330F80D300E24F8...
Deputy City Clerk



Third Party Supplemental Environmental Project (SEP) Agreement

Third Party Liable (Revised 9/21/2022)

Document is completed by the third party SEP administrator.

The third party SEP administrator, identified below, submits the following SEP agreement proposal to the Colorado Department of Public Health and Environment (the department) for consideration. If the application is approved, it shall be signed by appropriate representatives of the department. If the approved document is then signed by the applicant, it shall serve as the SEP agreement for the project(s) at issue.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)

Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, PE
City of Pueblo
Director of Public Works
211 E D St.
Pueblo, CO 81003
719-553-2295/2267
ahayes@pueblo.us

Type of organization

Government

Department SEP coordinator

Elizabeth Scherer
720-515-0236
Elizabeth.scherer@state.co.us

Geographic area served

City of Pueblo; Pueblo County

SEP category

Pollution Prevention

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Project summary

This SEP will help develop a Household Hazardous Waste (HHW) program to include storage, training, equipment and safe transport services for all of Pueblo County. The facility would operate year-round for the benefit of residents throughout the County, allowing Pueblo to expand its waste diversion services to citizens. The HHW collection center will be located at the existing RecycleWorks facility at 1595 Stockyard Road, Pueblo, CO.

Project description

Problem Statement: Residents within Pueblo County have no options for disposing of household hazardous waste items. When “improperly” disposed of, these items end up in local landfills. When improperly disposed of these wastes present serious risks to the environment and negatively impact the health and safety of residents.

Project goals and objectives: This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area.

Project tasks and activities and construction scope: RecycleWorks is an already established recycling center that will provide expanded services to include acceptance of household hazardous waste with this funding. The proposed facility would be a prefabricated 10 x 40 building specifically built to hold household hazardous materials that would be equipped with fire detection/alarm/suppression systems. Within the existing footprint of RecycleWorks the plans would need to be redrawn to accommodate a new layout to support a permanent Concrete slab that could house the prefabricated building. Minimal exterior site improvements would be required as the RecycleWorks site is already surrounded by an 8-foot chain-link fence with two vehicle access gates and a paved parking area. The city currently has one full-time and two part-time staff members that operate and maintain the RecycleWorks operation. This SEP will fund and train one other part-time position to operate the HHW work. It is envisioned that the City would contract with a hazardous waste disposal company to collect, transport, and dispose of all waste streams collected under the HHW program in a way that ensures the facility continues to operate in compliance with state laws and regulations related to municipal household hazardous waste collection operations. Required changes to the full- and part-time staffing of the entire operation (RecycleWorks and HHW collection) would be evaluated to ensure sufficient resources are allocated and personnel assigned to facilitate sustained operation of the facility.

Need for the project in the community: There is no current option for residents seeking to dispose of household hazardous waste items other than through normal residential solid waste collections. There are also limited recycling options available within the city and the combined benefit of having both services available at one location is a critical step forward in improving and protecting the environment in Pueblo. The city has long sought opportunities to be able to expand its waste diversion programs to include the establishment of a HHW collection program. This project would allow that vision to become a reality and Pueblo citizens will reap the benefits for generations to come.

The Pueblo Department of Public Health and Environment (PDPHE) would assist with the integration of solid waste diversion programs for both the City of Pueblo and Pueblo County, provide education and outreach support for the expanded service offerings, and work with the city during the permitting, design, and implementation phase of the HHW project. PDPHE will also be a partner in sustaining the continued operation of the HHW program. The City of Pueblo will provide the property and daily labor to run the HHW collection.

The nearest household hazardous waste disposal/collection facility is in El Paso County, approximately 45 minutes north of the City of Pueblo, but the facility is only open to El Paso County residents. There are a few commercial hazardous waste disposal facilities in the area, but many do not accept residential waste streams and those that do are not generally cost-effective options for residents.

Since the SEP would be used to fund the permanent setting for HHW by using a prefabricated building, the construction effort would be limited because demolition and construction cost will not be required.

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023
Biannual status report due	City of Pueblo	May 1, 2023

Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023
Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31, 2023
Award Vendor for HHW transportation	City of Pueblo	July 31, 2023
HHW Collection Start	City of Pueblo	August 31, 2023
Biannual status report due	City of Pueblo	November 1, 2023
Biannual status report due	City of Pueblo	May 1, 2024
Biannual status report due	City of Pueblo	November 1, 2024
Biannual status report due	City of Pueblo	May 1, 2025
Project completion date	City of Pueblo	December 31, 2025
SEP completion report due	City of Pueblo	December 31, 2025

Expected environmental and/or public health measures/results

When completed the updated RecycleWorks facility will integrate HHW collections services for County residents as well as City residents. This new addition will allow for items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints,

batteries, and other common household waste items to be disposed of safely. When these items are improperly disposed of, they present serious risks to the environment and negatively impact the health and safety of residents. City and County residents currently have no reasonable options for disposing of these items other than through residential waste disposal methods which ultimately end up in the local landfill. PDPHE will track and report all HHW that is diverted by this new program.

Project budget

Complete the summary table below and itemize expenses according to the budget categories provided. Add lines as necessary. Documentation of all expenditures is required as part of the completion report.

Category	Description	SEP funds	Matching funds (if applicable)	Total cost
Personnel - salaries, wages (including rates and # of hrs.)	.5 FTE Staffing for HHW collection for normal operating hours. 1040 hours x 3yrs @ \$17 per hr.	\$53,040.00		\$53,040.00
	40 HAZWOPER training	\$500.00		\$500.00
Materials and supplies	PPE Gloves, Boots, Eye Protection, P-100 Face mask, Chemical Spill Kit,	\$1,000.00		\$1,000.00
	Tote boxes for chemical separation	\$1,000.00		\$1,000.00
Equipment	Prefabricated 10x40 Chemical storage building (See Attachments B.1 and B.2)	\$88,400.00		\$88,400.00
Contractors / subcontractors	HHW vendor for pick up and disposal x 3yr contract	\$205,000.00		\$205,000.00
	Construction of 10x40 concrete pad for prefabricated building.	\$11,500.00		\$11,500.00
	Fire Alarm Panel Installation and System Commissioning	\$9,000.00		\$9,000.00
Other Direct Costs	Transportation of prefabricated building from California	\$7,680.00		\$7,680.00
	Large forklift rental to placement of prefabricated building	\$1,760.00		\$1,760.00
Totals:		\$378,880.00		\$378,880.00

Please note: Any categorical changes exceeding 10% of the total budget require prior written approval from CDPHE through a SEP Modification.

Budget discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal.

Other relevant information

If the SEP is awarded to the City of Pueblo, The Pueblo Department of Public Health and Environment will transfer all funds to the City of Pueblo for the administration of the proposed project (Attachment C). SEP funds will be used to obtain the program resources and operate the household hazardous waste collection program as specified in the “Project Budget” section above. See Attachment A (City Letter) for additional information.

Photos or maps related to the project:



Reporting requirements

Biannual status reports

The SEP administrator will submit a biannual project status report to the department’s SEP coordinator. Status reports will include, at a minimum, the following information and be submitted using the department’s status report form:

- A description of activities completed to date;
- A budget summary table listing funds expended to date by budget category; and
- A discussion of any anticipated changes to the project scope or timeline.

SEP completion report

The SEP administrator will submit a SEP completion report to the department's SEP coordinator within 30 days of project completion and contain at a minimum:

- A detailed description of the project as implemented;
- A summary table identifying project deliverables and tasks along with the associated completion date;
- A description of any operating problems encountered and the solutions thereto;
- A full expense accounting including itemized costs, documented by copies of purchase orders, contracts, receipts or canceled checks;
- Certification and demonstration that the SEP has been fully implemented pursuant to the provisions of the settlement agreement and this SEP agreement;
- A description of the environmental and public health benefits resulting from implementation of the SEP along with **quantification** of the outcomes and benefits;

Additional information will include:

- Examples of brochures, educational or outreach materials developed or produced as part of the SEP; and
- Photographs documenting the project.

Third party SEP administrator conditions and requirements

Only qualified tax-exempt 501(c)(3) nonprofits or governmental organizations are eligible to serve as the SEP administrator. The SEP administrator agrees to the following SEP conditions and requirements:

- I. Maintain the SEP funds paid by the regulated entity in an independent SEP account and draw funds from the account as-needed for the purposes outlined in this SEP agreement.
- II. Communicate issues and concerns related to the SEP promptly to the department SEP coordinator.
- III. If the SEP administrator elects to publicize the name of a violator in connection with the SEP either orally or in writing, the SEP administrator must also include the following statement: *"This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of environmental laws and regulations"*.
- IV. Complete the SEP as described in this SEP agreement
 - a. Any changes to the approved project scope or timeline must receive prior written approval from the department.
 - b. Budget reallocations of up to 10% of the total SEP payment amount may be made without prior authorization. Budget reallocations of over 10% must first receive written prior authorization from the department.
- V. Complete the SEP within the time frame(s) indicated in this SEP agreement. If the SEP administrator is unable to meet the SEP agreement time frame(s) for the completion

of the SEP, the SEP administrator may request a deadline extension in writing from the department no later than 30 days prior to the deadline.

VI. In any of the following situations, all funds remaining in the SEP account shall be released to the department within 30 days of the department's written request:

- a. The SEP administrator fails to complete the project or submit the SEP completion report;
- b. The project has been fully implemented and there are still funds remaining in the SEP account; or
- c. The department terminates the SEP for failure of the third party SEP administrator to adhere to this SEP agreement.

VII. Make available, at the department's request, all records pertaining to the SEP.

- a. The SEP administrator shall maintain a complete file of all records, documents, communications, and other materials that pertain to the operation of the SEP or the delivery of services under the SEP agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services.
- b. The SEP administrator authorizes the department to perform audits and/or inspections of its SEP records, at any reasonable time during the implementation of the project and for a period of one (1) year following the completion of the project.

Failure to adhere to any of the above conditions and requirements may result in the termination of the SEP and/or no further SEP referrals.

This section to be completed in the event of a SEP agreement only

Certification statement

I, Andrew E. Hayes, P.E., Director of Public Works, certify on behalf of City of Pueblo, that City of Pueblo is not required or has not previously committed to perform this project and agrees to the SEP conditions and requirements detailed in this document.



2023.01.30 07:29:10 -07'00'

Signed and dated

Andrew E. Hayes, P.E., Director of Public Works, City of Pueblo

Department use only

This SEP has been reviewed and approved by the Colorado Department of Public Health and Environment.

Kevin Mackey

Digitally signed by Kevin Mackey
Date: 2023.01.27 12:02:13 -07'00'

Signed and dated

Kevin Mackey, Hazardous Waste Permitting Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Elizabeth A. Scherer

Digitally signed by Elizabeth A. Scherer
Date: 2023.01.27 08:57:01 -07'00'

Signed and dated

Elizabeth Scherer, Supplemental Environmental Projects Coordinator
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Third-Party Liabe Supplemental Environmental Project (SEP) Modification Request

Third Party Liabe (Revised 6/16/2023)

Document is completed by the third-party SEP administrator.

The third-party SEP administrator submits the following SEP modification request to the Colorado Department of Public Health and Environment (the department) for consideration. If the modification is approved, it shall be signed by appropriate representatives of both the SEP administrator and the department and shall serve to modify the existing SEP agreement for the project at issue. All terms of the existing SEP agreement, not directly addressed through the amendment(s) below, remain in full force and effect.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)

Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, Director of Public Works

City of Pueblo

211 E. D Street

Pueblo, CO 81003

719-553-2295

ahayes@pueblo.us

Robert Banham, Solid Waste Coordinator

City of Pueblo

211 E. D Street

Pueblo, CO 81003

719-553-2748

rbanham@pueblo.us

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Basis for modification request

The City of Pueblo requests to modify the “Budget Discussion” section of the current SEP Agreement dated January 30, 2023 as indicated below. Subject to future appropriations by City Council, Pueblo still intends to fund the project after the completion of the three (3) year service contract. The modification is requested to add clarifying language such that the City cannot commit to a debt or multi-fiscal year obligation of future appropriations, and that

this will not constitute a default or breach of the agreement. The modification also adjusts the due dates for project benchmarks and requested status reports.

SEP agreement sections as modified

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023 April 1, 2024
Biannual status report due	City of Pueblo	May 1, 2023 May 1, 2024
Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023 May 1, 2024
Award Vendor for HHW transportation	City of Pueblo	June 1, 2024
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023 July 1, 2024

Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31, 2023 December 1, 2024
Award Vendor for HHW transportation	City of Pueblo	July 31, 2023
HHW Collection Start	City of Pueblo	August 31, 2023 January 1, 2025
Monthly status report due	City of Pueblo	Due at the 1st of the month every month until HHW Collection Starts
Quarterly status report due	City of Pueblo	Jan 1, 2025
Quarterly status report due	City of Pueblo	April 1, 2025
Biannual status report due	City of Pueblo	July 1, 2025
Biannual status report due	City of Pueblo	Jan 1, 2026
Biannual status report due	City of Pueblo	July 1, 2026
Biannual status report due	City of Pueblo	Jan 1, 2027
Biannual status report due	City of Pueblo	July 1, 2027
Project completion date	City of Pueblo	December 31, 2027

SEP completion report due	City of Pueblo	January 31, 2028
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Budget Discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal. **The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing; provided, however, it is expressly recognized that any such additional funding shall not constitute, nor deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory or charter debt limitation. In the event the budget or other means of appropriations for any such year fails to provide any such additional funding, such failure shall not constitute a default or breach of this Agreement by the City.**

This section to be completed in the event of an approved SEP modification only.

I, Heather Graham, Mayor certify on the behalf of the City of Pueblo that the City of Pueblo approved the above modifications to the SEP Agreement.

Signed and dated
Heather Graham, Mayor
City of Pueblo

Department use only

This SEP modification has been reviewed and approved by the Colorado Department of Public Health and Environment.

Colleen Brisnehan  Digitally signed by Colleen Brisnehan
Date: 2024.07.26 10:31:31 -06'00'

Signed and dated
Colleen Brisnehan, Hazardous Waste Program Manager
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Alex Scherer

 Digitally signed by Alex Scherer
Date: 2024.07.29 09:07:58 -06'00'

Alexander Scherer, Supplemental Environmental Projects Coordinator,
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-104 (26412) PUEBLO 18TH STREET BRIDGE REHAB, ACCEPTING A GRANT IN THE AMOUNT OF \$448,000.00, ESTABLISHING PROJECT ACCOUNT CI2446, 18TH STREET REHABILITATION, TRANSFERRING \$112,000.00 FROM PROJECT ACCOUNT HUAN01, STREET RESURFACING PROJECT TO PROJECT ACCOUNT CI2446, 18TH STREET BRIDGE REHABILITATION PROJECT, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$560,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") accepting a grant in the amount of \$448,000, creates Project Account CI2446 for Pueblo 18th Street Rehabilitation Project, transfers \$112,000 for the required 20% match from Project Account HUAN01, and budgets and appropriates funds totaling \$560,000 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance accepts the Off-System Bridge Program (BRO) grant award for 18th Street Bridge.

The City submitted a grant to CDOT for the 18th Street Bridge Rehab Project. Pueblo's

West Side has always been somewhat disconnected and isolated from the rest of Pueblo. Just last year, the remaining two blocks of W. 18th have been built. Now there is a complete connection between the W. 18th St bridge and CO State Hwy 45A.

The 18th Street bridge, built in 1973, spans across Wildhorse and Dry Creek. The culverts and surrounding area are in need of maintenance and repairs and are necessary to prolong the life of the culverts and bridge structure, to ensure the culverts are functioning as designed in the floodway, and have the intended flow capacity needed. Upon inspection, the City of Pueblo has determined that the culverts are 20-35% full of sediment which needs to be removed. Once the sediment is removed, all five culverts will be lined with Culvert Armoring to combat the rusting and pin holes. This lining should increase the service life of the culverts by 50 years.

A substantial amount of erosion has occurred on the upstream and downstream side of the culverts that will require regrading. The regrading will allow for a more distributed flow among the culverts. There are a numerous number of trees and shrubs hindering flow that will be removed. Removing these trees and shrubs will protect the culverts and bridge structure from any displacement or abrasions from the root systems. A rip rap apron will be placed at the inlets and outlets to prevent these erosion and sediment issues from occurring again. Additionally, crack-sealing and guardrail replacement will complete the rehabilitation.

The Department of Public Works has reviewed and is familiar with the grant application, award, and associated draft agreement, and to the best of our knowledge and belief, the City has the present ability to comply with all monetary expenditures, special conditions, certifications and assurances therein contained.

FINANCIAL IMPLICATIONS:

The matching funds in the amount of \$112,000.00 will be transferred from Project Account HUAN01, Street Resurfacing to Project Account CI2446, 18th Street Bridge Rehabilitation. Funds in the amount of \$560,000.00 shall be budgeted and appropriated for Project Account CI2446.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Off-System Bridge Program funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Draft Agreement (26412)

ORDINANCE NO. 10762

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-104 (26412) PUEBLO 18TH STREET BRIDGE REHAB, ACCEPTING A GRANT IN THE AMOUNT OF \$448,000.00, ESTABLISHING PROJECT ACCOUNT CI2446, 18TH STREET REHABILITATION, TRANSFERRING \$112,000.00 FROM PROJECT ACCOUNT HUAN01, STREET RESURFACING PROJECT TO PROJECT ACCOUNT CI2446, 18TH STREET BRIDGE REHABILITATION PROJECT, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$560,000, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project Account CI2446, 18th Street Bridge Rehabilitation Project, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo ("City"), a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation ("CDOT"), Project: BRO M086-104 (26412), Pueblo 18th Street Bridge Rehab, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds in the amount of \$112,000.00 are hereby transferred from Project Account HUAN01, Street Resurfacing to Project Account CI2446, 18th Street Bridge Rehabilitation Project, and budgeted and appropriated for the 18th Street Bridge Rehabilitation Project Account, CI2446.

SECTION 4.

Subject to encumbrances by the Colorado State Department of Transportation, funds in the amount of \$560,000.00 are hereby budgeted and appropriated for the 18th Street Bridge Rehabilitation into Project Account CI2446.

SECTION 5.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 6.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein.

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Deputy City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation		Agreement Routing Number 25-HA2-XC-00106	
Local Agency CITY OF PUEBLO		Agreement Effective Date The later of the effective date or July 18, 2024	
Agreement Description Pueblo 18th Street Bridge Rehabilitation		Agreement Expiration Date July 17, 2034	
Project # BRO M086- 104 (26412)	Region # 2	Contract Writer CM	Agreement Maximum Amount \$560,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY CITY OF PUEBLO By: _____ *Signature Name: _____ (Heather Graham) Title: _____ (Mayor) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Keith Stefanik, P.E., Chief Engineer Date: _____
LOCAL AGENCY CITY OF PUEBLO By: _____ *ATTESTED BY Name: _____ (Marisa Stoller) Title: _____ (City Clerk) Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

TABLE OF CONTENTS

1. PARTIES	2
2. TERM AND EFFECTIVE DATE	2
3. AUTHORITY	3
4. PURPOSE	4
5. DEFINITIONS	4
6. SCOPE OF WORK	7
7. PAYMENTS	11
8. REPORTING - NOTIFICATION	15
9. LOCAL AGENCY RECORDS	16
10. CONFIDENTIAL INFORMATION-STATE RECORDS	17
11. CONFLICTS OF INTEREST	18
12. INSURANCE	18
13. BREACH	20
14. REMEDIES	21
15. DISPUTE RESOLUTION	22
16. NOTICES AND REPRESENTATIVES	23
17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION	23
18. GOVERNMENTAL IMMUNITY	24
19. STATEWIDE CONTRACT MANAGEMENT SYSTEM	24
20. GENERAL PROVISIONS	25
21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)	28
22. FEDERAL REQUIREMENTS	29
23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)	29

EXHIBIT A, SCOPE OF WORK	
EXHIBIT B, SAMPLE OPTION LETTER	
EXHIBIT C, FUNDING PROVISIONS (Budget)	
EXHIBIT D, LOCAL AGENCY RESOLUTION	
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	
EXHIBIT N, FEDERAL TREASURY PROVISIONS	
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS	
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT	
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM	
EXHIBIT R, APPLICABLE FEDERAL AWARDS	
EXHIBIT S, PII CERTIFICATION	
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	

1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on July 17, 2034, as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in §2.B.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. **“Sub-Award”** means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. **“Subcontractor”** means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. **“Tax Information”** means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. **“USDT”** The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. **“Work”** means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

- (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
- (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in §7.F.vi.

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C**. The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C**.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information (this insurance requirement only applies if the Subcontractor has or will have access to State Confidential Information)

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

v. Professional Liability Insurance (this insurance requirement only applies if the Subcontractor is providing professional services including but not limited to engineering, architectural, landscape architectural, professional surveying, industrial hygiene services, or any other commonly understood professional service)

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protected consumer data protection law,

confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.

D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.

E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.

F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and

may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §13.B, shall have all of the remedies listed in this §14.A. in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.C.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered **(i)** by hand with receipt required, **(ii)** by certified or registered mail to such Party's principal representative at the address set forth below or **(iii)** as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Local Agency Coordinator, Don Scanga
CDOT, Region 2
5615 Wills Blvd
Pueblo, CO 81008
719-621-8340
donald.scanga@state.co.us

For the Local Agency

CITY OF PUEBLO
Kelly Grisham, Project Coordinator
211 East D Street
Pueblo, CO 81003
719-553-2254
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from,

or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A.** all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency and Contract refers to Agreement.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(19), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S., applicable Local Agency law, rule or regulation.

Financial obligations of the Parties payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F, Exhibit I, Exhibit J, Exhibit K, Exhibit M, Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

Exhibit A

Scope of Work

Name of Project: Pueblo 18th Street Bridge Rehab
Project Number: BRO M086-104
SubAccount #: 26412

1. General Description

The culverts and surrounding area will be maintained and repaired. The culverts are 20-35% full of sediment that will be removed. Once the sediment is removed, all five culverts will be cleaned, prepped, and lined with a rust-resistant, spray-on, flexible polymer coating. A substantial amount of erosion that has occurred on the upstream and downstream side of the culverts will be regraded. There are numerous trees and shrubs that will be removed. A rip rap apron will be placed at the inlets and outlets. Additionally, crack-sealing and guardrail replacement will complete the rehabilitation. Supplemental items that will also be part of the project include engineering services, revegetating disturbed areas with upland seeding, channel diversion, mobilization, and traffic control.

If ARPA funds are used, all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

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EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name:

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Keith Stefanik, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C FUNDING PROVISIONS**City of Pueblo – BRO M086-104 (26412)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$560,000.00, which is to be funded as follows:

1. FUNDING		
a.	Federal Funds (80% of BRO Award)	\$448,000.00
b.	Local Agency Funds (20% of BRO Award)	\$112,000.00
TOTAL FUNDS ALL SOURCES		\$560,000.00
2. OMB UNIFORM GUIDANCE		
a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Local Agency Unique Entity Identifier	NJK3BNUDRHJ7
d.	Assistance Listing # Highway Planning and Construction	ALN 20.205
e.	Is the Award for R&D?	No
f.	Indirect Cost Rate (if applicable)	N/A
g.	Amount of Federal Funds Obligated by this Action:	\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):	\$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a.	Federal Funds Budgeted	\$448,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		80% \$448,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		20% \$112,000.00
TOTAL PROJECT ESTIMATED FUNDING		100% \$560,000.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
a.	Total Encumbrance Amount (Federal funds + Local Agency funds)	\$560,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$560,000.00

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

WBS Element 26412.10.30	Performance Period Start*/End Date TBD – TBD	Design 3020	\$0.00
WBS Element 26412.20.10	Performance Period Start*/End Date TBD - TBD	Const. 3301	\$0.00

* The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Funding Ratios

The funding ratio for the federal funds for this Work is 80% federal funds to 20% Local Agency funds, and this ratio applies only to the \$560,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$560,000.00, and

additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$560,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1**. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$448,000.00. For CDOT accounting purposes, the federal funds of \$448,000.00 and the Local Agency funds of \$112,000.00 will be encumbered for a total encumbrance of \$560,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total budget is \$560,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

- i. Expenditure less than \$750,000**
If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.
- ii. Expenditure of \$750,000 or more-Highway Funds Only**
If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.
- iii. Expenditure of \$750,000 or more-Multiple Funding Sources**
If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.
- iv. Independent CPA**
Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

Exhibit E:

Local Agency Administration Checklist

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. BRO M086-104	STIP No. SR25164.086	Project Code 26412	Region 2
Project Location Pueblo 18 th Street Bridge in Pueblo Colorado			Date 5/14/2024
Project Description Pueblo 18 th Street Bridge Rehab			
Local Agency The City of Pueblo	Local Agency Project Manager Kelly Grisham		
CDOT Resident Engineer Lachelle Davis	CDOT Project Manager Don Scanga		
INSTRUCTIONS: This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>. The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consist with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	
5.11	Justify Force Account Work by the Local Agency	X	
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project ☐ is X is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis CDOT Resident Engineer (Signature on File) 5/14/2024 Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Kurt Patrick 719-553-2283 Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. Kelly Grisham 719-553-2254 Local Agency Representative Phone number	X	
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare and Authorize Change Orders	X	
8.13	Submit Change Order Package to CDOT	X	
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. Don Scanga 719-546-5434 CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X	X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures X • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure		X
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub- recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISES

SECTION 1. Policy

It is the policy of the Colorado Department of Transportation (CDOT) that Disadvantaged Business Enterprises (DBEs) shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Accordingly, CDOT's federally approved DBE Program Plan shall apply to this agreement.

SECTION 2. Subrecipient and Participant Obligation.

The Local Agency and its subrecipients agrees to ensure that DBEs certified through the Colorado Unified Certification Program have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement.

All participants on contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement shall take all necessary and reasonable steps in accordance with the CDOT's federally approved DBE Program Plan to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

Local Agency subrecipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT and federally assisted contracts.

SECTION 3. DBE Program.

The Local Agency subrecipient shall be responsible for complying with CDOT's FHWA-approved DBE Program Plan.

Local Agency requirements can be found at:

<https://www.codot.gov/business/civilrights>

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services.

Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
- b. Past performance,
- c. Willingness to meet the time and budget requirement,
- d. Location,
- e. Current and projected work load,
- f. Volume of previously awarded contracts, and
- g. Involvement of minority consultants.

8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.

9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1,
PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING
EIGHT (8) STEPS.

EXHIBIT I

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants /

Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

(1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(2) A contracting agency for its procurement costs;

(3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(4) A contractor's assignee(s);

(5) A contractor's successor(s); or

(6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

3. Records and certified payrolls (29 CFR 5.5)

a. Basic record requirements (1) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. Certified payroll requirements (1) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHDL/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature*. The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification*. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention*. The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents*. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers*. The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements*. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures*. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay*. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits*. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio*. The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates*. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity*. The use of apprentices and journeymen under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

* * * * *

4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
This provision is applicable to all Federal-aid projects funded
under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

- 7.1 To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:
- 7.1.1** Subrecipient DUNS Number;
 - 7.1.2** Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
 - 7.1.3** Subrecipient Parent DUNS Number;
 - 7.1.4** Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 7.1.5** Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 7.1.6** Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
- 7.2 To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:
- 7.2.1** Subrecipient's DUNS Number as registered in SAM.
 - 7.2.2** Primary Place of Performance Information, including: Street Address, City, State, Country, Zipcode + 4, and Congressional District.

8. Exemptions.

- 8.1.** These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 8.2** A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 8.3** Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangements as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.
- 8.4** There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

CDOT SUBRECIPIENT RISK ASSESSMENT		Date:	
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No
		N/A	
EXPERIENCE ASSESSMENT		Yes	No
		N/A	
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	☐	☐
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	☐	☐
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	☐	☐
MONITORING/AUDIT ASSESSMENT		Yes	No
		N/A	
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	☐	☐
5 a)	Were there non-compliance issues in this prior review?	☐	☐
5 b)	What were the number and extent of issues in prior review?	☐ 1 to 2	☐ >3
OPERATION ASSESSMENT		Yes	No
		N/A	
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	☐	☐
FINANCIAL ASSESSMENT		Yes	No
		N/A	
7 a)	Does your entity have an indirect cost rate that is approved and current?	☐	☐
7 b)	If Yes, who approved the rate, and what date was it approved?		
8	Is this grant/award 10% or more of your entity's overall funding?	☐ >10%	☐ <10%
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	☐	☐
10	Has your entity had difficulty meeting local match requirements in the last three years?	☐	☐
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?		

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.  Tool Version: v2.0 (081816)			

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

**Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and
Audit Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
- 1.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 1.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
- 1.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 1.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
- 1.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
- 1.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
- 1.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
- 1.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
- 1.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

- 1.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 2. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. Procurement Standards.**
- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation,
§§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient’s fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program’s statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government

Accountability Office.

- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

6.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection

Agency (EPA).

6.5 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7. Certifications. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

7.1 Event of Default. Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

8. Effective Date. The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

9. Performance Measurement. The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "Expenditure Category (EC)" means the category of eligible uses as defined by the US Department of Treasury in "Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “Non-Federal Entity” means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
- 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.13. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.15.1. Salary and bonus;
 - 2.1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the

fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;

- 2.1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.16. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.17. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND UNIQUE ENTITY ID (UEI) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in Sam.gov at least annually.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:

- 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
- 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served

- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
- b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
- b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage

- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report
 - ii. Project labor agreement certification or project workforce continuity plan
 - iii. Prioritization of local hires
 - iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously

lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient Unique Entity ID;
 - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's Unique Entity ID as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and location (for broadband, geospatial location data). For projects over \$10 million:
 - 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less

than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
 - 8.1.3.8.2. Whether the project prioritizes local hires.
 - 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Contract with the Enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.
- 12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

- 12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit E and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.
- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
- 15.2.5. By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
- v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
- vi. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
- vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
- 10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
- 11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
- 12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”
14. Debts Owed the Federal Government.
- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.
- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
 - b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.
16. Protections for Whistleblowers.
- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
 - b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for Agreement or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:
<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q
SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:		Agreement No:	
Project Title:		Project No:	
Project Duration: To:		From:	
State Agency:	CDOT		

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

Exhibit R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A DONATION OF FUNDS IN THE AMOUNT OF \$2,000.00 FOR DEPOSIT INTO THE CITY'S GENERAL FUND FROM THE BEULAH HISTORICAL SOCIETY TO THE CITY OF PUEBLO, TO OFFSET COSTS INCURRED FOR THE FABRICATION AND INSTALLATION OF HIGHWAY MEMORIAL SIGNS ON COLORADO STATE HIGHWAY 78 HONORING PFC MIKE HANRATTY

SUMMARY:

This Ordinance approves and accepts a donation of funds from the Beulah Historical Society to the City of Pueblo. The funds are a contribution to offset the cost to fabricate and install highway memorial signs on Colorado State Highway 78 to honor Pueblo's Medal of Honor recipients.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Public Works Department is seeking approval to receive a donation in the amount of \$2,000.00 from the Beulah Historical Society to be used to offset the cost for the fabrication and installation of highway memorial signs on Colorado State Highway 78 honoring PFC Mike Hanratty.

FINANCIAL IMPLICATIONS:

There are no matching funds required for this donation. The City of Pueblo will receive the entire \$2,000.00 upon passage of the Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the City Council does not approve this Ordinance, the donated money will not be accepted. The Public Works Department will not be able to use the donation to fabricate and install highway memorial signs on Colorado State Highway 78.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10763

AN ORDINANCE APPROVING AND ACCEPTING A DONATION OF FUNDS IN THE AMOUNT OF \$2,000.00 FOR DEPOSIT INTO THE CITY'S GENERAL FUND FROM THE BEULAH HISTORICAL SOCIETY TO THE CITY OF PUEBLO, TO OFFSET COSTS INCURRED FOR THE FABRICATION AND INSTALLATION OF HIGHWAY MEMORIAL SIGNS ON COLORADO STATE HIGHWAY 78 HONORING PFC MIKE HANRATTY

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The donation of funds from the Beulah Historical Society to the City of Pueblo in the amount of \$2,000.00 to offset the cost of the fabrication and installation of highway memorial signs on Colorado State Highway 78 honoring PFC Mike Hanratty is hereby accepted and deposited into the City's General Fund.

SECTION 2.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Ordinance to implement the transactions described herein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

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President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:11 AM MDT.
- ☐ Disapproved on _____ based on the following objections:

Signed by:

3A65950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST


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Deputy City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING A MAINTENANCE IGA BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION; PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO; AND THE STATE OF COLORADO BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION RELATED TO THE MAINTENANCE OF INSTALLED ROADWAY IMPROVEMENTS ALONG THE MEDAL OF HONOR BOULEVARD CORRIDOR, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

The Ordinance will approve an Intergovernmental Agreement between the City, Pueblo County, and the Colorado Department of Transportation (CDOT) which outlines maintenance responsibilities of each of the parties for installed roadway improvements in the vicinity of Pueblo Boulevard (CO-45) and Medal of Honor Boulevard. The Ordinance also authorizes the Mayor to execute and deliver the agreement on behalf of the City.

PREVIOUS COUNCIL ACTION:

On June 13, 2024, City Council voted to approve Ordinance No. 10726 which approved an Easement Agreement between the City and the County related to the construction, operation, and maintenance of Medal of Honor Boulevard through City-owned land outside of the City, generally west of the new County Detention Facility.

BACKGROUND:

The City of Pueblo, Pueblo County, and CDOT have developed this agreement to clarify responsibilities associated with the operation and maintenance of roadway improvements on Medal of Honor Boulevard in the vicinity of Pueblo Boulevard (CO-45).

FINANCIAL IMPLICATIONS:

The segment of Medal of Honor Boulevard located within City of Pueblo is a City roadway and the City will have ongoing maintenance obligations for certain public improvements as outlined within the subject agreement. However, CDOT and Pueblo County have also undertaken obligations for some of the existing and new improvements. Pueblo County is responsible for managing the installation of the work under their project to construct the Medal of Honor roadway.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve this Ordinance will prevent the City from being a party to the proposed agreement and place additional burden on the City for ongoing maintenance responsibility of improvements that would otherwise be the responsibility of Pueblo County and/or CDOT.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. City-County-CDOT Maintenance Agreement - MOH Blvd

ORDINANCE NO. 10764

AN ORDINANCE APPROVING A MAINTENANCE IGA BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION; PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO; AND THE STATE OF COLORADO BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION RELATED TO THE MAINTENANCE OF INSTALLED ROADWAY IMPROVEMENTS ALONG THE MEDAL OF HONOR BOULEVARD CORRIDOR, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Intergovernmental Agreement between the City of Pueblo, a Colorado Municipal Corporation; Pueblo County, a political subdivision of the State of Colorado; and the State of Colorado, by and through the Colorado Department of Transportation; a copy of which is attached hereto, having been approved as to form by the City Attorney, are hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the Intergovernmental Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4F51823AB462...

President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:11 AM MDT.
- ☐ Disapproved on _____ based on the following objections:

Signed by:

3A85950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST


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Deputy City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation		Agreement Routing Number 24-HA2-XC-00047	
Local Agency Pueblo County Government and City of Pueblo		Agreement Effective Date The later of the effective date or March 22, 2024	
Agreement Description Medal of Honor Blvd at Pueblo Blvd MTCE		Agreement Expiration Date End of the Useful Life of the Improvements	
Project # N/A	Region # 2	Contract Writer	Agreement Maximum Amount \$0.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

Pueblo County Government By: _____ (Signature) Name: _____ (Print Name) Title _____ (Print Title) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Keith Stefanik, P.E., Chief Engineer Date: _____
Pueblo County Government By: _____ (Signature) Name: _____ (Print Name) Title _____ (Print Title) Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General _____ By: (Print Name and Title) Date: _____

City of Pueblo By: _____ (Signature) Name: _____ (Print Name) Title _____ (Print Title) Date: _____	
City of Pueblo By: _____ (Signature) Name: _____ (Print Name) Title _____ (Print Title) Date: _____	

AGREEMENT

This Agreement, is entered into by and between the State of Colorado for the use and benefit of the COLORADO DEPARTMENT OF TRANSPORTATION (the “State” or “CDOT”), and Pueblo County Government, the (“Local Agency”); and the City of Pueblo, the (“Local Agency”); CDOT and the Local Agency individually shall be referred to as a “Party”, and together shall be referred to as the “Parties.” This Agreement shall not be valid or enforceable until the Effective Date as shown on the Signature and Cover Page of this Agreement.

RECITALS

CDOT has designed and constructed improvements for the Medal of Honor Blvd at Pueblo Blvd, in Pueblo County, Colorado, the (“Project”); and

The Parties recognize the importance and benefit to their respective systems by the Local Agencies’ operation and maintenance of a portion of the Project; and

The Parties desire to agree upon the division of responsibility for their respective maintenance and operation obligations (the “Work”) on the Project as shown in **Exhibit A**; and

The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily carry out its operations and maintenance responsibilities under this Agreement; and

Required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

This Agreement is executed by the State under authority of §§43-1-106, 43-1-110, 43-1-201, et seq., 43-2-102, and 43-2-144, C.R.S., as amended; and

The Local Agency agrees by its execution hereof that it is duly authorized to enter into this Agreement. Authorization may be evidenced by an appropriate ordinance/resolution or authority letter. A copy of any such ordinance/resolution or authority letter may be attached as **Exhibit C**. The provision by the Local Agency to CDOT of such ordinance/resolution or authority letter is at the Local Agency’s discretion; and

These recitals are hereby incorporated into the terms of this Agreement.

NOW, THEREFORE, it is hereby agreed that:

I. **Scope of Work**

The Work under this Agreement shall consist of the inspection, operations, maintenance, and repair responsibilities of the Project as set forth and depicted in **Exhibit A**.

II. Exhibits

The Exhibits attached to this Agreement are:

Exhibit A- Scope of Work of the Project

Exhibit B- Local Agency Resolutions (If applicable)

Exhibit C- PII Certification

III. Order of Precedence

In the event of conflicts or inconsistencies between this Agreement and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in Section IX of this Agreement
2. This Agreement
3. **Exhibit A-** Scope of Work of the Project
4. **Exhibit B-** Local Agency Resolution (if applicable)
5. **Exhibit C-** PII Certification

IV. Term

This Agreement shall begin the date approved by all Parties and shall extend for the useful life of the improvements, unless earlier modified or terminated by written agreement of the Parties.

V. CDOT Commitments

- A. CDOT shall accept inspection, operation, maintenance, and repair responsibilities for the portions of the Work identified as CDOT's area of responsibility shown in **Exhibit A**.
- B. CDOT shall, at its own cost and expense, inspect, operate, maintain, repair, and make ample provision each year for said activities for those portions of the Work identified as CDOT's area of responsibility in **Exhibit A**.
- C. CDOT grants the Local Agency access to enter CDOT Right of Way ("ROW") to perform inspection and maintenance duties. Though a separate access permit will not be required, notification to CDOT of a Local Agency approved and CDOT accepted Method of Handling Traffic shall be required for any work impacting traffic.
- D. CDOT (and FHWA, if applicable) may make periodic inspections of the Project to verify that they are being adequately operated, maintained, and repaired. If CDOT inspections indicate the Project are not functioning as designed, CDOT may issue a written notice to the Local Agency to cure deficiencies. In the event the deficiencies are not remedied within the Project timeline after written notice from CDOT to the Local Agency, CDOT may take whatever steps CDOT deems necessary to maintain the Project. The Local Agency shall reimburse CDOT its actual and documented costs for such maintenance and repair work including labor, equipment, supplies, and materials. If CDOT repairs any deficiencies, it is under no obligation to maintain or repair in the future.

VI. Local Agency Commitments

- A. The Local Agency shall accept inspection, operation, maintenance, and repair responsibilities for the portions of the Work identified as the Local Agency's area of responsibility for the Work shown in **Exhibit A**.
- B. The Local Agency shall, at its own cost and expense, inspect, operate, maintain, repair, and make ample provision each year for those portions of the Work identified as the Local Agency's area of responsibility, as shown in **Exhibit A**.
- C. All Work by the Local Agency must be performed by a person experienced in the inspection, operation, and maintenance of the Project. This is to ensure that the Project are operating as designed. Any inspection form may be used if it is acceptable by agreement of the Parties.
- D. The Local Agency grants CDOT access to enter Local Agency ROW to perform CDOT's inspection, operation, maintenance, and repair duties of the Work.
- E. If after inspection of the Project, CDOT may issue a written notice to cure deficiencies if the Local Agency fails to inspect, report, or properly maintain the Project identified in **Exhibit A**. In the event the deficiencies are not remedied within the Project timeline after written notice from CDOT to the Local Agency, CDOT may take whatever steps CDOT deems necessary to maintain the Project. The Local Agency shall reimburse CDOT its actual and documented costs for such maintenance and repair work including labor, equipment, supplies, and materials. If CDOT repairs any deficiencies, it is under no obligation to maintain or repair in the future.

VII. Joint Commitments

- A. CDOT and the Local Agency will provide liaison through the representatives listed below. If the representatives or contact information changes the Party is to give written notice regarding the substitution of representatives or contact information to the other Party's Liaisons.

CDOT Project Liaison

Jason Nelson, P.E., Region 2 Traffic Program Engineer
CDOT Region 2
5615 Wills Blvd.
Pueblo, CO 81008
Phone: 719-546-5411
Email: jason.nelson@state.co.us

Pueblo County Government Project Liaison

A. Karim Ayoub, PMP
Pueblo County Government
33601 United Ave, Room 204
Pueblo, CO 81001
Phone: 719-583-4753
Email: karima@pueblounty.us

City of Pueblo Project Liaison

Andrew E. Hayes, P.E., Director of Public Works
City of Pueblo
211 E. D Street
Pueblo, CO 81003
Phone: 719-553-2267
Email: ahayes@pueblo.us

- B. If safety concerns are identified relating to the Project, the Parties will partner with each other and any other affected local jurisdictions to identify the appropriate response to maintain safe and functional Project.
- C. Prior to commencing any activities, the Parties shall coordinate with each other to minimize impacts to landscaping and/or enhancements that were installed by the Local Agency. CDOT will not be responsible for replacing any enhanced landscaping or irrigation installed by the Local Agency.
- D. In the event the Project fail due to surpassing their useful life cycle, the Parties will be responsible for improvements that are not covered by maintenance responsibilities of the Local Agency pursuant to **Exhibit A**.
- E. Any fines levied against CDOT, or the Local Agency shall be the responsibility of the Party whose action or inaction is the cause of the fine, regardless of which Party the fine is levied against.
- F. The Parties shall make, keep, maintain, and allow inspection and monitoring by CDOT, of a complete file of all records, documents, communications, notes, and other written materials, electronic media files, and communications pertaining in any manner to the Work. The Parties shall maintain such records for the useful life of the Project, following federal, State, and Local Agency record retention policies in either paper or electronic form.

VIII. General Provisions

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

C. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement.

D. Modification

The State may modify the terms and conditions of this Agreement by issuance of an updated Agreement, which shall be effective if Local Agency accepts Agreement Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Agreement in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

E. Statutes, Regulations, Fiscal Rules, and Other Authority

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Agreement Issuance Date. Local Agency shall strictly comply with all applicable Federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Agreement and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

G. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under the Agreement in accordance with the intent of the Agreement.

H. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

K. Accessibility

- i. Local Agency shall comply with and the work provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability*, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's work and software is in compliance with §§24-85-101, *et seq.*, C.R.S., and the *Accessibility Standards for Individuals with a Disability* as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

IX. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts (agreements). Contractor refers to Local Agency and Contract refers to Agreement.

A. Statutory Approval §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(19), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. Fund Availability §24-30-202(5.5), C.R.S., applicable Local Agency law, rule or regulation

Financial obligations of the Parties payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. Governmental Immunity

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver,

express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. Independent Contractor

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. Compliance with Law

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. Choice of Law, Jurisdiction, and Venue

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. Prohibited Terms

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. Software Piracy Prohibition

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby

certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. Employee Financial Interest/Conflict of Interest §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

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Exhibit A: Scope of Work

Name of Project: Medal of Honor Blvd at Pueblo Blvd Maintenance IGA

Project Number: N/A

SubAccount#: N/A

The “Work” under this contract consists of maintenance responsibilities between the Colorado Department of Transportation (CDOT), Pueblo County Public Works (The County), and the City of Pueblo Public Works (The City). In addition to managing MOH Blvd Construction, the County will have maintenance responsibilities of the Contech CDS Hydrodynamic Separator and downstream storm drain system to the outfall below the CDS, and four (4) Detention Ponds within the MOH Blvd Project upstream of the Wildhorse Creek Tributary 1 crossing of Pueblo Blvd. The City responsibilities delineated include pavement, curb/gutters, street lights, storm drain system, and improvements depicted in the MOH Blvd Extension plans. The City, through Pueblo Sanitation Department will maintain the sanitary sewer Force Main System under Pueblo Blvd.

Definitions

MS4: A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- a. owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act (“CWA”) that discharges to waters of the United States;
- b. designed or used for collecting or conveying stormwater;
- c. which is not a combined sewer; and
- d. which is not part of a Publicly Owned Treatment Works (POTW). See 5 CCR 1002-61.2(62).

Drainage Facilities: refers to the permanent facilities and improvements intended to capture, detain, convey, reduce and/or manage stormwater runoff. Examples include, but are not limited to, stormwater drain inlets and pipes, flood-control-only facilities, water control facilities designed for non-MS4 purposes (whether to meet TMDL/TMAL requirements or that do not meet MS4 design criteria), PWQ Stormwater Conveyance Facilities, and PWQ

Facilities. Also referred to as Stormwater Facilities, Storm Drainage Systems or Facilities, or Storm Sewers.

Operation & Maintenance Manual: (O&M) refers to the Stormceptor Owner's Manual and Vortechs Guide incorporated into Exhibit A hereto that address how those respective PWQ Facilities should operate and how to maintain them.

PWQ Stormwater Conveyance Facilities: refers to the collection and conveyance systems, including inlets, catch basins, pipelines, and open channels that are used to transport stormwater to or from PWQ facilities. Any conveyance beyond the PWQ Stormwater Facility outfall (i.e. beyond the outlet structure) is in the PWQ Stormwater Conveyance Facilities.

PWQ Stormwater Access Facilities: consist of the surface improvements such as fencing, security gates, and access roads which are needed to operate and maintain the PWQ facilities.

PWQ Facilities are stormwater facilities that are intended to provide water quality benefits and are specifically used to meet water quality requirements as outlined in the Colorado Discharge Permit System (CDPS).

The PWQ Facilities, PWQ Stormwater Conveyance Facilities, and PWQ Stormwater Access Facilities are collectively referred to as Facilities. This does not include Drainage Facilities.

Stormwater shall mean stormwater runoff, snow melt runoff, and surface runoff and drainage. See 5 CCR 1002-61.2(103).

Stormwater Facilities collectively refers to drainage facilities and permanent water quality facilities.

Maintenance Responsibilities by Asset

STORM DRAINAGE / SANITARY SYSTEMS:

CDOT shall be responsible for:

- 24" RCP starting at DR1-7 to connection of 24" RCP running from in Pueblo Blvd median.
- 18" RCP pipe on the Northwest corner running from the asphalt of Pueblo Blvd towards the new Wingwall of the 12' Culvert.
- Upgraded 24" RCP for 24th St Storm Water pipe to connection with DR1-4 in 24th St
- 18" RCP from DR1-2 to DR1-1 tie in.

The City shall be responsible for:

- The 18" RCP from median on west side to DR3-1A
- The 18" RCP from curb on MOH (west side) to DR3-1C
- 24" RCP from DR1-4 through DR1-1 to outfall and grouted riprap.
- Sanitary Sewer Force Main
- 36" RCP receiving water from the Comanche subdivision towards the hydrodynamic separator.
- 30" RCP from south side of MOH going north towards Hydrodynamic Separator.

The County shall be responsible for:

- The MS4 Contech CDS Hydrodynamic Separator along MOH Blvd
- The MOH Blvd 36" RCP stormwater outfall and upstream pipe below the CDS Hydrodynamic Separator.
- The existing 12' culvert and its extension to the northwest as depicted.
- The wing walls and apron of the 12' culvert extension.
- The Soldier Pile Wall and the existing downstream concrete apron and riprap.
- four (4) Detention Ponds within the MOH Blvd Project upstream of the Wildhorse Creek Tributary 1 crossing of Pueblo Blvd

PAVEMENT:

CDOT shall be responsible for:

- Pavement between pan line to pan line within the prism of CO 45.

The City shall be responsible for:

- MOH Blvd HPB pavement
- MOH Blvd curb/gutter, ADA ramps, median/islands
- Right turn islands

LIGHTING:

CDOT shall be responsible for:

- Pueblo Blvd & MOH Blvd signal street lighting maintenance.

The City shall be responsible for:

- Pueblo Blvd & MOH Blvd street lighting maintenance and cost. The cost for replacement and power consumption of the street lighting.

SIGNING and PAVEMENT MARKINGS:

CDOT shall be responsible for:

- Cross walks through the intersection
- All intersection related signs for approaches to MOH Blvd along CO 45.

The City shall be responsible for:

- Marking around turn islands.
- Signing along MOH BLVD.

GRAFFITI REMOVAL:

CDOT shall be responsible for:

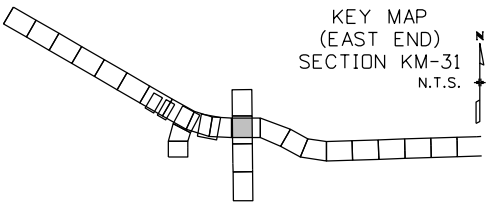
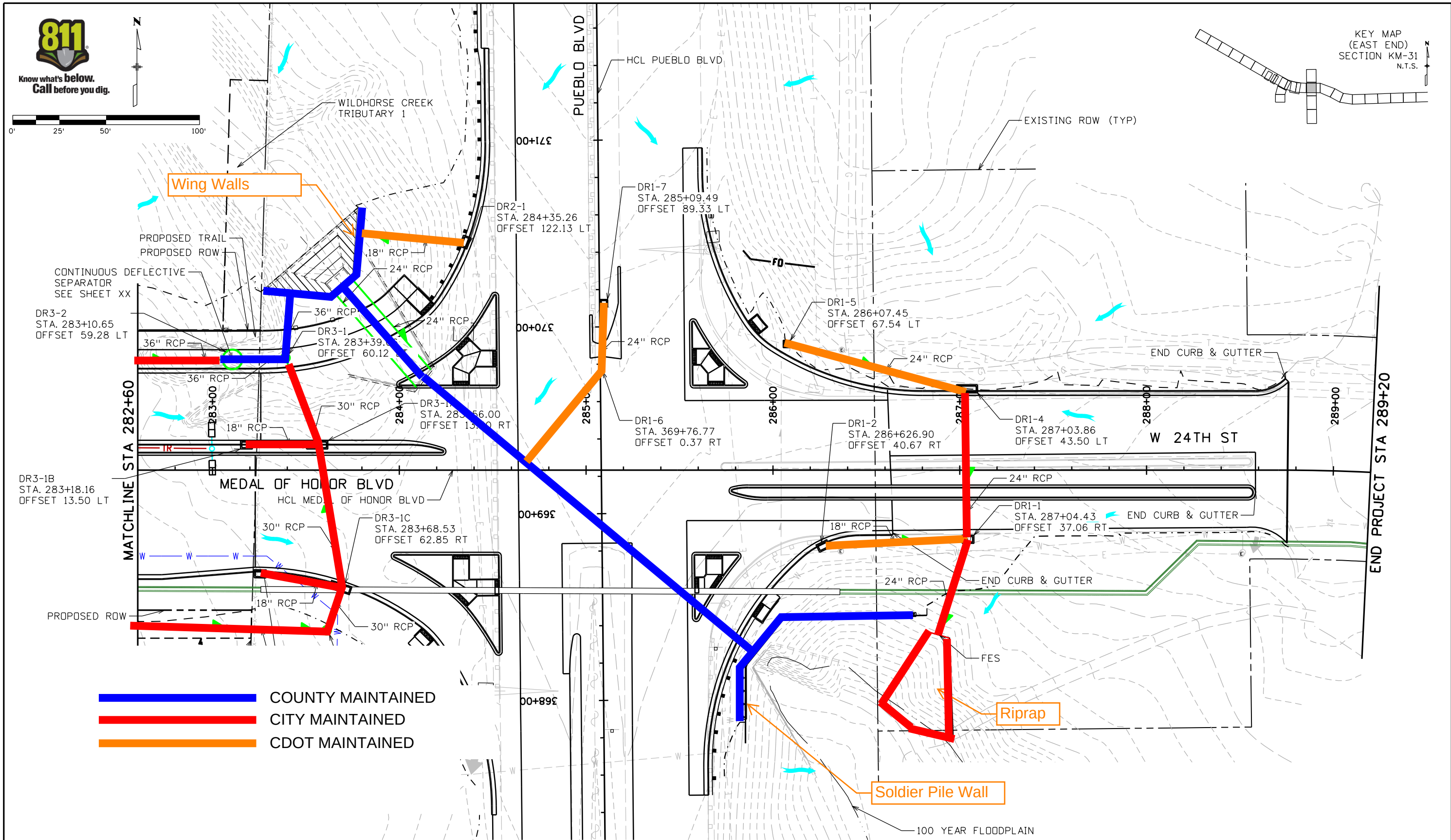
- Graffiti removal in unincorporated areas of the County.

The City shall be responsible for:

- Graffiti removal on all items outside of pavement prism along CO 45.

The parties further understand approval of this IGA is predicated upon CDOT's issuance of the MOH Blvd Access Permit, request previously submitted to CDOT on behalf of Pueblo County. Pueblo County is also the current landowner and petitioner for MOH Blvd Subdivision, approved by the City. The MOH Blvd Subdivision has two parcels within an A-1 City holding zone requiring subdivision and platting before any development. Quail Ridge Development, located along the east side of Pueblo Blvd, is also subject to future development requiring City review and approval. The Traffic Impact Study and MOH Blvd Access Permit includes land use projections from Quail Ridge and built out MOH Blvd Sub. This IGA may need updating as the two developments proceed through the City's land use approval process.

JSAumann 3:19:31 PM pwa\\wils-pw.bentley.com\\wils-pw\\Documents\\8100-TRN\\Pueblo County, CO\\21-100-147-00-Joe Martinez Blvd-Design\\14700\\Hydraulics & Drainage\\Drawings\\DRAINAGE PLAN SHEET STA 282+60 TO 289+20



Print Date: 8/1/2023 3:19:32 PM JSAumann
File Name: 14700DRN_Pn_30.dgn
Horiz. Scale: 50.000 ' / in. Vert. Scale: As Noted

Sheet Revisions		
Date:	Comments	Init.



WILSON & COMPANY
5755 Mark Dabbling Blvd.
Suite 100
Colorado Springs, Co 80919
Phone: 719-520-5800
FAX: 719-520-0108

As Constructed
No Revisions:
Revised:
Void:

MEDAL OF HONOR BLVD DESIGN DRAINAGE PLAN 282+60 TO 289+20			
Designer:	CMW	Structure	
Detailer:	BKM	Numbers	
Sheet Subset:	DRN-PN	Subset Sheets:	30 of 34

Project No./Code
Project #----
Bid #----
Sheet Number:

PRELIMINARY - NOT FOR CONSTRUCTION

Exhibit B: Local Agency Resolution
(If Applicable)

EXHIBIT C

PII Certification

STATE OF COLORADO

**LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A
DATABASE OR AUTOMATED NETWORK**

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____



**Background Paper for Proposed
Action Item**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Barb Huber, Fire Chief

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND CUSTER COUNTY RELATING TO MUTUAL AID IN THE PROVISIONS OF THE FIRE PROTECTION AND OTHER EMERGENCY SERVICES, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

This Ordinance approves an IGA with Custer County for mutual fire protection and other emergency services. The IGA is attached hereto.

PREVIOUS COUNCIL ACTION:

City of Pueblo has made numerous MAA with local governmental agencies.

BACKGROUND:

When dealing with incidents and potential incidents that are beyond the response capacity of any organization, it is important to have a plan for increasing capacity. In the fire service, other neighboring agencies are looked at to provide that increased capacity. This agreement provides the means to access additional resources in times of increased demand at no cost for the first 24 hours of the incident. It is important to understand that this agreement does not require any agency to provide aid, if for any reason, they are unable to do so at any given time.

This mutual aid agreement between the City and Custer County will replace the 1986 reciprocal hazardous materials incident assistance agreement. The new agreement covers the emergency aid given and received between the signing agencies. This new agreement clearly defines the time periods of assistance and the mechanism for recovering costs associated with aid that goes beyond the agreed upon time periods of "mutual aid".

FINANCIAL IMPLICATIONS:

Reimbursement of consumables to Custer County after the 24-hour period has expired for the incident.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Staff recommends approval.

ALTERNATIVES:

No aid for fire protection.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CUSTER COUNTY IGA

ORDINANCE NO. 10765

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, AND CUSTER COUNTY RELATING TO MUTUAL AID IN THE PROVISIONS OF THE FIRE PROTECTION AND OTHER EMERGENCY SERVICES, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Intergovernmental Agreement between Pueblo, a Colorado Municipal Corporation and Custer County, Colorado, a political subdivision of the State of Colorado relating to mutual aid in the provision of fire protection and other emergency services, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the policies and procedures described therein.

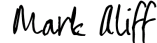
SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4E51823AB462....

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:10 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:
Heather Graham
3A85950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST
Signed by:
Vina Petkosek
330F90D300E24F8...

Deputy City Clerk

**MUTUAL AID AGREEMENT FOR ALL HAZARDS RESPONSE SERVICES BETWEEN THE
AGENCIES OF PUEBLO COUNTY AND CUSTER COUNTY**

THIS MUTUAL AID AGREEMENT ("MAA"), entered into as of this _____ day of _____ 20__, is made by and between the following parties:

Pueblo, a municipal corporations,
Pueblo County, Colorado, a political subdivision of the State of Colorado,
Rye Fire Protection District,
Pueblo Rural Fire District,
Pueblo West Metropolitan District,
West Park Volunteer Fire District,
Beulah Fire Protection and Ambulance District
Custer County EMS
Custer County Sheriff's Office
Custer County Government to include Office of Emergency Management
Wet Mountain Fire Protection District
Wetmore Volunteer Fire Department

(Collectively the "Parties" and individually the "Party")

WHEREAS, Section 18(2)(a) and (b) of Article XIV of the Colorado Constitution and the Colorado Intergovernmental Relations Statute, Section 29-1-201, et seq., C.R.S. authorizes political subdivisions to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each of the Parties, including the sharing of costs, if such agreement sets forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the contracting parties;

WHEREAS, each Party is political subdivision as defined in section 29-1-202(2), C.R.S. and is authorized to provide fire protection and other emergency services including but not limited to fire protection, hazardous material response, extrication, rescue, ambulance, and/or emergency medical services, within their jurisdictional boundaries and under certain circumstances outside their jurisdictional boundaries;

WHEREAS, emergencies may arise in one or another of the jurisdictions of the Parties, resulting in greater demands than a Party's personnel and equipment can handle, or emergencies of such intensity may occur that they cannot be handled by the equipment of a Party in whose jurisdiction the emergency occurs; and

WHEREAS, establishment of a mutual aid agreement will serve a public purpose and will promote the safety, security and general welfare of the public.

NOW THEREFORE, in consideration of the mutual performance of the covenants, agreements and promises set forth herein, the Parties agree as follows:

1. Definitions. The following terms used in this Agreement are defined as follows:

a. "Responding Party" means a Party providing or requested to provide Mutual Aid

within the jurisdictional boundaries of the Requesting Party.

b. "Equipment Costs" means the costs set forth in the current FEMA Schedule of Equipment Rate or at the current Cooperator Resource Rate of the Colorado Division of Fire Prevention and Control, whichever rate applies to the event, and if the event does not qualify, it shall be the current Cooperator Resource Rate of the Colorado Division of Fire Prevention and Control.

c. "Personnel Costs" means actual hourly salary/wages paid including overtime plus the cost of the employee's actual fringe benefits. Fringe benefit cost shall be calculated based upon a percentage of the employee's hourly rate of pay.

d. "Mutual Aid" means the provision of personnel and/or equipment from an Responding Party to a Requesting Party to aid the Requesting Party with respect to fire protection and other emergency services.

e. "Requesting Party" means a Party requesting Mutual Aid be provided by a Responding Party within the jurisdictional boundaries of the Requesting Party.

3. Mutual Aid.

a. Any Party to this MAA may request Mutual Aid from another Party. Any request for Mutual Aid shall include a statement of the amount and type of personnel and/or equipment requested, and shall specify the location to which the personnel and/or equipment are to be dispatched. In making any such request for Mutual Aid, the Requesting Party represents that there are sufficient funds appropriated to pay all reimbursements which may be incurred under this MAA, and the Responding Party may rely upon such representation in providing Mutual Aid.

b. Upon receipt of a request for Mutual Aid from the Requesting Party, the Responding Party may dispatch personnel and/or equipment which the Responding Party determines is available. Such determination shall be made at the Responding Party's sole and absolute discretion, which determination shall be final and conclusive. The Responding Party may dispatch less than the amount and type of personnel and/or equipment requested, but the Responding Party may not dispatch personnel and/or equipment which exceeds the amount and type of equipment and or personnel requested without the authorization of the Requesting Party.

c. The Responding Party's personnel and/or equipment shall be released by the Requesting party when the assistance of the Responding Party is no longer required or when the Responding Party determines in its sole and absolute discretion that Responding Party's personnel and/or equipment are needed elsewhere, which determination shall be final and conclusive.

d. The Responding Party's personnel and/or equipment shall be and remain under the control of the Responding Party's commanding officer but will fall into the Requesting Party's command structure. The Responding Party's commanding officer will receive assignments and tasks from the Requesting Party's Incident Commander.

e. Mutual Aid under this MAA shall only be provided within the boundaries of the Requesting Party and shall not be provided to cover areas outside the boundaries of a Requesting

Party even if the Requesting Party has an agreement to provide service to another party who is not signatory to this MAA.

f. The Responding Party agrees that the first twenty-four (24) hours of Mutual Aid shall be provided without reimbursement of Personnel Costs and Equipment Costs by the Requesting Party to the Responding Party. For all periods of time following the first twenty-four (24) hours, the Responding Party shall be reimbursed its Personnel Costs and Equipment Costs by the Requesting Party. The twenty-four (24) hour period referenced in this Section shall begin at the time the request is made by the Requesting Party so long as it is within the first operational period. Requests beyond the first operational period will be considered an ongoing operation and as such will be a billable response to the incident. In addition and with respect to said twenty-four (24) hour period, the Requesting Party shall reasonably pursue any and all legal reimbursement possible pursuant to state and federal laws, including but not limited to reimbursement for hazardous materials incidents, and upon full or partial payment, the Requesting Party shall distribute the reimbursement in a fair and equitable manner which is proportionate to the documented expenses of all parties who provided services with respect to the incident upon which the reimbursement is paid. The Parties acknowledge and agree that any distribution for hazardous materials incidents which may be required under this Section or otherwise under this MAA shall not impair or supersede any separate agreement a Party may have presently or hereafter to transfer and deposit any such distribution to the Pueblo County Hazmat Fund.

g. The extension of work beyond the initial twenty-four (24) hour mutual aid period shall be billable to the incident for reimbursement. If a mutual agreement by the parties at the time of the all-hazard incident, the Responding Party may continue to provide assistance beyond the twenty-four (24) hour period without compensation by the Requesting Party.

h. The Requesting Party shall be responsible for providing for or reimbursing the use of firefighting foam, special extinguishing agents, medical equipment and similar consumables when use is requested by the Requesting Party.

i. The Responding Party shall be self sufficient for the first 24 hours after being requested, to include all meals and lodging. After the first 24 hours, the Requesting Party will be responsible for all meals and any lodging at the Requesting Party's preference.

j. The Responding Party will provide the Requesting Party with a bill, invoice, or demand for reimbursement along with a detailed accounting of costs incurred by the Responding Party which are subject to reimbursement pursuant to this MAA no later than sixty (60) days after the conclusion of Mutual Aid.

4. Each Party shall be expected to maintain its equipment and organize its emergency response method with both personnel and equipment to the degree necessary to meet the ordinary and routine fire protection and other emergency services occurring within its boundaries and for which the Party is organized. The Parties recognize that the dispatch of equipment and/or personnel under this MAA is voluntary and is not required, and specifically acknowledge that a Requesting Party shall not expect any other Party to provide Mutual Aid where the request arises due to a failure of the Requesting Party to organize available personnel or maintain equipment in reasonably working order and in sufficient quantity to meet the ordinary and routine fire protection and other emergency services occurring within its boundaries and for which the Party is organized. Nothing in this Agreement prevents two or more of the

Parties from entering into contracts, automatic aid agreements or other methods to meet their responsibilities as agreed between those Parties.

5. Except with respect to the reimbursements agreed to in the above Section 3, each Party waives all claims against the other Party for compensation for any loss, property damage, bodily injury, or death occurring as a direct or indirect consequence of the performance of this MAA. The Parties specifically recognize and agree that no liability of any kind or nature shall be attributed to or be assumed by a Party, its duly authorized agents and personnel, for failure or refusal to provide Mutual Aid or for withdrawal of Mutual Aid once provided pursuant to the terms of this MAA.

6. Nothing in this MAA shall be construed to alter or modify the status of employment of the personnel with their Party. Employees of a Party shall at all times remain the employees of that Party, and each Party shall be responsible for worker's compensation coverage of its own employees and all other benefits and requirements of employment including pension, disability, level or types of training, and internal discipline.

7. Each Party is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA including any liability which may accrue by operation of Section 29-5-108, C.R.S. No provision of this MAA shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to each Party by the GIA.

8. This MAA is not intended to, nor should it be construed to, create, affect or extend the legal responsibilities or liabilities of the Parties hereto except as expressly stated herein, nor to create any rights, claims, or benefits or assume any liability for or on behalf of any third party.

9. By signing this MAA, the governing body of each Party is hereby deemed to have approved the provision of Mutual Aid beyond its boundaries, and any Mutual Aid provided pursuant to this MAA shall not require any further approval by the governing body of any Party.

10. All communications made to the parties under this MAA shall be provided at the following address:

Fire Chief
City of Pueblo Fire Department
1551 Bonforte Blvd.
Pueblo, CO 81001

Bureau Chief
Emergency Services Division
Pueblo County Sheriff's Office
Pueblo County
101 W. 10th Street
Pueblo, CO 81003

Fire Chief
Rye Fire Protection District

4495 Bent Brothers Blvd./P.O. Box 19190
Colorado City, CO 81019

Fire Chief
Pueblo Rural Fire District
29912 Highway 50 East
Pueblo, CO 81006

Fire Chief
Pueblo West Fire Department
Pueblo West Metropolitan District
P.O. Box 7005
Pueblo West, CO 81007

Fire Chief
West Park Volunteer Fire District
3926 Goodnight Ave.
Pueblo, CO 81005

Fire Chief
Beulah Fire Protection and Ambulance District
PO BOX 826
Beulah, CO 81023

Sheriff
Custer County Sheriff's Office
702 Rosita Ave.
Westcliffe, CO 81252

Fire Chief
Wet Mountain Fire Protection District
215 North 4th St.
Westcliffe, CO 81252

EMS Chief
Custer County Ambulance Department
P.O. Box 718
Westcliffe, CO 81252

Fire Chief
Wetmore Volunteer Fire Department
200 County Road 290
Wetmore, CO 81253

Chairman
Custer County Government
Board of County Commissioners
205 S 6th St.
Westcliffe, CO 81252

11. Nothing in this MAA shall be construed as creating a partnership, joint venture or the creation of a separate legal entity or be deemed to delegate or be construed as the delegation or assignment of power or authority of any Party to another Party.

12. A Party may terminate their participation in this MAA by giving ninety (90) days prior written notice to all other Parties. One Party's termination shall not cause the termination of this MAA between the other Parties, and the MAA shall continue in effect as to such other Parties. It is understood and acknowledged that the remaining Parties to the MAA will not assign any of their members or equipment to perform temporary firefighting or other duties on behalf of any Party terminating this MAA after the effective date of such termination.

13. All prior reciprocal fire protection or mutual aid agreements to provide fire protection and other emergency services between all or one or more of the Parties are hereby terminated and superseded by this MAA.

14. Miscellaneous.

a. This MAA represents the entire agreement between the Parties and supersedes all prior discussions and written agreements or understandings. This MAA may be amended only by an instrument in writing signed by the Parties. If any provision of this MAA is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this MAA shall continue in full force and effect. This MAA may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

b. Each person signing this MAA on behalf of a Party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this MAA on behalf of such Party and that this MAA is a valid and legally binding obligation of such Party enforceable against it in accordance with its terms.

c. Nothing herein shall constitute, nor deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by any Party, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory or charter debt limitation.

d. The provisions of this MAA pertaining to insurance and reimbursement shall survive the expiration of the term of this MAA and termination of this MAA and continue in effect for a period of five years following the termination of this MAA and for such further time as it may take to completely and finally negotiate, settle, or litigate any claim or suit concerning the same.

e. This MAA shall be governed by the laws of the State of Colorado. Venue for any action arising under this MAA or for the enforcement of this MAA shall be in a state court with jurisdiction located in Pueblo County, Colorado.

f. This MAA shall not be assigned by any Party without the prior written consent of the Parties, which consent may be granted, denied, or conditioned in each of the Party's sole and absolute discretion.

Executed at Pueblo, Colorado, the day and year first above written.

ATTEST: _____
City Clerk

By _____
President of the City Council

Pueblo County, Pueblo County, Colorado, a political
subdivision of the State of Colorado

ATTEST: _____
Pueblo County Clerk and Recorder

By _____
Chairman of the Board of County Commissioners

Rye Fire Protection District

ATTEST: [Signature]
Title: Fire Chief

By [Signature]
Title: FIRE CHIEF

Pueblo Rural Fire District

ATTEST: [Signature]
Title: Fire Chief

By [Signature]
Title: FIRE CHIEF

Pueblo West Metropolitan District

ATTEST: [Signature]
Title: Fire Chief

By [Signature]
Title: DEPUTY CHIEF

West Park Volunteer Fire District

ATTEST: _____
Title: _____

By _____
Title: _____

Beulah Fire Protection and Ambulance District

ATTEST: John Reina
Title: Captain

By BL
Title: Fire Chief

Custer County, Custer County, Colorado, a political
subdivision of the State of Colorado

ATTEST: Keene S. Canga
Custer County Clerk and Recorder

By Kevin V. Day
Chairman of the Board of County Commissioners

Custer County EMS

ATTEST: Robyn A Knappe
Title: CEM Director

By Steph Gruber
Title: Manager

Wet Mountain Fire Protection District

ATTEST: Kevin V. Day
Title: CHAIR / BOCC

By Jeremiah Coleman
Title: Fire Chief

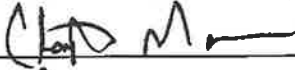
Custer County Sheriff's Office

ATTEST: Robyn A Knappe
Title: CEM Director

By SR Smith
Title: Sheriff

MUTUAL AID AGREEMENT FOR ALL HAZARDS RESPONSE SERVICES BETWEEN THE
AGENCIES OF PUEBLO COUNTY AND CUSTER COUNTY

ATTEST: 
Title: Asst. Chief

Wetmore Volunteer Fire Department
By 
Title: CHIEF



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A GRANT FUNDING AGREEMENT AND ALL APPLICABLE CONDITIONS PERTAINING THERETO FROM THE COLORADO AUTO THEFT PREVENTION AUTHORITY ("CATPA") RELATING TO THE BEAT AUTO THEFT THROUGH LAW ENFORCEMENT ("BATTLE") TEAM, ESTABLISHING PROJECT NO. PS2405, BUDGETING AND APPROPRIATING FUNDS TO PROJECT NUMBER PS2405, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

City Council approved a 3-year MOU with the statewide Beat Auto Theft Through Law Enforcement Team (BATTLE) on June 28, 2021. The 3-year MOU's terms expired on June 30, 2024. Effective July 1, 2024, the Pueblo Police Department is awarded \$130,000.00 in funds for supplies and operating expenses as well as overtime costs associated with auto theft investigation and enforcement. Attached is the Grant Funding Agreement and Award Letter. This Ordinance establishes Project No. PS2405 and budgets and appropriates necessary funds to project number PS2405.

PREVIOUS COUNCIL ACTION:

City Council has approved ordinances accepting Auto Theft Prevention Grants each year beginning in July 2009. On July 1, 2023 the Pueblo Police Department was awarded \$170,461.00 in funds for overtime costs associated with Auto Theft investigation and enforcement. Acceptance of those funds was approved by Ordinance No. 10516.

BACKGROUND:

Each year since July 2009, the City of Pueblo and Pueblo Police Department have accepted Colorado auto theft grant funds. The total funds are disbursed by CATPA and are shared among several different law enforcement agencies in Colorado. A Memorandum of Understanding formalizes the relationship between the various

participating agencies.

The BATTLE multi-jurisdictional task force focuses on the prevention and reduction of motor vehicle thefts as well as the identification, investigation, location of stolen motor vehicles, and apprehension of suspects. The task force works to increase the number of stolen vehicles recovered, offenders arrested, and decrease vehicle thefts. The agencies accomplish this through educational and intelligence-led enforcement efforts throughout participating jurisdictions with task force members sharing information amongst each other and any other requesting agency.

The task force utilizes grant funds provided by the Colorado Auto Theft Prevention Authority (CATPA) to help complete its mission. Funds shall be used only in accordance with the provisions of CATPA’s FY24 grant award, pursuant to the project number FY25PBLPD, to the Colorado State Patrol (BATTLE) Team.

FINANCIAL IMPLICATIONS:

The Pueblo Police Department shall receive \$130,000.00 as allocated by the grant award. No match is required by the City of Pueblo. Project No. PS2405 shall be created and funds in the amount of \$130,000.00 shall be budgeted and appropriated therefor.

Personnel Services-Overtime:	\$ 130,000.00
Supplies & operating:	<u>\$ 00.00</u>
TOTAL:	\$ 130,000.00

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council may decline the grant funds. If that occurs, the Police Department cannot be reimbursed from CATPA funds for overtime or equipment costs incurred for this program.

RECOMMENDATION:

The Police Department recommends approval of the Ordinance.

ATTACHMENTS:

1. Grant Funding Agreement and Award Letter for grant period July 1, 2024 through June 30, 2025

ORDINANCE NO. 10766

AN ORDINANCE APPROVING AND ACCEPTING A GRANT FUNDING AGREEMENT AND ALL APPLICABLE CONDITIONS PERTAINING THERETO FROM THE COLORADO AUTO THEFT PREVENTION AUTHORITY ("CATPA") RELATING TO THE BEAT AUTO THEFT THROUGH LAW ENFORCEMENT ("BATTLE") TEAM, ESTABLISHING PROJECT NO. PS2405, BUDGETING AND APPROPRIATING FUNDS TO PROJECT NUMBER PS2405, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept grants from the state government for public and municipal purposes and to enter into agreements relating thereto; and

WHEREAS, City Council approved an MOU with the statewide Beat Auto Theft Through Law Enforcement Team (BATTLE) on December 28, 2019, which awarded an initial award of \$47,392.00 in grant funds from the Colorado Auto Theft Prevention Authority (CATPA) for the 2019 grant year upon conditions recited therein or incorporated therein by reference;

WHEREAS, an award of grant funds has been made for the 2024-2025 grant year in the amount of \$130,000.00 to assist the police department with paying overtime costs incurred in its efforts to reduce auto theft;

WHEREAS, the State has made additional awards of funds in the past under previous grant agreements and the Police Department anticipates the award of additional funds in the future pursuant to this agreement if the same are made available by the State; and

WHEREAS, acceptance of the funds offered pursuant to the Grant for the purposes for which it has been made is in the best interest of the City and will benefit the health, welfare and safety of the citizens of the City; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Award of the 2024-2025 BATTLE Overtime Allocation Grant is hereby accepted and approved in the amount of \$130,000.00 in accordance with the Grant's terms and conditions.

SECTION 2.

The Grant Funding Agreement, a true copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and accepted. The Mayor is authorized to execute the Grant Agreement in the name of and on behalf of the City, and the Mayor is authorized to execute any and all other certifications, assurances and other documents associated therewith.

SECTION 3.

Project No. PS2405 is hereby established in the Public Safety Grants Fund.

SECTION 4.

The Police Department is empowered to apply for and accept additional grant awards pursuant to the Grant as those funds are made available by the State.

SECTION 5.

All current and future funds accepted under this ordinance shall be budgeted and appropriated into Project Number PS2405 by the Finance Department.

SECTION 6.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures described herein.

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:
Mark Aliff
B7A4F51623AB462...

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:10 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:
Heather Graham
3A85930B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


330F90D300E24F8...
Deputy City Clerk



Date: July 01, 2024

Pueblo Police Department
Project Director Sergeant Eric A. Gonzales
Transmitted by Electronic Mail

RE: BATTLE Funding Award Letter for State Fiscal Year (SFY) 2025

Dear Sergeant Eric A. Gonzales,

On behalf of the Colorado State Patrol (CSP), it is my pleasure to congratulate you on receiving a funding award as a partner agency of the Beat Auto Theft Through Law Enforcement (BATTLE) Task Force.

The Pueblo Police Department has been awarded **\$130,000.00** for the SFY25 grant cycle as a partner agency. The grant period is **July 1, 2024, through June 30, 2025**. This award is subject to all financial and administrative requirements of the Colorado Auto Theft Prevention Authority (CATPA), including requirements outlined in the Office of Justice Programs Financial Guide, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, and the timely submission of all financial reports.

Enclosed in this packet is the Award Funding agreement, the grant budget, and a checklist for BATTLE payment submissions. To officially accept the award, we request that your authorized official **initial each page** and sign the Award Funding agreement and return to CSP via the following email: battlepayments@state.co.us.

Please return your signed Funding Award agreement **no later than 10 days after receipt of this letter**. Failure to sign your award may result in a delayed start date as well as reimbursements.

Please contact Captain Wesley Kartus at wesley.kartus@state.co.us or 303-277-8660 or Barbara J. Davis at barbara.davis@state.co.us or 303-919-1079 if you have any questions. We look forward to working with you in the fight against auto theft!

Best Regards,

Wesley, Kartus
Captain, Colorado State Patrol
BATTLE Project Director
Barbara J. Davis, Financial Officer

Colorado State Patrol Statement of Funding Award

Partner Agency Name:	Pueblo Police Department
Project Director:	Sergeant Eric A. Gonzales
Financial Officer:	Kayleigh McKenzie
Project Director Address:	
Grant Number:	FY25PBLPD
Date of Issue:	July 1, 2024
Total Approved Budget:	\$130,000.00
Grant Period:	July 1, 2024 through June 30, 2025
BATTLE Region:	SOUTH

Partner Agency Approved Budget

Pueblo PD - SFY25 BATTLE 07.01.2024			
BUDGET CATEGORY	ORIGINAL/CURRENT ALLOCATION	REVISION	REVISED CURRENT ALLOCATION
Overtime	\$130,000.00		\$130,000.00
Supplies & Operating	0	0	0
Travel	0	0	0
Equipment	0	0	0
TOTAL	130,000.00	-	130,000.00

Line Item Qualifying Expenses

- **Overtime – Overtime hours and rate only.** The following will not be reimbursed: Straight time, vacation/annual leave, sick leave, holiday, compensatory.

Note:

- A CDPS Purchase Order authorizing CSP to reimburse the Partner Agency for expenditures in support of the BATTLE mission will be issued as soon as possible on or after July 1, 2023. Any expenditures prior to issuance of the Purchase Order will not be reimbursed.
- Overtime for BATTLE Operations may not commence prior to the Partner Agency receipt of their SFY25 Purchase Order or has been notified in writing by their Regional Director that the Purchase Order is in effect.
- Expenditures in any other approved budget categories may not be incurred prior to the Partner Agency receipt of their SFY25 Purchase Order or has been notified in writing by their Regional Director that the Purchase Order is in effect.
- Personnel Expense-OT backup documentation includes proof of payment (paystub or payroll report), timesheets signed by employee and supervisor.
- Supplies & Operating Expense backup documentation includes an invoice with authorization for payment and a receipt or other form of proof of payment.
- Equipment Expense backup documentation must include a current quote AND an invoice as well as proof of payment.

See Check List for BATTLE Payment Submissions for greater detail on documentation requirements (Exhibit A).

Special Conditions and Requirements

Multipart document and Additional Requirements

1. The Partner Agency affirms that the agreement consists of a multipart document: the award letter, Funding Award and associated special conditions, required performance metrics, and signatures of persons authorized to sign on behalf of the partner agency.
2. The Partner Agency agrees to comply with **all** requirements, conditions, and regulations as detailed in the enclosed Funding Award document. The authorized official must initial at the bottom of each page of the enclosed Funding Award document where indicated.
3. The Partner Agency affirms that their financial system of record and associated technology is fully adequate to support and document the separate tracking and allocation of all BATTLE grant expenditures and revenues, especially, but not limited to, defining overtime hours worked and overtime rate paid in relation to straight time hours worked and rate paid.

Financial Reporting Requirements

1. **Budget Modification Request** - Grant activities must match the approved budget included with this document. The partner agency must secure prior written approval from CSP if there is a requested change in any budget category. Failure to seek prior consent may result in the denial of reimbursement. The Partner Agency shall submit a Budget Modification form to the BATTLE Regional Coordinator requesting a revision in the Funding Award budget. The Partner Agency shall not make any changes in

the budget line items or purchase equipment or other supplies until they have received authorization from the BATTLE Regional Coordinator. Reimbursement of any expenditures made by the Partner Agency without prior written authorization shall not be reimbursed through BATTLE funds and the Partner Agency shall absorb that cost.

2. **Invoicing** - The Partner Agency agrees to submit **monthly reimbursement** requests on the Excel invoice workbook with backup documentation for reimbursement. The Partner Agency must submit the invoice workbook even if it is a zero-dollar claim no later than fifteen (15) days following the end of a calendar month. Appropriate documentation for all expenditures must accompany reimbursement requests. GMO will only approve reimbursement of actual, supported, and allowable expenses. Only financial-related documents are emailed to the BATTLE address. Any operational reports or other related working information are sent to BATTLE Regional Coordinator and not through the BATTLE email address.

All invoices and overtime payroll must be paid by SFY June 30, 2025. Final reimbursement requests must be completed and submitted to CSP GMO within ten (10) days after June 30, 2025. Reimbursement requests received beyond this time will be subject to denial.

3. **Monitoring** - The CSP will monitor the Partner Agency's performance obligations under this Award Letter using procedures determined by the State of Colorado policies and procedures. In its sole discretion, CSP shall have the right to change monitoring procedures and requirements at any time during the term of this SFY25 grant period. The CSP shall monitor the Partner Agency's performance in a manner that does not unduly interfere with the Partner Agency's performance of grant work.

As the grant's fiscal agent, CSP shall monitor Partner Agency, including desk reviews, agency visits, and phone interviews. The Partner Agency shall be notified at least thirty (30) days in advance of any scheduled monitoring visits. As a recipient of these funds, the Partner Agency agrees to cooperate with and respond to any requests for information about your award within fifteen (15) days of audit notification.

If the CSP identifies any audit finding(s), the Partner Agency will have the opportunity to make provisions to correct the finding(s). Any false statements or claims with the awarded funds may result in fines, imprisonment, or any other remedy available by law.

The Partner Agency has the right to protest any audit findings. All protests must be in writing and sent to the BATTLE Project Director and the Financial officer.

4. **Funding from Multiple Sources** - The recipient understands and agrees to notify CSP if it receives, from any other sources, funding for the same items or services also funded under this award. The Partner Agency shall not supplant awarded funds with city and county funds already budgeted for the same purpose. If CSP determines there is supplanting of funds, award funds will be revoked and all expended funds shall be returned to CSP within thirty (30) days.
5. **Capital Equipment** – Capital equipment is any item purchased at **\$5,000 per unit or more** using funds under a CATPA grant. The retention period ends when the value of the equipment has depreciated to **less than \$5,000 per unit** or the equipment is older than five (5) years, whichever comes first.
 - A. *Capital Equipment Ownership.* Capital equipment becomes the property of the recipient agency approved in the Funding Award and remains in possession of the original agency so long as it continues to be used for auto theft prevention activities as approved by the CATPA Office. If the equipment retention period has not expired and the equipment is no longer needed or used for auto theft prevention activities, BATTLE retains the right to reallocate the equipment for auto theft prevention.
 - B. *Inventory of Capital Equipment.* Under this agreement, the Partner Agency's inventory of capital equipment shall occur during the retention period by the BATTLE Project Director. A complete equipment inventory list is maintained by the BATTLE Project Director. The Partner Agency shall

submit its inventory list to the BATTLE Regional Coordinator upon request of the BATTLE Project Director.

C. *Purchase of New Capital Equipment.* Stickers indicating the purchased equipment is through grant funding will then be supplied by GMO. The stickers must be attached to the equipment (near the serial number) and remain so until disposition of the Capital Equipment

D. *Inventory Removal of Capital Equipment.* The Partner Agency shall make a written request for removal of capital equipment, along with a completed CATPA Grant Equipment Inventory Removal Certification Form and send it to the BATTLE Regional Coordinator. Request to remove capital equipment from the CATPA inventory is approved on any of the following conditions:

- i. Equipment Lapses Retention Period. Equipment may be removed when the purchase date is five (5) or more years past, regardless of the equipment's actual purchase price or depreciated value.
- ii. Equipment Value is **Less than \$5,000 per unit**. Equipment may be removed from inventory when it has depreciated to a value **less than \$5,000**. In such cases, the Partner Agency shall provide documentation on the justification for the depreciation and send it to the BATTLE Regional Coordinator. CSP and CATPA recognize generally accepted accounting principles and encourage the Partner Agency to use the straight-line depreciation method. Guidance on the straight-line depreciation method is in the FY25 CATPA Grant Manager's Guidance Manual.
- iii. Equipment Loss, Theft, or Damage. Equipment reported as lost, stolen, or otherwise damaged beyond its serviceable use, may be removed from inventory. In such cases, the Partner Agency must submit a written report narrating the equipment loss, theft, or damage circumstances.
- iv. Equipment Trade or Sale. Equipment may be removed from the inventory list when it is determined that the trade or sale of the equipment is beneficial for the Partner Agency. Any funds acquired during an approved sale of equipment shall be returned to CSP and reflected on the Financial Payment Reimbursement Request Form.
- iv. Equipment Transfer. The transference of equipment may occur if the Partner Agency no longer needs or uses it. The CATPA Board will have final authority in approving requests for equipment transfers and reflected on the Partner Agency's inventory.

Other Terms and Conditions

1. **Change of Personnel** - The partner agency agrees to promptly give written notification to CSP of any changes in the authorized official, project director, financial officer, or grant-funded personnel.

2. Partner Agency Records and Retention

A. *Record Retention* – The funds received in this Funding Award are for one year (the Grant Period). The Partner Agency shall maintain all funding related records for a period of **five (5)** years following the last day of the grant period. If there is any litigation, claim, or audit related to this Funding Award then retention starts before the expiration of the Record Retention requirement, this period shall extend until

resolution of litigations, claims, or audit findings and final action taken by the CSP. For equipment records, the Record Retention Period shall be **five (5)** years following the purchase of such property.

- B. *Records Inspection and Maintenance* – The Partner Agency must make, keep, maintain a complete file of all records, documents, communications, notes, and other materials which can be written or electronic. The record should include files and communications about the Funding Award work or the delivery of services and goods hereunder. The records shall be available for inspection and monitoring by CSP.

The Partner Agency shall permit CSP to audit, inspect, examine, copy and transcribe Partner Agency records during the Record Retention period. Partner Agency shall make its records available during regular business hours at Partner Agency's office or place of business or at other mutually agreed upon times or locations. The Partner Agency will receive no fewer than two (2) Business Days' notice from the CSP unless CSP determines that a shorter period of notification, or no warning, is necessary to protect the interests of the CSP.

3. **Discrimination** - As a condition of receipt of state funds, you acknowledge and agree that you will not, on the grounds of race, color, religion, national origin, sex, or disability, unlawfully exclude any person from participation in, deny the benefits of, or employment to any person, or subject any person to discrimination in connection with any programs or activities funded in whole or in part with state funds. You will also not discriminate in the delivery of benefits or services based on age. These civil rights requirements are found in the non-discrimination provisions of Title VI of Civil Rights Act of 1964, as amended (42 U.S.C. §2000d); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. §3789d); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794); and the Age Discrimination Act of 1975, as amended (42 U.S.C. §6101).
4. **Equal Employment Opportunity** - The Partner Agency must comply with the federal regulations pertaining to the development and implementation of an Equal Employment Opportunity Plan (28 C.F.R. Part 42 subpart E).
5. **Sub-awarding Partner Agency Funds** - The Partner Agency shall not subaward or pass through to another entity these funds such as, but not limited to, public and private agencies, nor to any persons.
6. **Criminal Law Violations** - Subrecipients must timely disclose in writing to the BATTLE Project Director all state and federal criminal law violations involving fraud, bribery, or gratuity that may potentially affect the awarded state funding. Failure to make required disclosures can result in any remedies, including suspension or revoking awarded funds.

7. **CONFIDENTIAL INFORMATION-STATE RECORDS**

A. Confidentiality

Grantee shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Grant Award Letter. Grantee shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Grantee or any of its Subcontractors will or may receive the following types of data, Grantee or its Subcontractors shall provide for the security of such data according to the following: (i) the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Grant as an Exhibit, if applicable, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently

issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and

(iv) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

C. Other Entity Access and Nondisclosure Agreements

Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Grant Award Letter. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Grant, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure restrictions to the State upon request.

D. Use, Security, and Retention

Grantee shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

E. Incident Notice and Remediation

If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State.

F. Safeguarding PII

If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, on an annual basis Contractor's duty and obligation to certify as set forth in Exhibit __ shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

8. CONFLICTS OF INTEREST

Grantee shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Grantee under this Grant. Grantee acknowledges

that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State's interests and absent the State's prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee's obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Grantee acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Grantee further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S. with regard to this Grant.

9. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, et seq.,

C. R.S. (the "GIA"). Grantee shall ensure that any Subcontractors maintain all insurance customary for the completion of the Work done by that Subcontractor and as required by the State or the GIA.

10. REMEDIES

In addition to any remedies available under any exhibit to this Grant Agreement, if Grantee fails to comply with any term or condition of this Grant, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State's sole discretion. The State may also terminate this Grant Agreement at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

11. DISPUTE RESOLUTION

Except as herein specifically provided otherwise or as disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to the CATPA Board or an official designated by the Department of Public Safety by Grantee for resolution.

12. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Agreement shall be in writing and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

13. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Grantee or any Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

Return:

The Partner Agency will sign a copy of the Funding Award and return the agreement to the CSP BATTLE email. Once CSP obtains all signatures, the Partner Agency will receive a copy of this agreement. The parties hereto have executed this binding Funding Award.

Persons signing for Partner Agency hereby swear and affirm that they are authorized to act on Partner Agency's behalf and acknowledge that the Colorado State Patrol relies on their representations to that effect. The Funding Award may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery as a scanned ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing with the same force and effect as if such facsimile or ".pdf" signature page was an original thereof.

PARTNER AGENCY

COLORADO STATE PATROL

Legal Name of Partner
Agency

Name of Official, Title

Date Signed



Wesley Kartus, Captain
BATTLE Project Director

7-10-2024

Date signed



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A FACILITY USE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A NONPROFIT ENTITY, FOR USE OF CERTAIN PARK PREMISES

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Facility Use Agreement between the City of Pueblo and the Pueblo City-County Library District for use of the El Centro del Quinto Sol Community Recreation Center to provide library programs during renovations of the Lucero Library branch.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On April 1, 2024, City staff met with Pueblo City-County Library District representatives to discuss the Library using some space at the El Centro del Quinto Sol Community Recreation Center during renovation of the Lucero branch beginning in July 2024. The construction is scheduled to last ten to twelve months.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Should the Council choose not to approve this agreement, the Library will have to determine an alternative for a temporary library location during renovation.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. AGREEMENT - PCCLD - CITY for Use of El Centro del Quinto Sol - Facility Use Agreement - 2024-2025

ORDINANCE NO. 10767

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A FACILITY USE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A NONPROFIT ENTITY, FOR USE OF CERTAIN PARK PREMISES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Mayor is hereby authorized to execute the Agreement in the name and on behalf of the City of Pueblo, where the Mayor may execute the Agreement by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 3.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

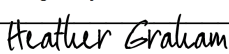
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President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:09 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:

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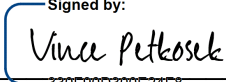
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


Deputy City Clerk

FACILITY USE AGREEMENT

PARTIES: This Facility Use Agreement ("Agreement") is made and entered into and effective as of _____, 2024 ("Effective Date"), by and between the City of Pueblo, a Colorado municipal corporation, ("City") located at 1 City Hall Place, Pueblo, Colorado, and the Pueblo City-County Library District, a nonprofit entity, ("Library") located at 100 E. Abriendo Ave., Pueblo, Colorado. City and Library may each be referred to herein individually as a "Party" or collectively as the "Parties."

PURPOSE: The purpose of this agreement is to enable Library to provide community programs during the renovations of the Lucero branch is ongoing. Library will provide all staff, security, transportation, programming, certifications, training, administration, and all other services needed or desired to provide the use of the space, in general "Programing". City's sole responsibility shall be in offering space at its El Centro del Quinto Sol ("El Centro") facilities for the Library's use. Library will coordinate with City as to the timing of the use of space in El Centro. Library understands that City intends to renovate the space in El Centro and Parties will coordinate the use if Library is still using the space at the time of that renovation.

AUTHORITY: This Agreement is entered into by and between the Parties in exercise of the authority set forth in the provisions herein.

TERM: The term of this Agreement shall begin on July 1, 2024 and terminate on September 1, 2025.

NONDISCRIMINATION:

As applicable, both Library and City agree not to discriminate in the selection, acceptance, or treatment of any participant or representative of either party pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, handicap, age, veterans status, medical, ancestry, marital status, or citizenship, within the limits imposed by law or other requirements.

OBLIGATIONS OF THE PARTIES:

- A. City grants permission for Library to enter and use the El Centro facilities located at 609 N. Erie Avenue, Pueblo, Colorado 81001 to provide use for programing, which includes the provision of library resources for check out, services and programs.
- B. Library use of the facilities will be limited to Upstairs East Room and shared programming space in the multipurpose room and only during open public hours at El Central. Library understands that open hours change depending

on the season and Library will coordinate Programing and needs with El Centro Coordinator and Library staff.

- C. City will provide general maintenance of the site, clean restrooms, floors, and provide paper goods for restrooms. Library will be responsible for all preparation and cleaning associated with the Programing. Library's cleaning of the areas shall meet the standard practices maintained at the El Centro facilities and all Health Department regulations, including: the sweeping and mopping of floors, wiping down and disinfecting communal areas, emptying of trash and waste, and the washing, drying, and proper storage of all utensils.
- D. Library shall be responsible for any damage to the property or equipment caused by its employees, volunteers, agents, participants, or any customers served. Programing participants shall execute a waiver, in a form approved by the City, assuming all liability and risk associated with participating in the Programing.
- E. Library will be the sole Party financially responsible for the Programing.

INSURANCE:

During the term of this Agreement, Library shall provide City a current certificate of insurance policy evidencing its comprehensive and general liability insurance coverage. This insurance shall be written in amount not less than \$1,000,000.00 for each occurrence and \$2,000,000 aggregate. Library shall also provide City with a written endorsement naming City as additional insured. Coverage shall provide notice to the additional insured of any change in or limitation of coverage or cancellation of the policy no less than thirty (30) days prior to the effective date of the change, limitation, or cancellation. A copy of the Certificate of Liability Insurance must be on file with the City at the time this Agreement is approved by both Parties.

INDEMNIFICATION AND LIABILITY:

- A. Library agrees to defend, hold harmless, and indemnify the City and its officers, employees, and agents (the "Indemnified Parties"), from any and all claims and liability, including reasonable attorney's fees and costs, for injuries, death, or damages to any person or property, arising from or in any way connected with the activities contemplated under this Agreement, or any default or breach of any term of this Agreement by Library. The Indemnified Parties shall have the right to retain their own counsel, in which case those reasonable attorney and expert fees and costs shall be covered by Library's indemnification obligations.
- B. Intentionally omitted.
- C. Intentionally omitted.

- D. City and Library agree to notify the other party of any claims, administrative actions, or civil actions determined to be within the scope of this Agreement within ten (10) calendar days of such determination. Nothing in this Agreement shall establish a standard of care for or create any legal right for any person not a party to this Agreement.
- E. The Parties to this Agreement agree that each is responsible only for the actions of their respective officers, agents, employees, and participants.
- F. The Parties to this Agreement hereby assert that no liability is assumed by either Party for damages or injuries which arise from participants independently traveling to or from service sites.

TERMINATION AND SUSPENSION:

This Agreement may be terminated without cause by either Party at any time upon thirty (30) days prior written notice to the other Party. When required by law, this Agreement may be immediately suspended by either Party upon notice to the other Party; any such suspension shall not extend the term of this Agreement.

FORCE MAJEURE:

Neither Party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Agreement due to an Event of Force Majeure, provided that the party claiming failure or inability to perform provides written notice to the other party within thirty (30) days of the date on which such party gains actual knowledge of such Event of Force Majeure. In the event of damage or destruction to a material portion of the El Centro facility by reason of fire, storm or other casualty loss that renders the facility (or a material portion thereof) untenable, City shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the facility (or a material portion thereof) untenable for a period estimated by an engineer or architect selected by City, of at least ninety (90) days from the date of such fire, storm or other casualty loss, either party may terminate this Agreement without any liability, upon written notice to the other.

FINANCIAL OBLIGATIONS:

- A. The parties to this Agreement hereby assert that no financial liability is assumed by either party for services provided outside the scope of this Agreement.
- B. City hereby agrees to provide the detailed areas of El Centro and to be financially responsible for utilities and daily maintenance, except as otherwise provided herein.

- C. Library hereby agrees to provide the Program services with no financial liability to City, including but not limited to, payment of staff, meals, and travel expenses.

NOTICES:

Any notice required to be given by the terms of this Agreement shall be deemed to have been given when the same is personally delivered or sent by first class mail, postage prepaid, addressed to the respective parties as follows:

If to City: Director of Parks and Recreation
Pueblo Parks and Recreation
800 Goodnight Avenue
Pueblo, CO 81005

With a copy to:

City Attorney
One City Hall Place, Third Floor
Pueblo, CO 81003

If to Library: Pueblo City- County Library District
100 E. Abriendo Ave.,
Pueblo, CO 81004

With a copy to:

Bart Miller
Collins Cole Flynn Winn, and Ulmer, PLLC
165 S. Union Blvd., Suite 785
Lakewood, CO 80228
Email: bmiller@cogovlaw.com

ENTIRE AGREEMENT:

This Agreement represents the entire and integrated agreement between City and Library, and supersedes all prior negotiations, representations, or agreements, either written or oral, with respect to the subject matter of this Agreement. The Agreement may not be modified, changed, supplemented or terminated, nor may any obligations under this Agreement be waived or amended, except by written instrument signed by the duly authorized representatives of City and Library.

SEVERABILITY: Should any term or provision of this Agreement be determined to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected thereby, and each term or provision of this Agreement shall be valid and enforced as written to the full extent permitted by law.

REPRESENTATION OF AUTHORITY:

The undersigned hereby represent and warrant that they are authorized by the respective parties to execute this Agreement.

ASSIGNMENT: This Agreement shall not be assigned by Library without the prior written consent of the City, which consent may be granted, denied, or conditioned in City's sole and absolute discretion.

SUBJECT TO LAW:

- A. This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of City which may arise under this Agreement in any fiscal year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Agreement, including any sub-agreement, attachment, schedule or exhibit thereto, by the City.
- B. Nothing in this Agreement is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred upon the City of Pueblo, a municipal corporation under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq.
- C. Nothing in this Agreement is intended to, or shall be deemed to constitute, a partnership or joint venture between the Parties, or to create any agency or partner relationship between the Parties. Neither Party shall hold itself out as a partner, joint venture, agent, or representative of the other under this Agreement.
- D. Library agrees to conform to all City policies, ordinances, and state and federal laws, including, but not limited to, restrictions on room and building capacities.
- E. This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more

counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

- F. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

GOVERNING LAW AND VENUE:

This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

IN WITNESS WHEREOF, City and Library have executed this Agreement as of the Effective Date.

City of Pueblo, A Municipal Corporation Pueblo City-County Library District

Heather Graham, Mayor

Trisha Macias
Trisha Macias

Vice-Chair, Board of Trustees

Attest:

Attest:

City Clerk

Secretary to the Board of Trustees
Secretary to the Board of Trustees

Approved as to Form:

City Attorney



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO AND GRUEN GRUEN + ASSOCIATES, LLC, A LIMITED LIABILITY CORPORATION IN THE STATE OF ILLINOIS, IN THE AMOUNT OF \$19,000 WITH \$1,610 IN CONTINGENCIES TO UPDATE THE STRATEGIC HOUSING ASSESSMENT COMPLETED IN SEPTEMBER OF 2021

SUMMARY:

This Ordinance will amend the professional services agreement (Bid No. 20-052) authorized by Ordinance No. 9890 to allow the City of Pueblo to update its Strategic Housing Assessment. While the long-range demand for housing and the projections within the Study are valid, the cost of housing and construction have escalated dramatically in the last three years. As such, funding entities such as the Colorado Housing and Finance Authority (CHFA) and the State Division of Housing no longer consider the economics of the Study as an accurate representation of the market conditions. Updating the Study will assist developers by reducing duplicative efforts, saving development costs, and reducing development time.

PREVIOUS COUNCIL ACTION:

Council approved the Strategic Housing Assessment on March 8, 2021, through Ordinance No. 9890.

BACKGROUND:

The Strategic Housing Assessment is an independent resource that allows developers to validate their financial projections to banking institutions. The assessment aims to quantify the demand for housing, estimate future demand, evaluate current market conditions, and extrapolate future conditions, with regional pressures included, to determine the feasibility and rate of return on investment for a proposed housing project.

FINANCIAL IMPLICATIONS:

Funds for the Project are available in the following accounts:

HO2001 - \$6,262

HO2210 - \$15,348

BOARD/COMMISSION RECOMMENDATION:

The Community Commission on Housing and Homelessness identified and elevated the need after the Commission's consultation with CHFA and the State Division of Housing.

STAKEHOLDER PROCESS:

Not applicable for this Ordinance.

ALTERNATIVES:

The City could choose not to fund an update to the study. Developers would then individually bear the cost of a market assessment to obtain funding approval for their respective project proposals.

RECOMMENDATION:

The Department of Planning and Community Development recommends approval of the Ordinance

ATTACHMENTS:

1. Amendment No 1 to Prof Svcs Agreement between the City of Pueblo and Gruen
Gruen Bid No. 20-052

ORDINANCE NO. 10768

AN ORDINANCE APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO AND GRUEN GRUEN + ASSOCIATES, LLC, A LIMITED LIABILITY CORPORATION IN THE STATE OF ILLINOIS, IN THE AMOUNT OF \$19,000 WITH \$1,610 IN CONTINGENCIES TO UPDATE THE STRATEGIC HOUSING ASSESSMENT COMPLETED IN SEPTEMBER OF 2021

WHEREAS, there exists a need for quality affordable housing in the City of Pueblo; and,

WHEREAS, there exists a need to update the Strategic Housing Assessment completed in September of 2021; and,

WHEREAS, the update to the housing assessment shall be thorough and serve as a basis for making strategic and informed decisions affecting the local housing market; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Funds for the Project are available in the 251 Fund within the following project accounts: HO2001 and HO2210 in the amount of \$6,262 and \$15,348, respectively.

SECTION 2.

The Amendment No. 1 to the Agreement for Professional Services between the City of Pueblo, a Colorado Municipal Corporation, and Gruen Gruen + Associates, a Limited Liability Corporation in the State of Illinois, ("Agreement for Professional Services") in the amount of \$19,000 to update the current Strategic Housing Assessment, a copy of which is attached hereto and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor is hereby authorized to execute Amendment No. 1 to the Agreement for Professional Services on behalf of the City, and the City Clerk shall affix the Seal of the City thereto and attest the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 5.

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:
Mark Bliff
B7A4F51823AB462...

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:08 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:
Heather Graham
3A85950B7BCA462...

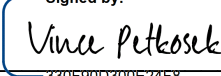
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


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Deputy City Clerk

AMENDMENT NO. 1 TO THE SERVICE AGREEMENT BY AND BETWEEN CITY OF PUEBLO AND GRUEN GRUEN + ASSOCIATES LLC

1. Introduction

This Amendment No. 1 to the Professional Services Agreement ("Amendment") is executed to be effective as of the ____ day of _____, 20____, by and between the City of Pueblo, a Colorado Municipal Corporation ("Client") and Gruen Gruen + Associates LLC, an Illinois Limited Liability Company registered to do business in Colorado ("Consultant"). Client and Consultant are sometimes referred to herein as a "Party" and collectively, as the "Parties."

2. Project Statement

WITNESSETH THAT:

WHEREAS, Client and Consultant entered into that certain Professional Services Agreement dated March 8, 2021 for Bid Housing Consultant for Preparation of Strategic Housing Assessment for the City of Pueblo and Surrounding Community (the "Agreement").

WHEREAS, Client and Consultant desire to modify the Agreement pursuant to the provisions set forth herein.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual promises set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Client and Consultant hereby agree to the following conditions.

3. AGREEMENT

- A. The Agreement is amended by expanding the scope of work to include the following additional services:
 - 1. Consultant shall provide an update to the Pueblo Housing Assessment and Strategy; September 2021 as identified in Attachment A (Scope of Work).
 - 2. Attachment A to this Amendment No. 1 shall be additional work as agreed upon by Consultant and Client, and Consultant shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement.
- B. With respect to services provided under the Amendment No. 1, the fee schedule attached as Attachment B to this Amendment No. 1 shall apply to compensation payable to Consultant. The aggregate compensation payable to the Consultant for performance of the additional services authorized by this Amendment No. 1 shall not exceed the maximum amount of \$19,000.00 as set forth in the Attachment B and notwithstanding whether the service is billed as Time and Material.

1. The compensation payable to the Consultant by this Amendment No. 1 shall be billed at the amounts set forth in the Attachment B.
 2. Client must respond in writing with written approval prior to Consultant beginning work.
- C. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.
- D. Except as expressly modified by this Amendment No. 1, the Agreement shall remain in full force and effect. Except as modified by this Amendment No. 1, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 1.
- E. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document with the same effect as if all Parties had signed the same original. The Parties further agree that transmission of this Amendment by any electronic format, telecopy or via email in a PDF format, shall be deemed transmission of the original Amendment for all purposes. Electronic signatures shall be deemed valid and binding to the same extent as the original
- F. This Amendment No. 1 may be funded in whole or in part by a grant from the U.S. Department of Housing and Urban Development.
1. Proposers shall comply with all applicable Federal, State, and local standards, orders, and regulations.
 2. Consultant shall comply with all provisions in Attachment C, Funding Contract Requirements.
 3. The Consultant shall maintain an active SAM.gov registration with no exclusions during the work performed for this project.

(Signature Section on following page.)

4. Signature Section

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

GRUEN GRUEN + ASSOCIATES LLC

By _____
Naomi Hedden, Director of Purchasing

By _____
Aaron N. Gruen, Principal/Managing Member

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Mayor Heather Graham for Finance Director

APPROVED AS TO FORM
Department of Law

David Wyatt, Assistant City Attorney

Attachments: Attachment A – Scope of Work
Attachment B – Fee Schedule
Attachment C – Special Funding Contract Requirements
Additional Information for Amendment

Attachment A

Scope of Work

Excerpt from Consultant's Proposal dated April 22, 2024, Pages 1 – 3

Gruen Gruen + Associates is pleased to submit the following proposal to assist you in updating key data and analysis from the “Pueblo Housing Assessment and Strategy,” previously completed in September 2021. The scope of work will specifically include updates within the following sections of the report:

- Apartment Market Conditions and Rental Housing Costs;
- For-Sale Housing Market Conditions and Ownership Housing Costs;
- Housing Affordability “Gap” Analysis;
- Components of Population Change;
- Real Household Incomes; and
- Real Estate Economic Analysis of Housing Development Alternatives.

Specific tables, figures, and sources of data are described below in the Proposed Scope of Work.

PROPOSED SCOPE OF WORK

Housing Market Conditions and Current Renter/Owner Costs

GG+A will obtain and review the most current secondary data available from sources such as the Colorado Statewide Apartment Survey, 2022 American Community Survey, CoStar, and Multiple Listing Service to update the following figures and tables:

- Figure A-3, Average Monthly Rent and Vacancy Rate in Pueblo
- Figure A-4, Average Monthly Rent Per Square Foot
- Figure A-5, Pueblo County Average Sale Prices
- Table A-4, Multi-Family Apartment Asking Rent Survey
- Table A-5, Estimate of Existing Rental Housing Supply (Occupied Units)

We understand that the city will assist in obtaining recent sales data from the local MLS.

Housing Affordability “Gap” Analysis

The gap analysis for the city of Pueblo and other areas of the county (e.g., Pueblo West) will be updated to reflect changes in housing prices, interest rates, and local household incomes since the comparison was previously made using 2019 income data. GG+A will obtain and review data from sources including the 2022 American Community Survey and Home Mortgage Disclosure Act to update the following figures and tables:

- Figure 3, Existing Housing Inventory Relative to Existing Households by Monthly Cost
- Table A-11, Affordable Housing Prices and Monthly Rents by Household Income Bracket
- Table A-12, Estimated Housing affordability Gaps in the City of Pueblo
- Table A-13, Estimated Housing affordability Gaps in the Pueblo West and Other Areas

Components of Population Change and Household Income Trends

GG+A will obtain the most recently available data from the State Demography Office and/or U.S. Census Bureau to update the figures describing Pueblo County Components of Population Change (Figure 4) and Median Household Income Trends (Figure 5).

Real Estate Economic Analysis of Housing Development Alternatives

The update to the real estate economic analysis will quantify how changes in market-rate housing prices, capital markets conditions, and development costs have likely changed since summer 2021 to affect the feasibility of new housing production. GG+A may rely upon a combination of developer or contractor interviews and secondary data (such as CHFA cost dashboards, site and vertical development costs obtained in late 2022 for proposed projects in Pueblo, etc.) to identify how costs and financing parameters have changed. Current municipal and tap fees will be obtained from the city and appropriate districts. The updated analysis will also draw upon 2024 income limits for Pueblo County. Results will be quantified in the following figures and tables:

- Figure 10, Minimum Annual Income Needed to Afford Market Price of Feasible Housing Developments
- Table 9, Feasible Housing Development Prototypes
- Table 10, Infeasible Housing Development Prototypes
- Table E-4, Percent of AMI Needed to Afford New Construction Detached Single-Family Homes
- Table E-5, Percent of AMI Needed to Afford New Construction Attached Single-Family and Walk-Up Apartments
- Table E-7, Estimated Development Costs for Multi-Family Prototypes
- Table E-8, Estimated Market Rents for Multi-family Rental Units
- Table E-12, Average Sales Price Estimates for Single-Family Units
- Table E-13, Horizontal Costs for Single-Family Units
- Table E-14, Vertical Development Costs for Single-Family Units

DELIVERABLE

GG+A will develop a companion report or “addendum” to the 2021 Housing Assessment and Strategy. The graphical document will be presented in a similar format, structured around the tables and figures identified above, as well as narrative text to describe how key assumptions and results have changed since 2021. Specifically, the addendum report will identify how changes in housing market conditions and other factors have affected affordability gaps or unmet “needs” for existing housing units and production gaps for new housing units – and what these changes may suggest for appropriate municipal policies or strategies.

STAFF RESPONSIBILITY

Aaron Gruen, Principal, will be in charge of this work for GG+A. Working closely with Aaron will be Debra Jeans, Principal; Andrew Ratchford, Senior Project Manager and Analyst based in Denver; and Alyssa Roche, Research Assistant. We will maintain close liaison with you as our work proceeds.

Attachment B

Fee Schedule

Excerpt from Consultant's Proposal dated April 22, 2024, Page 3

BUDGET AND DURATION

Our charges for professional services are based upon the actual time devoted to your project by our staff.

Expenses such as for travel, communication, and report production will be invoiced at their cost to us.

The standard rates for the GG+A personnel assigned to the project are as follows:

Staff Person	Standard Hourly Rate
Aaron N. Gruen, Principal	\$315
Debra J. Jeans, Principal	\$315
Andrew Ratchford, Senior Project Manager	\$210
Alyssa Roche, Research Assistant	\$105

Any expenses for travel or report reproduction will be invoiced at their cost to us. Invoices will be submitted monthly and are due upon receipt.

We have allocated about 110 hours of staff time to this potential assignment and ask that you set aside a **not-to-exceed budget of \$19,000** to complete the updates identified in the Scope of Work above.

We estimate the work including final deliverable will be completed within no more than **12 weeks** of authorization to proceed.

Attachment C

Special Funding Contract Requirements

This attachment shall be added to all City bid projects with the potential utilization of federal or state fund projects (including projects utilizing FEMA, ARPA, SLFRF, or grant funds). The following clauses mirror the Federal Required Contract Provisions available at www.fema.gov/procurement-disaster-assistance-team. Questions about the City's Purchasing Policy and the federal project requirements may be directed to bidinfo@pueblo.us.

Definitions:

Agreement: For the purposes of this bid and/or project, *agreement* shall indicate a contract between City and Contractor.

Contractor: Awarded bidder, consultant, and/or engineer contracted or under agreement with the City for a specified duration or for specific project work.

Contract: Any form of agreement, award, written contract, issued purchase order, purchase agreement, etc. as issued by the City as a result of a formal or informal bid, cooperative agreement, or other award as determined appropriate by the Purchasing Director and/or City Mayor and/or City Council.

Notice:

The project(s) and contracts utilizing funds from a federally established fund, disaster relief program, state program, or other grant fund are subject to the sections contained herein and signature of the bid by the Contractor shall constitute Contractor's agreement to all terms within this bid, agreement, and/or contract.

Failure to adhere to all federal, FEMA, state, grant, and City project requirements may mean suspension or department by the City of Pueblo, the federal government, and other FEMA awarded projects (as per 2 CFR, Part 180, Implementing Executive Orders 12549 and 12689).

It is the Contractor's responsibility to adhere to any federal fund project requirements that may be revised, added, stipulated by the situation or federal fund advisor, etc. Additionally, Contractor must adhere to the terms of the grant award as applicable for each project, including all federal laws, executive orders, federal regulations, state oversight regulations, etc. Failure to adhere to these and all other project requirements may mean suspension or department (see Section 9 below).

As indicated below each Section, some clauses determined nonapplicable for this project may be removed.

1. REMEDIES

Applicable to all contracts/agreements in excess of \$250,000; 2 CFR, Part 200, Appendix II(A)

This contract is not estimated to exceed \$249,999 and this section has been removed.

2. TERMINATION FOR CAUSE AND CONVENIENCE

Applicable to all contracts/agreements in excess of \$10,000; 2 CFR, Part 200, Appendix II(B)

- 2.1 Termination for Cause. Contractor's failure to perform or observe any covenant, condition, provision, or term of the contract shall constitute Contractor's default. In the event of Contractor's default, the City shall have the right to exercise its legal and equitable remedies as listed in Section 1 above and may immediately terminate the agreement upon written notice to Contractor.
- 2.2 Termination for Convenience. City shall have the option, in its sole discretion, to terminate the contract at any time during the term for convenience and without cause. City shall exercise this option by giving Contractor written notice of termination including date on which termination shall become effective.
- 2.3 Within 30 days after specified termination, Contractor shall submit to City a final invoice for actual property shipped, received, and accepted and/or services (partial or in full) accepted as complete by the City's authorized representative. All invoices shall be pro-rated for exact amount of product received or work submitted. City shall not pay any additional costs for loss of work or contract, administrative or work costs after termination date, costs to subcontractors or subconsultants for loss of work, or any other conditions. The City's payment obligation under this Section shall survive termination of the contract.

3. EQUAL EMPLOYMENT OPPORTUNITY

This section is required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(C)

During the performance of this contract, the Contractor agrees as follows:

- 3.1 The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 3.2 The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment

without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- 3.3 The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- 3.4 The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 3.5 The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 3.6 The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 3.7 In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 3.8 The Contractor will include the portion of the sentence immediately preceding paragraph (3.1) and the provisions of paragraphs (3.1) through (3.8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering

agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. DAVIS BACON ACT

Only applicable for construction contracts in excess of \$2,000; include most current Davis Bacon Wages supplement; 2 CFR, Part 200, Appendix II(D)

This contract is not for construction and the Davis Bacon Act section has been removed.

5. COPELAND ANTI-KICKBACK ACT

Only applicable for construction contracts in excess of \$2,000; 29 CFR, Part 3

This contract is not for construction and the Copeland Anti-Kickback Act section has been removed.

6. COMPLIANCE WITH CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Applicable for projects in excess of \$100,000 that involve employment of mechanics or laborers; 2 CFR, Part 200, Appendix II(E)

This contract is not estimated to exceed \$99,999 and this section has been removed.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT/AGREEMENT

Applicable to contracts for performance of experimental, developmental, or research work; 2 CFR, Part 220, Appendix II(F)

This contract is not for use of experimental, developmental, or research and this section has been removed.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Contracts in excess of \$150,000; 2 CFR, Part 200, Appendix II(G)

This contract is not estimated to exceed \$149,999 and this section has been removed.

9. DEBARMENT AND SUSPENSION

Required for all federal, state, grant, and cooperative agreement programs; 2 CFR, Part 200, Appendix II(H)

- 9.1 This contract is a covered transaction for purposes of 2 CFR, Part 180 and 2 CFR, Part 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 CFR Section 180.995) or its affiliates (defined at 2 CFR Section 180.905) are excluded (defined at 2 CFR Section 180.940) or disqualified (defined at 2 CFR Section 180.935).
- 9.2 The Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 9.3 This certification is a material representation of fact relied upon by City. If it is later determined that the Contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part

3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

- 9.4 The bidder agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

Award of \$100,00 or more; 2 CFR, Part 200, Appendix II(I)

This contract is not estimated to exceed \$99,999 and this section has been removed.

11. PROCUREMENT OF RECOVERED MATERIALS

Required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(J)

- 11.1 In the performance of this contract/agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items in accordance with 40 C.F.R. Part 247, unless the product cannot be acquired:
- Competitively within a timeframe providing for compliance with the contract performance schedule.
 - Meeting contract performance requirements.
 - At a reasonable price.
- 11.2 Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 11.3 The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

12. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Required for all federal grant and cooperative agreement programs used to purchase telecommunications and video surveillance services or equipment; 2 CFR, Part 200, Appendix II(K)

This contract does not involve telecommunications and video surveillance services or equipment.

13. DOMESTIC PREFERENCES FOR PROCUREMENT

Required for all federal grant and cooperative agreement programs; 2 CFR, Part 200, Appendix II(L)

To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Contractor and all of its subcontractors will to the greatest extent practicable under the Contract, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including

but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all contracts and purchase orders that Contractor may enter into.

14. ACCESS TO RECORDS

This section from Recommended Contract Provision No. 1; Required for all City federally funded projects

- 14.1 The Contractor agrees to provide the federal fund and/or grant provider, the City, the Comptroller General of the United States, and/or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- 14.2 The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 14.3 The Contractor agrees to provide the federal fund and/or grant provider or authorized representatives access to construction or other work sites pertaining to the work being completed under the Project. *[REMOVE IF NOT CONSTRUCTION]*
- 14.4 In compliance with the Disaster Recovery Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the federal fund and/or grant provider or the Comptroller General of the United States.

15. CHANGES

This section from Recommended Contract Provision No. 2; Required for all City federally funded projects

The cost of changes, modifications, change orders, or constructive changes must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of the project scope.

Changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract as long as the City and Contractor agree to change in writing and change still meets any funding submittal and expiration dates.

16. DEPARTMENT OF HOMELAND SECURITY SEAL, LOGO, AND FLAGS

This section from Recommended Contract Provision No. 3; Required for all City federally funded projects

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific federal fund and or grant administrator approval.

17. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This section from Recommended Contract Provision No. 4; Required for all City federally funded projects

This is an acknowledgement that federal financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable federal law, regulations, executive orders, federal policies, procedures, and directives.

18. NO OBLIGATION BY FEDERAL GOVERNMENT

This section from Recommended Contract Provision No. 5; Required for all City federally funded projects

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

19. FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS

This section from Recommended Contract Provision No. 6; Required for all City federally funded projects

The Contractor acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims or Statements) applies to the Contractor's actions pertaining to this contract.

Additional Information for Agreement

System for Award Management (SAM.gov) Registration

Certificate of Good Standing

PERA Questionnaire – Requested from Consultant 7/25 – to be added prior to signature

Insurance Certificate(s) – Requested from Consultant 7/25 – to be added prior to signature



GRUEN GRUEN + ASSOCIATES LLC

REVIEWEDby Bryan Gallagher July 25, 2024

Unique Entity ID W5ETRD3DJ67	CAGE / NCAGE 5RJQ4	Purpose of Registration All Awards
Registration Status Active Registration	Expiration Date Dec 4, 2024	
Physical Address 320 W Oakdale AVE APT 1802 Chicago, Illinois 60657-5667 United States	Mailing Address 320 W Oakdale AVE APT 1802 Chicago, Illinois 60657-5667 United States	

Business Information

Doing Business as (blank)	Division Name (blank)	Division Number (blank)
Congressional District Illinois 05	State / Country of Incorporation Illinois / United States	URL www.ggassoc.com

Registration Dates

Activation Date Dec 7, 2023	Submission Date Dec 5, 2023	Initial Registration Date Oct 14, 2009
---------------------------------------	---------------------------------------	--

Entity Dates

Entity Start Date Jan 19, 2000	Fiscal Year End Close Date Dec 31
--	---

Immediate Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Highest Level Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM.gov) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2. C.F.R. 200 Appendix XII. Their responses are displayed in the responsibility/qualification section of SAM.gov. Maintaining an active registration in SAM.gov demonstrates the registrant responded to the proceedings questions.

Exclusion Summary

Active Exclusions Records?

No

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure Other	Entity Type Business or Organization	Organization Factors Limited Liability Company
Profit Structure For Profit Organization		

Socio-Economic Types

Self Certified Small Disadvantaged Business
Women-Owned Business

Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.

Financial Information

Accepts Credit Card Payments No	Debt Subject To Offset No
EFT Indicator 0000	CAGE Code 5RJQ4

Points of Contact

Electronic Business

 DEBRA L. Jeans, Principal	282 Dover Circle Lake Forest, Illinois 60045 United States
AARON Gruen	1121 Lake Cook RD. Suite A Deerfield, Illinois 60015 United States

Government Business

 Debra L. Jeans, Principal	282 Dover Circle Lake Forest, Illinois 60045 United States
AARON Gruen	1121 Lake Cook RD. Suite A Deerfield, Illinois 60015 United States

Past Performance

 Aaron N. Gruen, Principal	282 Dover Circle Lake Forest, Illinois 60045 United States
Aaron N. Gruen, Principal	282 Dover Circle Lake Forest, Illinois 60045 United States

Service Classifications

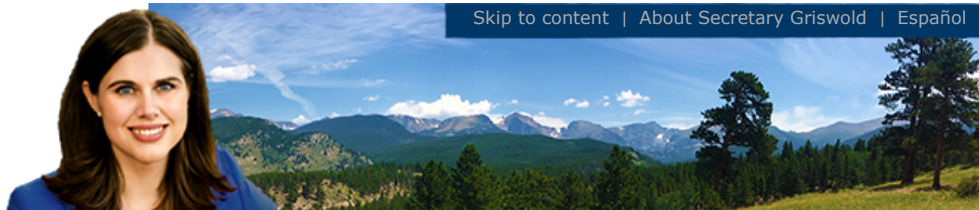
NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	541618	Other Management Consulting Services
	541611	Administrative Management And General Management Consulting Services
	541613	Marketing Consulting Services
	541620	Environmental Consulting Services
	541690	Other Scientific And Technical Consulting Services
	541720	Research And Development In The Social Sciences And Humanities
	541910	Marketing Research And Public Opinion Polling
	541990	All Other Professional, Scientific, And Technical Services

Disaster Response

This entity does not appear in the disaster response registry.

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Subscribe to text notification
Unsubscribe from text notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	Gruen Gruen + Associates LLC		
Status	Good Standing	Formation date	06/18/2012
ID number	20121329660	Form	Foreign Limited Liability Company
Periodic report month	June	Jurisdiction	Illinois
Principal office street address	320 W Oakdale Ave Apt 1802, Chicago, IL 60657, US		
Principal office mailing address	320 W Oakdale Ave Apt 1802, Chicago, IL 60657, US		

Registered Agent	
Name	Andy Ratchford
Street address	336 S Downing St, Denver, CO 80209, US
Mailing address	336 S Downing St, Denver, CO 80209, US

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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,

Gruen Gruen + Associates LLC

is an entity formed or registered under the law of Illinois, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 20121329660.

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 07/22/2024 that have been posted, and by documents delivered to this office
electronically through 07/24/2024 @ 09:51:56.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 07/24/2024 @ 09:51:56 in accordance with applicable law.
This certificate is assigned Confirmation Number 16234926.



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 4-2, 17-2, 17-5, 17-6, 17-8, 17-9, AND 17-10 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

SUMMARY:

This Ordinance is part of a larger modernization effort by City staff to amend the Charter to remove or amend language which may be confusing, impractical or no longer be relevant compared to when the Charter was adopted approximately 70 years ago.

PREVIOUS COUNCIL ACTION:

Council has previously submitted to the eligible electors of Pueblo certain Charter Amendments. The goal of this Ordinance is to amend outdated, impractical and confusing language from the Charter.

BACKGROUND:

Attached is a proposed Ordinance referring to the registered voters of the City proposed amendments to the City's Charter.

In Sections 4-2 and 17-2, changes have been made to account for allowances required by the necessity of a runoff election, which cannot legally be held in the current Charter-allotted time frame.

In section 17-5, changes have been made to allow for changes that are pending at the state level; if these hard dates remain in our Charter, the City may be unable to coordinate November elections with Pueblo County, necessitating additional expense and time for City employees to run a standalone election.

In Sections 17-6, 17-8, and 17-9, updates are made regarding voting machines and voter registration, which have different processes now than in 2004, when the last major edit to these sections was made.

In Section 17-10, the state recently changed the expenditure dates; current code is stricter than the Charter timeline requirement.

FINANCIAL IMPLICATIONS:

Financial implications include the cost of placing this Ordinance along with other proposed Charter amendments on the ballot at the 2024 Special Election.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

A “no action” alternative would keep the Charter in its current form.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10769

AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 4-2, 17-2, 17-5, 17-6, 17-8, 17-9, AND 17-10 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

There is hereby submitted to a vote of the registered electors of the City of Pueblo at the Special Municipal Election to be held on November 5, 2024, a proposed amendment to the Charter of the City of Pueblo, more particularly set forth in Section 3 of this Ordinance.

SECTION 2.

This ballot title (submission clause and title) for the proposed Charter Amendment set forth in Section 3 hereof is hereby fixed and adopted as follows:

BALLOT QUESTION NO. ____ - CHARTER AMENDMENT.

(_____)

SHALL THE CHARTER OF THE CITY OF PUEBLO BE AMENDED AS FOLLOWS TO AMEND SECTION 4-2 TO ADJUST THE MAYOR'S TERM FOR THE POSSIBILITY OF A RUNOFF ELECTION; AMEND SECTION 17-2 TO ALLOW FOR FLEXIBILITY IN THE DATE OF THE RUNOFF ELECTION; AMEND SECTION 17-5 TO ALLOW THE TIMEFRAME FOR SUBMISSION OF PETITIONS TO BE SET BY ORDINANCE; AMEND SECTION 17-6 TO IDENTIFY MAIL-IN BALLOT AS THE PREFERRED METHOD; DELETE SECTIONS 17-8 AND 17-9 TO REMOVE THE CITY CLERK'S REQUIREMENT TO REGISTER VOTERS; AND AMEND SECTION 17-10 TO ALLOW THE TIMELINE FOR CANDIDATES' FILING OF STATEMENT OF EXPENSE TO BE SET BY ORDINANCE?

-- YES
-- NO

SECTION 3.

There is hereby submitted to a vote of the registered electors of the City of Pueblo at the special municipal election to be held on November 5, 2024, an amendment to the Charter of the City of Pueblo, as follows: (brackets indicate matter being deleted, underscoring indicates new matter being added)

ARTICLE 4

Mayor

Section 4-2. - **Mayor's Term**

The term of Mayor, unless another date is necessitated by runoff election, recall or removal[unless sooner recalled or removed], shall begin on the second Tuesday in January of the year following election and shall be for four (4) years or until a successor is duly elected and qualified. After having served two (2) consecutive terms, the incumbent Mayor shall be ineligible to hold office thereafter.

ARTICLE 17

Elections

Section 17-2. - **Municipal Elections***

A general municipal election shall be held on the first Tuesday in November of each odd number year, except that the first Mayoral election shall be held as provided in Section 20-3. Special municipal elections shall be held in accord with the provisions of this Charter.

To be elected Mayor, a qualified candidate shall have received a majority of the votes cast for such office. If no candidate receives a majority of the votes cast, a special run-off election shall be held [on the first Tuesday in the month following]. If a run-off election is required, the two (2) persons with the highest number of votes cast for the office shall appear on the ballot as candidates. Notwithstanding, the Council, by ordinance, may designate an alternative method of run-off election.

Section 17-5. - **Acceptance of Nomination**

No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination form, such form to be determined by the City Clerk. If a petition is found to be signed by more persons than the number legally permitted, the last signatures in excess of that number shall be disregarded even if some of the earlier signatures are void. If a petition is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. If a petition is found to be signed by more persons than the number of signatures certified by the circulator, the last signatures in excess of the number certified shall be disregarded. Within five days after the filing of a nominating petition the City Clerk shall notify the candidate and the person who filed the petition whether or not it is found to be signed by the required number of registered electors. If a petition is found insufficient, the City Clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Within the regular time for filing petitions such a petition may be amended and filed again as a new petition (in which case the time of the first filing shall be disregarded in determining the validity of signatures thereon) or a different petition may be filed for the same candidate. The petition of each person nominated shall be preserved by the City Clerk until the expiration of the term of office for which he has been nominated. [Any signature made earlier than sixty (60) days prior to the date of the election shall be void.] All nominating papers comprising a petition shall be filed as one instrument with the City Clerk within the timeframes as set forth in the Pueblo Municipal Code[not earlier than ninety-one (91) days before the election and not later than seventy-one (71) days before the election.] The City Clerk shall make a record of the exact time at which each petition is filed and shall take and preserve the name and address of the person by whom it is filed. A person who has been nominated, may withdraw by filing with the City Clerk a request therefor in writing, and in the event that the withdrawal of candidacy is not made in time for the candidate's name to be taken off the ballot, any votes for the candidate shall be deemed invalid and shall not be counted.

Section 17-6. - **Balloting**

The vote on all proposals and election of candidates shall be by mail-in ballot[voting

machines] whenever available, or by alternative method established by ordinance. [If a voting machine should become inoperative during balloting, paper ballots shall be used under the supervision of the Board of Elections of the City.]

Section 17-8. – **Reserved.**[Registration*

Registration of all voters shall be as follows:

a. The City Clerk shall register all voters at his or her office up to and including twenty-nine (29) days before any election.

b. A voter may be legally registered by presenting himself in person or by a member of his immediate family of legal age residing at the same address.

c. The name of a voter once registered shall remain on the registration list until stricken as hereby provided:

(1) Within thirty (30) days after any general city election the City Clerk shall strike from the registration lists in each precinct the name of every person who failed to vote at such election.

(2) At any time up to and including twenty-nine (29) days before any election, any qualified elector may file a verified complaint with the Judge of the Municipal Court, giving the name, or names of any person or persons, whom he believes to be illegally registered with his reasons therefor. Immediately upon receipt of such a complaint the Municipal Judge shall issue and provide for the delivery of a summons which shall command attendance at a hearing before him of such persons mentioned in the verified complaint. If upon hearing, it shall appear that any such person, or persons, has been illegally registered, his name shall be stricken from the registration list.

d. For the twenty-nine (29) days before and on the day of any municipal election, any registered elector, by appearing in person at the City Clerk's office, may complete a sworn affidavit for change of address from a precinct within the City in which the elector is registered, stating that the elector has moved prior to the thirtieth day before the election and that the elector has lived at the new address in the new precinct within the City for at least thirty days. Upon the receipt of the request, the City Clerk shall verify the registration of the elector at the new address and, upon verification, change the elector's registration to the new address.】

Section 17-9. – **Reserved.** [Optional Registration Plan*

At any time in the future the City Council may adopt this plan for registration instead of the aforementioned Section. Registration of all qualified electors shall be follows: The City Clerk shall, not later than twenty-nine (29) days before any City election, obtain from the County Clerk a registration list of all qualified electors who are residents of the City of Pueblo. Such registration list shall be the official city registration record. All qualified electors shall be considered duly registered and continue to be registered until such time as their names are stricken from the election records of the County Clerk.】

Section 17-10. - **Statement of Expenses**

Every candidate at any City election shall [within thirty (30) days thereafter]within the time set by ordinance, file a sworn statement of election expenditures which shall include such itemizations and disclosures as the City Council shall by ordinance specify and require.

No political party, directly or indirectly, and no public service corporation, nor any other

person, firm or corporation owning, interested in, or intending to apply for any franchise or contract with the City, shall contribute or expend any money or valuable thing, directly or indirectly, to assist in the election or defeat of any candidate or candidates.

The provisions and prohibitions of this Article relating to candidates shall also apply to each and every City officer and employee in Pueblo.

SECTION 4.

The City Council does hereby find, determine and declare that the ballot title set forth in Section 2 hereof fairly expresses the true meaning and intent of the referred Charter amendment.

SECTION 5.

The officials of the City are authorized and directed to take all actions necessary, appropriate or required to implement the provisions of this Ordinance. The City Clerk is directed to publish notice of election of the proposed Charter Amendment in conformity with the provision of C.R.S. 1-7.5-101 *et seq.* and C.R.S. 31-2-210(4) and to certify the Ballot Title to the Pueblo County Clerk and Recorder no later than sixty days before the November 5, 2024 coordinated election, as provided by C.R.S. 1-5-203(3) and C.R.S. 31-2-210 (3.5).

SECTION 6.

This Ordinance shall become effective upon final passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4F51023AB462...

President of City Council

Action by the Mayor:

☐ Approved on 8/28/2024 | 8:20 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:

3A85950B7BCA462...

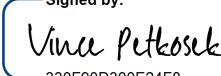
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


330F90D300E24F0...
Deputy City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 1-5, 2-6, 2-10, 3-9, 3-18, 3-19, 3-20, 3-21, 6-1, 7-28, 8-12, AND 15-6 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

SUMMARY:

This Ordinance is part of a larger modernization effort by City staff to amend the Charter to remove or amend language which may be confusing, impractical or no longer be relevant compared to when the Charter was adopted approximately 70 years ago.

PREVIOUS COUNCIL ACTION:

Council has previously submitted to the eligible electors of Pueblo certain Charter Amendments. The goal of this Ordinance is to amend outdated, impractical and confusing language from the Charter.

BACKGROUND:

Attached is a proposed Ordinance referring to the registered voters of the City proposed amendments to the City's Charter.

Section 1-5 and Section 3-20 changes the definition of Emergency Ordinance to include "significant financial loss" to the City as a qualifier. This will allow the City to take advantage of certain grants or favorable financing terms by shortening action time by as much as three weeks. An Emergency Ordinance can never be used to create a tax or fee.

Section 2-6 clarifies how an elected office can be deemed vacant; previously, resignation and election to another office would not automatically cause a vacancy and

Council would have to wait longer to be able to declare a vacancy and move to fill the position.

Section 2-10 and Section 3-19 ends the requirement for newspaper publishing, as the City no longer has a paper that is printed and published daily in the City of Pueblo. Legal notices will instead be published free of charge on the City's website; this change will save the City at least \$20,000 a year.

Section 3-9 will end the requirement that all contracts, to include memorandum of understanding, memorandum of agreement, and small dollar contracts be approved by way of ordinance. This amendment will return to the *status quo ante* prior to the City of Pueblo adopting a mayor/council form of government.

Section 3-18 will amend the Charter to make future amendments to the municipal code and Charter easier to understand. This amendment will end the use of [brackets] to designate language that is being amended and instead use the modern strikethrough ~~strikethrough~~ to denote language being removed.

Section 3-21 removes the requirement of an index book. The City Clerk currently maintains a written paper index book. Digital search ability is more efficient and has replaced the need for such a hard copy book.

Section 6-1 removes the requirement that the city attorney be a resident of the City of Pueblo. The City Attorney is the only director required by Charter to live within the city limits. Council recently removed the requirement that department directors be residents of the City of Pueblo in order to attract a wider talent pool when positions become vacant. This rationale applies equally to the City Attorney.

Section 7-28 removes the requirement that City's purchasing agent create and maintain a record (inventory) of non-expendable property owned by the City of Pueblo having a unit cost in of \$50.00 or greater. This low threshold value creates an undue burden on the purchasing department. A change in the Charter will allow this value to be modified based upon current economic conditions. Council will be able to determine by ordinance the appropriate minimum unit cost of non-expendable property to be included in said record.

Section 8-12 removes the Charter the requirement that City employees be required to retire at age 65 or pass a physical and mental examination based upon the requirements of their job. This provision is obsolete and likely contrary to federal law prohibiting age discrimination. Council may address employment matters by ordinance if necessary.

Section 15-6 removes the restriction that that Trustees or Commissioners of existing water districts, or the Board of Water Works of Pueblo shall not enter into any contract or purchase involving the expenditure of a sum in excess of \$1,000.00), and instead allows Council to set the maximum amount by way of ordinance, with the exception of personal, professional or technical services not lending themselves to competitive bidding, until a proposal for bids for the materials or services covered by such contracts or purchase shall have been published.

FINANCIAL IMPLICATIONS:

Financial implications include the cost of placing this Ordinance along with other proposed Charter amendments on the ballot at the 2024 Special Election.

Passage of this Charter Amendment will save the City at least \$20,000 a year in regard to newspaper publishing requirements, and can potentially prevent significant financial loss to the City. It will also include cost savings in staff time.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

A “no action” alternative would keep the Charter in its current form.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10770

AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, PROPOSED AMENDMENTS TO SECTIONS 1-5, 2-6, 2-10, 3-9, 3-18, 3-19, 3-20, 3-21, 6-1, 7-28, 8-12, AND 15-6 OF THE CHARTER OF THE CITY OF PUEBLO AND FIXING THE BALLOT TITLE THEREFOR

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

There is hereby submitted to a vote of the registered electors of the City of Pueblo at the Special Municipal Election to be held on November 5, 2024, a proposed amendment to the Charter of the City of Pueblo, more particularly set forth in Section 3 of this Ordinance.

SECTION 2.

This ballot title (submission clause and title) for the proposed Charter Amendment set forth in Section 3 hereof is hereby fixed and adopted as follows:

BALLOT QUESTION NO. ____ - CHARTER AMENDMENT
(_____)

SHALL THE CHARTER OF THE CITY OF PUEBLO BE AMENDED TO UPDATE AND MODERNIZE TERMS AND TECHNOLOGY REFERENCED WITHIN THE CHARTER, AND IN CONNECTION THEREWITH: AMEND SECTION 1-5 TO INCLUDE SIGNIFICANT FINANCIAL LOSS TO THE CITY IN THE DEFINITION OF EMERGENCY ORDINANCE; CLARIFY SECTION 2-6 AS TO WHEN AN ELECTED OFFICE IS DEEMED VACANT; AMEND SECTIONS 2-10 AND 3-19 TO ALLOW FOR PUBLICATION OF LEGAL NOTICES ON THE CITY’S WEBSITE; CLARIFY SECTION 3-9 PROVIDING CITY COUNCIL MAY ENTER INTO CONTRACTS AND LEASES; AMEND SECTION 3-18 TO CHANGE THE FONT USED WHEN AMENDING THE CHARTER AND MUNICIPAL CODE; AMEND SECTION 3-20 TO INCLUDE PREVENTION OF SIGNIFICANT FINANCIAL LOSS UNDER EMERGENCY ORDINANCES; AMEND SECTION 3-21 TO REMOVE THE REQUIREMENT THAT A PAPER COPY OF INDEXED ORDINANCES BE KEPT; AMEND SECTION 6-1 TO REMOVE THE RESIDENCY REQUIREMENT FOR THE CITY ATTORNEY; AMEND SECTION 7-28 TO ALLOW THE UNIT COST REQUIRED FOR EQUIPMENT-OWNED RECORD KEEPING TO BE SET BY ORDINANCE; DELETE SECTION 8-12 TO REMOVE COMPULSORY RETIREMENT; AMEND SECTION 15-6 TO ALLOW CONTRACT AND PURCHASE AMOUNT ALLOWED BY TRUSTEES OR COMMISSIONERS OF WATER DISTRICTS TO BE SET BY ORDINANCE AND ALLOWING PUBLICATION OF NOTICE ONLINE?

-- YES
-- NO

SECTION 3.

There is hereby submitted to a vote of the registered electors of the City of Pueblo at the special municipal election to be held on November 5, 2024, an amendment to the Charter of the

City of Pueblo, as follows: (brackets indicate matter being deleted, underscoring indicates new matter being added)

ARTICLE 1

General Provisions

Section 1-5. – Definitions

Certain words and phrases, when used herein, are hereby declared to have the following meanings:

- a. "Agency" shall mean any Bureau, Department, Division, or other organizational unit in the executive branch of city government;
- b. "Allotment" shall mean a portion of an appropriation made available for expenditure during a specified period of less than one year;
- c. "Appropriation" shall mean an authorization by the Council to expend from public funds a specified maximum sum for a specified purpose and during a specified time;
- d. "Area" in the case of councilmen elected by district shall mean the councilmen district; for councilmen elected at large, it shall mean the City;
- e. "Bureau" shall mean an organization of two (2) or more departments headed by one (1) person, responsible directly to the Mayor. The heads of departments within the bureau are directly responsible to the Bureau Head;
- f. "Candidate" shall mean any person seeking nomination or election to any city office in Pueblo;
- g. "Class" when used in connection personnel administration, shall mean a definitely recognized kind of employment in the Classified Service comprising positions that are so nearly alike in duties and responsibilities that they can be equitably treated under similar conditions for personnel purposes;
- h. Reserved.**
- i. "Classified Service" shall mean the aggregate of all positions in municipal service covered by Civil Service;
- j. "Department" shall mean one of the major organizational units of the City
- k. "Division" shall mean a primary subdivision of a department headed by one person responsible directly to the Department Director;
- l. "Emergency Ordinance" shall mean an ordinance, the passage of which shall be necessary to the preservation or protection of public health, property, or safety; **or prevention of significant financial loss to the City;**
- m. "Employees" shall mean all persons in municipal service who are not officers;
- n. "General Law" shall mean the Constitution and Statutes of the State of Colorado and common law to the extent that common law has been adopted in Colorado;
- o. "Officers" shall mean persons in municipal service specifically declared by this Charter to be officers;
- p. "Qualified Elector: shall mean a person entitled to vote at a general municipal election, if registered, and if not registered, otherwise eligible to vote; the term is synonymous with qualified voter;
- q. "Qualified Taxpaying Electors" shall mean such of the qualified voters as shall in the twelve months immediately preceding the date of election have paid a City property tax on property listed on the county assessment rolls;
- r. "Unclassified Service" shall mean the aggregate of all positions in municipal service not covered by Civil Service.

ARTICLE 2

Municipal Officers

Section 2-6. - **Elected Officers***

All elected officers shall continue to hold office until their successors are duly elected and qualified unless the elective office is deemed vacant. An elective office shall become vacant whenever any officer is recalled, resigns, is elected to another elected office, becomes permanently incapacitated, either physically or mentally, and cannot perform the duties of his office, or if a councilman absents himself from two (2) regular council meetings during any one (1) calendar year without reasonable excuse, as determined by the rules of procedure of the Council. Any officer after final conviction of a felony shall forfeit his office forthwith. If a councilman elected from a district moves from such district during his term of office, his office is automatically declared vacant. In the case of vacancy of a district council member, the Council shall fill the vacancy by appointment of an eligible person from such district. In case of a vacancy of a council member elected at large, the Council shall fill the vacancy by appointment of an eligible person selected from the City at large.

Any vacancy in an elective office, except for the office of Mayor, shall be filled by appointment of the Council. Any person appointed to fill a vacancy in an elective office shall have the qualifications required of persons regularly elected and shall hold the office until the next general municipal election when the vacancy shall be filled by election according to law and until his successor is qualified. The term of office of any officer elected to fill a vacancy shall terminate at the expiration of the term during which the vacancy occurred.

Any vacancy in the office of Mayor shall be filled in accordance with Section 4-11 of this Charter.

Section 2-10. - **Legal Notices-Publication**

Whenever the Charter of Pueblo, any ordinance, rule or regulation, regularly adopted or promulgated thereunder provides for publication of a legal notice, such notice, unless otherwise provided for in said Charter, shall be published free of charge on the public website of the City of Pueblo and may link the notices to any appropriate social media accounts of the local public body [at least once in a newspaper of wide distribution and general circulation, printed and published daily in the City of Pueblo. The Purchasing Agent shall secure competitive bids for publication of legal notices].

ARTICLE 3

City Council

Section 3-9. - **Power to Make Contracts**

The Council may enter into contracts and leases on behalf of the Municipal Government [by ordinance only]. All written contracts, to which the Municipal Government is a party, shall be approved as to form by the City Attorney.

Nothing shall prevent making of contracts or spending of money for capital improvements to be financed in whole or in part by issuance of bonds, nor making of contracts of lease or for services for a period exceeding the budget year in which such contract is made.

Section 3-18. - **Form of Ordinances***

Every ordinance, except the Annual Budget Ordinance and an ordinance making a general codification of ordinances, shall be confined to a single subject which shall be clearly expressed in its title. All ordinances shall be introduced in written or printed form. All ordinances which amend existing ordinances shall set forth in full the section or subsection to be amended and shall indicate matter to be omitted from the amended section or subsection by **adding a horizontal line through the omitted text**[enclosing the same in brackets] and new matter by underscoring. When published prior to enactment as specified in Section 2-10, or in accord with Section 3-23, the same indications of omitted and new matter shall be used except that italics may be substituted for underscoring. The enacting clause of all ordinances shall be: "BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO". Unless another date is specified therein, an ordinance shall take effect on the tenth day following its passage.

Section 3-19. – Procedure for Passage*

An ordinance may be introduced at any regular meeting by any member of the Council or any committee thereof. Upon introduction it shall be presented a first time, and a day and an hour set at which the Council or a Committee shall hold a public hearing thereon. Such hearing may be at a regular meeting of the Council or at such time and place where the Council may order and may be adjourned from time to time. An ordinance, before its final passage, shall be presented in at least two regular meetings of the Council, may be amended on either presentation, and shall be published once [in a newspaper of the City] in such manner as may be provided by this Chapter, at least ten (10) days before its final passage, except in case of a public emergency as hereinafter provided.

Section 3-20. – Emergency Ordinances

Emergency ordinances for the immediate preservation or protection of public health, property or safety, **or prevention of significant financial loss to the City** may be introduced at a regular meeting or at any special meeting provided the subject hereof has been included in the notice of such meeting. An emergency ordinance shall be presented the first time and published as provided in the case of other ordinances and may be read a second and final time with or without amendment at any regular or special meeting subsequent to such publication. An emergency ordinance shall contain a specific statement of the emergency, and shall require the affirmative vote of a majority of the Council Membership for adoption as an emergency measure. No ordinance making a grant or any franchise or any special privilege **or creating a tax or fee** shall ever be passed as an emergency ordinance.

Section 3-21. - Disposition of Ordinances

The City Clerk shall present all ordinances approved by the Council to the Mayor within forty-eight (48) hours of final passage. If the Mayor approves the ordinance as passed by the Council, he or she shall sign it within five (5) days after receiving it. If the Mayor disapproves, the ordinance shall be returned to the Council within five (5) days after with the Mayor's objections in writing. If then five (5) of the Council members vote to pass the same over the Mayor's veto at the next regular meeting of Council, it shall become an ordinance notwithstanding the objections of the Mayor. If the mayor does not return the ordinance with written objections within the time specified, it shall take effect as if the Mayor had approved it. Ordinances shall be signed by both the Mayor and the President of the Council, or the President of the Council in the case of veto override, both on the ordinance itself and in the ordinance record. [All ordinances of Pueblo shall be indexed by subject by the City Clerk in a book kept for that purpose which shall be a public record.]

ARTICLE 6

Department of Law

Section 6-1. - City Attorney - Appointment - Qualifications

There shall be a Department of Law, the Director of which shall be known as the City Attorney. ~~[He]~~They shall be ~~[a resident of the City of Pueblo, and]~~ a duly licensed attorney of the State of Colorado for at least three years immediately prior to ~~[his]~~their appointment, and shall have been actively engaged in the practice of law during such three years. ~~[He]~~They shall receive such compensation as may be fixed by the Council.

ARTICLE 7

Finance Administration

Section 7-28. - Purchases*

There shall be established a Department of Purchases and Supplies, the Director of which shall be the City Purchasing Agent, under jurisdiction of the Mayor. Pursuant to rules and regulations established by ordinance, the Purchasing Agent shall contract for and purchase all supplies, materials, equipment and contractual services required by any department, office or agency of the City Government. He shall have the following powers and duties:

a. To establish and enforce with approval of the Mayor and after consultation with the directors of the departments concerned, standard specifications for all supplies, materials and equipment required by the City Government;

b. To prescribe the time of making requisitions for such supplies, materials and equipment, and the future period which said requisitions are to cover;

c. To inspect, or cause to be inspected, all deliveries of such supplies, materials and equipment, and to cause tests to be made when necessary in order to determine their quality and conformance with the specifications;

d. To supervise and control such central storerooms as the Council may provide by ordinance to serve the several departments, offices or agencies;

e. To supervise transfer of materials, supplies and equipment between departments or agencies, as needed, after consultation with the department or agency heads concerned;

f. To sell those surplus articles no longer of use to the Municipality before their value is lost through obsolescence, deterioration or spoilage, and to sell all scrap metals, materials or equipment. At each sale a number of prospective buyers shall be asked to quote prices by sealed bids and such articles shall be sold to the highest bidder, or the Purchasing Agent may reject all bids;

g. To create and maintain a record of non-expendable property owned by the City of Pueblo. The Equipment-Owned Record is to cover only those items of movable equipment having the following characteristics:

(1) Having a unit cost in ~~[excess of \$50.00]~~ **an amount to be set by ordinance**, and such other items as the Purchasing Agent may prescribe;

(2) Shall include only those items of equipment not carried as a regular stock

item in the city storerooms;

h. To mark, or cause to be marked, with identification or number, all equipment owned by the City of Pueblo to prevent misuse thereof;

i. To purchase at the expense of the City, Surety Bonds for all officers and employees of the City required by law or ordinance to furnish such bonds to the City, and insurance of such types against liability, loss or damage on the part of the City or its property as the Council, upon recommendation of the Mayor, may authorize, and be responsible for collection of insurance benefits and other matters relating to the administration of the City's insurance.

ARTICLE 8

Personnel Administration

Section 8-12. – **Reserved.** [Compulsory Retirement

Compulsory retirement ages for city employees shall be: sixty (60) years for the Police and Fire Departments, and sixty-five (65) years for all other city employees.

As of the effective date of this Charter, present employees of the Fire and Police Departments who are fifty-five (55) years of age, or older, may at their discretion, continue in such employment for an additional five (5) years. Employees of all other city departments who are sixty (60) years of age or older may at their discretion continue in such employment for an additional five (5) years. Such employees desiring to continue employment for an additional five (5) years must pass once each year a physical and mental examination based upon the requirements of the job they are holding at such time.

Certain exceptions to the compulsory retirement age for city employees may be permitted within the following limitations: Upon reaching the retirement age, such employees who desire to continue employment beyond the compulsory retirement age shall be required to pass a physical and mental examination based upon the requirements of the job they are holding at such time and upon passing such examination, conducted under supervision of the Civil Service Commission, may apply to have such employment continued for a two-year period. Nothing herein shall prevent the continuance of such employment upon passing the proper examination for additional periods of one year in each instance until reaching the age of seventy (70).]

ARTICLE 15

Water and Water Works

Section 15-6. - **Contracts***

No contract shall be entered into, and no purchase shall be made by the Trustees or Commissioners of the existing water districts, or by the Board of Water Works of Pueblo, involving the expenditure of a sum in **an amount to be set by ordinance** [excess of One Thousand Dollars (\$1,000.00)], except for personal, professional or technical services not lending themselves to competitive bidding, until a proposal for bids for the materials or services covered by such contracts or purchase shall have been [advertised by one publication in a daily newspaper of general circulation in Pueblo]**published** at least ten days prior to the making of such contract or purchase.

SECTION 4.

The City Council does hereby find, determine and declare that the ballot title set forth in Section 2 hereof fairly expresses the true meaning and intent of the referred Charter amendment.

SECTION 5.

The officials of the City are authorized and directed to take all actions necessary, appropriate or required to implement the provisions of this Ordinance. The City Clerk is directed to publish notice of election of the proposed Charter Amendment in conformity with the provision of C.R.S. 1-7.5-101 *et seq.* and C.R.S. 31-2-210(4) and to certify the Ballot Title to the Pueblo County Clerk and Recorder no later than sixty days before the November 5, 2024 coordinated election, as provided by C.R.S. 1-5-203(3) and C.R.S. 31-2-210 (3.5).

SECTION 6.

This Ordinance shall become effective upon final passage and approval.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4E51823AB462...

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:08 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:

3A85950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:


Deputy City Clerk

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Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 12, 2024

TO: President Mark Aliff and Members of City Council
CC: Mayor Heather Graham
VIA: Marisa Stoller, City Clerk
FROM: Carla Sikes, City Attorney
SUBJECT: AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

SUMMARY:

Attached is a proposed Ordinance which amends Title IX, Chapters 1 and 5 of the Pueblo Municipal Code to update and revise the business licensing application and appeal process and amend the Lodging Facility licensing requirements.

PREVIOUS COUNCIL ACTION:

Section 3-13 of the Pueblo City Charter allows for the issuance, suspension or revocation of licenses and permits and fees therefor, for regulatory or revenue purposes. The licensing code is codified in Title IX of the Pueblo Municipal Code. Chapter 1 of Title IX was enacted in or about 1974. The current hotels, lodging houses and boarding houses licensing requirements were established by Charter in Chapter 5 of Title IX, Pueblo Municipal Code with various amendments by way of Ordinance.

BACKGROUND:

Title IX of the Pueblo Municipal Code governs the licensing of businesses within the City of Pueblo. Each Chapter of the Title generally concerns a separate type of license. Portions of the code are confusing and outdated. By amending Chapter 1 of Title IX, the City seeks to create more consistent standards for the application and appeal process. The revision also seeks to provide more specific and consistent qualifications and standards.

The amendments to Chapter 5 of Title IX will address the City's concerns regarding substandard conditions and criminal activity in and around Lodging Facilities within the City. The amendments require additional information to be provided by licensees and will provide greater overall regulation of lodging facilities.

FINANCIAL IMPLICATIONS:

The amendment increases annual license fees and delinquent fees.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

A “no action” alternative would maintain the *status quo*.

RECOMMENDATION:

Approve the Ordinance.

Attachments:

None

ORDINANCE NO. 10771

AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

WHEREAS, City Council of the City of Pueblo desires to update and clarify the business licensing application, approval and appeal process in general;

WHEREAS, City Council of the City of Pueblo desires to address increasing calls for service to the Pueblo Police Department regarding various incidents occurring at hotels and motels within the City;

WHEREAS, City Council determines that establishing a lodging facility licensing program protects the health, safety, and welfare of the public and is the most practical and efficient method to address the foregoing issues. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Title IX, Chapter 1 of the Pueblo Municipal Code is hereby amended as follows:

Section 9-1-1 Definitions.

For the purposes of this Code, in all matters relating to the licensing of any business, the following definitions shall be observed:

(1) “Business” shall include all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, **nonprofit**, or benefit, either directly or indirectly, on any premises in this City, or anywhere else within its jurisdiction.

(2) “City License Officer” or “License Officer” shall mean the **City of Pueblo’s** Director of Finance, **or his or her designee** [of the City], except as to Building Trades Licenses, Title IV, Chapter 1, where said officer shall be the **Building Official or appropriate Board** [Chief Building Inspector]. **The License Officer, or his or her designee, shall have and is vested with the authority to grant or deny licenses; conduct investigations and inspections; and suspend or revoke licenses for cause.**

(3) “Insignia”, or its singular number insigne, shall mean any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

(4) [License or licensee, as used generally herein, shall include respectively the words permit or permittee, and certificate or certificate holder or the holder for any use or period of time of any similar privilege, wherever relevant to any provisions of this Code or other law or

ordinance.] **“Inspector” means any person designated by the City License Officer, Police Chief, Fire Chief, Region Building Department Building Official, or the Director of the City-County Health Department to act as an inspector who shall perform the inspection duties set forth in this Title for that department and such other duties as each may reasonably direct.**

(5) [Premises is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any business, and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.] **“License” means the license required pursuant to this Title and as used generally herein, shall include respectively the words permit, certificate, use, or any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(6) [Appropriate licensing board shall mean anyone (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.] **“Licensee” means the individual or entity to which a license is granted under this Title and as used generally herein, shall include respectively the words permittee, certificate holder, or holder for any use or period of time any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(7) **“Appropriate Licensing Board” shall mean anyone (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.**

(8) **“Premises” is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any Business, and any personal property which is either affixed to or is otherwise used in connection with any License, Licensee or Business conducted on such premises.**

(9) **“PPD” means and refers to the City of Pueblo Police Department.**

(10) **“Manager” means the person who manages, directs, supervises, oversees, or administers the acts and transactions of, and the acts of employees of, a Licensee, Business, or Premises.**

(11) **“Person” means an individual, firm, association, partnership, company, sole proprietorship, corporation or similar entity.**

(12) **“Hearings Officer” means the Municipal Court Judge or such other person as the Director of Finance may designate to hear appeals under this Title.**

(13) **“Significant Criminal Act” means an act or acts or attempted act or attempted acts that causes serious bodily injury or death to any person or an act or acts that requires a law enforcement specialized unit or tactical response team.**

Sec. 9-1-2 – Application.

. . .

(d) Agents Responsible for Obtaining License. The agents, **Managers**, or other representatives of nonresidents **of the City** who are doing business in the City shall be personally

responsible for the compliance with this Code of their principals and of the businesses they represent [with this Code].

. . .

Sec. 9-1-3 – City License Officer.

(a) Issue Licenses. The License Officer shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Title or other portions of this Code and shall:

(1) Make Rules and Penalties. Promulgate and enforce all reasonable rules and regulations and adopt reasonable civil penalties, in conformity with applicable statutes, ordinances, and Charter, necessary to the operation and enforcement of this Title.

(2) Adopt Forms and Process. Adopt all forms and prescribe the information given therein as to character and other relevant information [matter for all necessary papers] for the applicable license requested. The License Officer may require all forms to be submitted on-line via the City's approved process.

(3) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Title [Chapter], or other appropriate portions of this Code.

(4) Obtain Endorsement. Submit all applications, in a proper case, to appropriate City, County, or State officials for their endorsements thereon as to compliance by the applicant with all City, County, or State regulations which they have the duty of enforcing. Similarly, in all cases where an examination as to competence and ability is a prerequisite, to submit all such applications to the appropriate City, County, or State officials or licensing board for examination and endorsement on the application of the results of such examination, whether qualified or not qualified. And similarly, where the issuance of a license is within the discretion of the City Council, the Licensing Officer shall submit the application to the City Council for action with the endorsement or report of appropriate City, County, or State officials or licensing board as to compliance with applicable City regulations or such other investigation of character or qualifications as may be required.

(5) Investigation. Investigate and determine the eligibility of any applicant for a license as prescribed herein. The License Officer may request an inspection of the License Premises by an Inspector if he or she determines an inspection is necessary to determine the applicant's eligibility for the license requested.

(6) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Title, or other portions of this Code.

(7) [Give Notice. Notify any applicant of the acceptance or rejection of his or her application and, upon his or her refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.]

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Sec. 9-1-5 – Qualifications of Applicants.

General Standards to be Applied. The general standards set out in this Section relative to the qualifications of every applicant for a City License shall be considered and applied by the License Officer **together with any additional standards set forth in subsequent Chapters and required for a specific License.** The applicant shall **in general:**

(1) Good Moral Character. Be of good moral character. In making such determination, the City License Officer shall consider:

. . .

Sec. 9-1-6. – Procedure for Application; Approval or Denial [issuance of license].

(a) Formal Application Required. Every person required to procure a license under the provisions of this Code or any ordinance or law of the City shall submit an application for such license to the License Officer **on forms provided by, and pursuant to the process adopted by the License Officer.**

(1) Form. Be a statement upon forms provided by the License Officer. **Every license application shall be complete in every detail. If any application is deposited with the License Officer and found, upon examination, to contain any omission or error, it may be returned to the applicant for completion and correction without further action by the License Officer.** Any false statement knowingly made on any application shall be grounds for rejection of such application or revocation of any license issued upon the basis of the false statement.

(2) Contents. Require the disclosure of all information necessary to comply with Section 9-1-5 and of any other information which any applicable provision of this Code or law shall require or which the License Officer shall find to be reasonably necessary to the fair administration of this Title. **No application shall be deemed complete unless accompanied by the following:**

a. If the applicant is:

i. An individual, the individual shall state his or her legal name and any aliases;

ii. A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;

iii. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process; or

iv. A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company

is in good standing under the statutes of the State of Colorado, or in the case of a foreign company, evidence that it is currently authorized to do business in the State of Colorado, the name of the manager, and the name of the registered agent and the address of the registered office for service of process.

b. If the application is for renewal of a license, the application must be filed no later than forty-five (45) days prior to the date upon which the license expires, unless extended by the License Officer, and contain the following additional information:

i. Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department;

ii. Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate;

iii. A statement by Licensee of any changes in ownership, management, or to the criminal history of any Owner, Operator, Person, or Manager relating to that individual's integrity or good moral character.

(3) Payment of Fees. Be accompanied by the full amount of the fees chargeable for such license.

(4) Affirmation. The applicant shall self-certify that all information provided on, and with the application is accurate and truthful under the penalty of perjury.

(b) Issuance of Receipts. Whenever a license cannot be issued at the time the application for the same is made, the License Officer shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the License Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Code.

(c) Duplicate License Procedure. A duplicate license or special permit shall be issued by the License Officer to replace any license previously issued, which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon [the filing by the licensee of an affidavit sworn to before a notary public or other oath-taking official of the State attesting to such fact and the paying] payment to the License Officer of a fee of ten [one] dollars (\$10.00).

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(e) [Disapproval of License. The License Officer shall, upon disapproving any application submitted under the provisions of this Chapter, refund all fees paid in advance to the applicant, provided that the applicant is not otherwise indebted to the City.] Decision on

Application. A complete application shall be administratively approved or denied by the License Officer within thirty (30) days of the completed investigation of the application by the License Officer. The License Officer shall deny a license application if:

(1) The application or any investigation demonstrates or establishes that the proposed Licensee or Licensed Premises fails to conform to any requirement of this Title, the Pueblo Municipal Code, or other applicable law;

(2) The applicant knowingly made a false statement or knowingly gave false information in connection with the application;

(3) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has had a license revoked or suspended in any jurisdiction within five (5) years prior to the application;

(4) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has operated a Licensed Premises or Business that was determined at any time to be a public nuisance.

(5) The applicant has outstanding fees, fines, liabilities, or other debts owed to the City.

(6) Issuance of the actual license shall constitute approval of the application. The License Officer may, if deemed necessary, make a written finding that the application conforms to the requirements of this Title based on the information available and the investigation performed by the City or any additional findings as deemed necessary to identify the Director of Finance's basis for approval.

(7) In the event the License Officer denies a license application:

a The License Officer shall prepare written findings of fact stating the reasons or basis for the denial and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

b The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the License Officer's written findings and denial of the license application, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the License Officer's decision to deny a license application shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

c When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.

[(f) Compliance Pending Legal Action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.]

Sec. 9-1-7 – Determination of license fee.

(a) Fee Established. Unless otherwise specifically provided, license fees shall be in the amounts established by the License Officer by Ordinance and published annually on the City's website [in the governing provisions of this Code, and as further determined under this Section].

. . .

(c) Rebate of Fee.

(1) General Prohibition. Except as provided herein, no rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective. No rebate or refund shall be given upon the suspension or revocation of a license.

. . .

Sec. 9-1-9 – Duties of Licensee.

(a) General Standards of Conduct. Every licensee under this Code shall:

(1) Permit all reasonable inspections of his or her business and examinations of his or her books by the License Officer, Inspector, or any other public authority [authorities] so authorized by law.

(2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Comply with all lawful orders of any enforcing authority of the City, PPD, or any local, state, or federal regulatory agency [or any police officer] relating to the conduct of the licensed business.

. . .

Sec. 9-1-10. – Reserved.

Sec. 9-1-11 – Renewal; fee; application.

(a) Unless otherwise provided, any annual license may be renewed upon filing application for the same and payment of the annual license fee. A delinquent license may be renewed within thirty (30) days after becoming delinquent without payment of a delinquency fee. A delinquent license may be renewed more than thirty (30) days but less than ninety (90) days after becoming delinquent, upon the payment of a delinquency fee of one hundred percent (100%)

of the annual license fee in addition to the annual license fee. The License Officer may [shall] suspend the license of any person or premises delinquent more than ninety (90) days. Upon suspension, the License Officer may require inspection of the business or premises by an Inspector or other regulatory agency to ensure compliance with all applicable local, state and federal laws and regulations prior to removal of the suspension and renewal of the license. [, and such suspension shall remain in force] A license shall remain suspended until Licensee has passed all required inspections and all annual fees and a delinquent fee of one hundred percent (100%) of the annual fee, and all other charges or debts owing to the City, shall have been paid in full. The License Officer may place reasonable conditions, requirements, or restrictions on any license renewed or reinstated after suspension that he or she deems necessary to ensure Licensee will comply with the requirements of this Code.

. . .

Sec. 9-1-12 – Inspection; Enforcement.

(a) Inspections.

(1) Persons Authorized. The following persons are authorized to conduct inspections in the manner prescribed herein:

a. License Officer and Inspectors. The License Officer, Inspectors, or any other enforcement official having duties to perform with reference to any licensee or business shall have authority to make all investigations reasonably necessary to the enforcement of this Title. Prior to any License being approved, denied, suspended, or renewed, the License Officer, Inspector, or other enforcement official having duties to perform with reference to any Licensee, Business, or Premises may inspect the Licensee, Business, or Premises for conformance with all applicable laws and all orders from the License Officer or Hearings Officer.

b. [Official Having Duties. The License Officer or any enforcement official shall have authority to order the inspection of licensees, their businesses and premises by any City employees having duties to perform with reference to such licensees or businesses.

c.] Police Officers. All police officers shall have authority to inspect and examine businesses to enforce compliance with this Code.

(2) [Authority of Inspectors.] Right to Enter. All persons authorized to inspect [i]Licensees, [and] Licensed B[b]usinesses, or Premises shall have the authority to enter, with or without a search warrant, at all reasonable times, the following p[p]remises:

a. Those for which a license is required.

b. Those for which a license was issued and which, at the time of inspection, are operating under such a license.

c. Those for which the license has been revoked or suspended.

(3) Reports by Inspectors. Persons inspecting licensees, their businesses or

premises as herein authorized shall report all violations of this Code or of other codes, laws or ordinances to the License Officer or the appropriate licensing board and shall submit such other reports as the License Officer or licensing board shall require. **Any reports of the results of any investigation conducted by any designated Inspector, City department, or other enforcement official having duties to perform with reference to any Licensee, Business, or Premises shall be delivered by the respective Inspector, department, agency, or official to the License Officer not less than fourteen (14) days prior to the date of any hearing on the application, or if no hearing is pending within thirty-five (35) days of the date of the inspection. The License Officer shall provide the official report of any findings based on the inspection to the applicant.**

(b) Provisional Order. When an inspector has reported the violation of this code or of any code, law or ordinance, the License Officer or, where appropriate, the licensing board having jurisdiction over the licensee, shall issue to the affected person a provisional order to comply.

(1) Nature of Notice. The provisional order and all other notices issued in compliance with this Title, unless otherwise provided, shall be in writing, shall be served as provided in Section 1-1-11 of this Code, and shall apprise the person affected of his or her specific violations. In addition to such service, a copy of such notice may be affixed to the principal entrance or to some prominent structure on the premises.

(2) Period of Compliance. The provisional order shall require compliance within ~~fifteen (15)~~ **fourteen (14)** days of personal service on the affected person **or posting of the notice on the Premises.**

(3) Hearing. Upon written application by the person affected before the expiration of the period for compliance, the License Officer or the appropriate licensing board shall **within two (2) business days refer the matter to the Hearings Officer for** [order] a hearing. [Notice of such hearing shall be given the affected person in the manner prescribed.] **Upon failure or refusal of the violator affected to comply with the provisional order or request a hearing prior to the expiration of the period for compliance, the License Officer or appropriate licensing board shall then declare and make the provisional order final.**

(c) Modifying Authority of License Officer. Upon written application, or on his or her own motion, the License Officer or the appropriate licensing board shall have the authority, in a proper case, to extend the time for compliance **with a provisional order or to** [, to grant a new hearing date and to] change, modify or rescind any recommendation or order.

[(d) Final Order. Upon the failure or refusal of the violator to comply with the provisional order or with any order made after the hearing, the License Officer or the appropriate licensing board shall then declare and make the provisional order final.

(1) Revocation or Suspension. The License Officer or the appropriate licensing board shall have power to suspend or revoke licenses upon making and declaring a provisional order final.

(2) Effect of Revocation or Suspension. Upon revocation or suspension, no refund of any portion of the license fee shall be made to the licensee, and he or she shall immediately cease all business at all places under such license.

(e) Summary Action. When the conduct of any licensee, agent or employee is so inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing, the License Officer or appropriate licensing board, within ten (10) days after he or she has acted summarily, shall conduct a special hearing for such action in respect to the summary order as may be therein determined. Notice of such hearing shall be given the affected person in the manner prescribed.

(f) Right of Appeal. Except where otherwise provided, within thirty (30) days after the entry of any decision or order of the appropriate licensing board or Licensing Officer, where there is no provision for review by an appropriate board, any person aggrieved by such decision or order may seek to review the same in District Court. Review shall not be extended further than to determine whether the licensing board or the Licensing Officer has exceeded their jurisdiction or abused their discretion. Pending such appeal, all such rulings or decisions shall remain in full force and effect unless stayed by order of court.

(g) Duration of Suspension or Revocation. No suspension shall be for a period longer than the balance of the calendar year for which the license is issued. As part of the order of suspension, the License Officer or the appropriate board or commission may declare the suspended person ineligible to be licensed for a portion of the next calendar year; provided that no order of suspension and ineligibility shall endure for a total period longer than a twelve-month period from the date of suspension. No person whose license has been revoked shall be eligible to reapply for a license in the same or a related business for a period of one (1) year following such revocation.

(h) Unpaid Fee Constitutes Debt.

(1) The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the City.

(2) The City Attorney, shall, at the direction of the License Officer institute civil suit in the name of the City to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall not bar or prevent a prosecution in Municipal Court for any violation of this Code.]

Sec. 9-1-13 – License Revocation, Suspension or Nonrenewal.

(a) The appropriate licensing board, License Officer, or Hearings Officer may suspend, revoke or not renew a license upon a finding of one or more of the following:

(1) The Licensee has outstanding official orders from the License Officer, Pueblo Police Department, Pueblo Fire Department, Regional Building Department, the Pueblo City-County Health Department, or any other agency having duties to perform with reference to any Licensee, Business, or Premises.

(2) A significant criminal act has occurred in the Business or on the Premises.

(3) The operation of the Licensee, Business, or Premises is such that it is or has negatively impacted the health, safety and/or welfare of its patrons or neighboring businesses, residents, or community.

(4) The Licensee, Business or Premises is delinquent to the City for any

taxes imposed pursuant to Pueblo Municipal Code Title XIV.

(5) An investigation performed by the City or License Officer demonstrates or establishes that the Licensee, Business, or Premises fails to conform to any requirement of this Chapter, the Pueblo Municipal Code, or other applicable law.

(6) The applicant knowingly made a false statement or knowingly gave false information in connection with the application.

(7) It determines that the individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee, Business, or Premises has had a business license revoked or suspended within five (5) years prior to the application.

(8) It determines that the individual applicant or a director or officer of a corporation, partner of a partnership, or manager of a limited liability company or manager of the Licensee, Business, or Premises has operated a licensed business that was determined to be a public nuisance; or

(b) In the event an appropriate licensing board or License Officer revokes, suspends, or does not renew a license:

(1) The appropriate licensing board or License Officer shall prepare written findings of fact stating the reasons or basis for the revocation, suspension or nonrenewal, and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

(2) The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the written findings by the licensing board or License Officer revoking, suspending or not renewing the license, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the decision of the licensing board or License Officer to revoke, suspend or not renew the license shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

(c) In the event the Hearings Officer affirms the decision of the licensing board or Licensing Officer, or revokes, suspends or does not renew a license, the person aggrieved by such decision or order may seek review by the District Court pursuant to C.R.C.P. 106(a)(4).

(d) When the issuance of a license is revoked, suspended, or not renewed and any action is instituted by the applicant to compel its reinstatement or renewal, such applicant shall not engage in the business for which the license was affected unless a license is issued to him or her pursuant to a judgment ordering the same.

(e) Summary Action. When the conduct of any licensee, agent or employee is so inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing,

the License Officer or appropriate licensing board, within two (2) business days after he or she has acted summarily, refer the matter to the Hearings Officer who shall conduct a hearing in respect to the summary order within twenty-one (21) days of the summary action. Notice of such hearing shall be given the affected person by personal service or certified mail, return receipt requested, and regular U.S. mail to the address provided on the License or last license application.

(f) If the licensing board, License Officer or Hearings Officer finds a licensee to be in violation of any provision of this Title, and if it is the Licensee's first violation, the License Officer or Hearings Officer may, in an appropriate case, place the Licensee on a twelve (12) month probationary period and shall impose such mandatory restrictions on the licensee necessary to correct the deficiency or violation.

(g) No suspension shall be for more than twelve months from the date of suspension. No person whose license has been revoked shall be eligible to reapply for a license in the same or a related business for a period of one (1) year following such revocation.

Sec. 9-1-14. - Hearings.

(a) Notice. Whenever a Hearing is requested or required under this Title, the Hearing Officer shall give the licensee reasonable advance notice of the time and place of the hearing, nature thereof, the authority and jurisdiction under which it is to be held and the violation(s) alleged in the complaint. The Hearing Officer or License Officer shall mail such notice to the licensee by first-class mail, certified mail return receipt requested, and regular U.S. Mail at least ten (10) days prior to the hearing. The License Officer shall prepare and post the Licensed Premises with a sign that contains notice of the hearing date, time and location.

(b) Hearing Procedure. The Hearing Officer shall conduct all hearings pursuant to Title I, Chapter 7 of the Pueblo Municipal Code. The standard of proof shall be by a preponderance of the evidence.

Sec. 9-1-15. – Unlawful Acts; Penalties.

(a) It is unlawful and a Class 1 municipal offense for any person, either directly or indirectly, to maintain or operate a Business, Licensee, or Premises without first obtaining a license from the License Officer.

(b) It is unlawful for any person to maintain or operate a Licensee, Business or Premises in violation of the provisions of this Chapter.

Sec. 9-1-16. – Severability

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance, and to this end, the provisions of this Chapter are declared to be severable.

SECTION 2.

Title IX, Section 5 of the Pueblo Municipal Code is hereby amended as follows:

Sec. 9-5-1. – [License Required.] Lodging Facility License

[It shall be unlawful to conduct, keep or maintain any hotel, rooming house or lodging houses by whatever name designated in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator, without obtaining a license therefor as hereinafter set forth; provided, however, that apartment houses and multiple dwellings shall not be required to be licensed hereunder. Such license shall be displayed in a conspicuous place within sight of the main entrance of the rooming house or lodging houses at all times. Such license shall not be transferable. Every person holding such a license shall give notice in writing to the City Clerk within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership or interest in or control of any hotel, rooming house or lodging houses. Such notice shall include the name and address of the person succeeding to the ownership or control of such hotel, rooming house or lodging houses. The former owner shall not be relieved of responsibility until such notice is filed.]

Definitions.

As used in this chapter, the following terms are defined as follows:

(a) "Calls for service" ("CFS") means and includes, but is not limited to, any and all calls to law enforcement that result in a representative being dispatched or directed to the lodging facility.

(1) Calls for service includes:

a. A call to emergency services that results in a response by a law enforcement representative to the lodging facility.

b. Any police-initiated call for service to the lodging facility that results in a criminal report.

c. Any call to emergency services or police-initiated call for service within the lodging facility's surrounding neighborhood regarding activity that results in a criminal report, when such activity is associated with lodging facility staff and/or lodging facility guests and/or visitors.

(2) Calls for service shall not include traffic citations in which the lodging facility's address is used as the location of violation.

(b) "Calls for service ratio" means the number of calls for service divided by the number of rooms in service at the lodging facility.

(c) "Lodging Facility" means a hotel, motel, motor hotel, inn, boarding house, lodging house, homeless shelter, or other similar facility that: (1) has lodging rooms; (2) is located within any commercial or mixed use zone district in the City; (3) accommodates one or more guests under any rental agreement, concession, permit, right of access, license to use or other agreement, whether written or verbal, where the rental period of any lodging room is less than thirty (30) consecutive days.

(d) "Lodging room" means and includes any room, questroom or sleeping accommodation that accommodates one or more guests.

(e) "Owner" means any person that is the record owner of real property as listed with the Pueblo County Assessor upon which a lodging facility is located. "Owner" shall also mean any part owner, joint owner or lessor of the whole or part of the land or buildings situated on such real property.

(f) "Operator" means any person who is the proprietor of a Lodging Facility, whether in the capacity of owner, lessee, receiver, sublessee, franchisee, manager or mortgagee in possession thereof, or agent of any aforementioned, who offers and accepts payment for any lodging rooms, or board and lodging, and retains the right of access to, and control of, the lodging facility or lodging room.

Sec. 9-5-2. [- Fees.] - License required.

[The license fee for conducting such a hotel, rooming house or lodging houses where not more than twenty (20) rooms are kept for rent shall be the sum of five dollars (\$5.00) per year, and where more than twenty (20) rooms are kept for rent, the license fee therefor shall be the sum of ten dollars (\$10.00) per year.]

(a) It shall be unlawful to conduct, keep, or maintain a Lodging Facility within the City of Pueblo without first obtaining a license therefor. Such license shall be displayed in a conspicuous place within sight of the main entrance of the Lodging Facility at all times.

(b) All Lodging Facilities existing within the City shall apply or re-apply for a license within ninety (90) days of the effective date of this ordinance. All Lodging Facilities existing within the City upon the effective date of this ordinance that have, based on data provided by the Pueblo Police Department, with a Calls for Service Ratio of 1.89 or more during the previous twelve (12) month period shall meet with representatives from the PPD to discuss measures to mitigate criminal activity occurring on the lodging facility's premises. Such meeting shall occur before a lodging facility license is granted.

**Sec. 9-5-3. – [Application, approval of department heads; supervision; revocation.]
Application; Decision; Appeal.**

(a) [Before any license is granted, an application shall be filed by the applicant with the License Officer containing such information as the License Officer shall require, including two (2) or more references as to the integrity and moral character of the applicant.] All applicants for a license shall file an application with the License Officer pursuant to Section 9-1-6. The License Officer shall accept no application that is not complete in every detail. In addition to the information required in Section 9-1-6, no application for a Lodging Facility License shall be deemed complete unless accompanied by the following:

(1) One or more statements as to whether:

a. The applicant or any other individual listed pursuant to subsection (1) of this Section has:

i. Previously operated, is currently operating, or has been employed at a lodging facility; or

ii. Had a previous lodging facility license under this Chapter, or other lodging facility license ordinances, resolutions or other regulations from another city or county, denied, suspended or

revoked, or declared a public nuisance, including the name and location of the business for which the license was denied, suspended, revoked; or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance.

b. The applicant or any other individuals listed pursuant to Subsection 3(b)(1) of this Section has been a partner in a partnership or an officer or director of a corporation or manager of a limited liability company of a business whose lodging facility license has previously been denied, suspended, revoked, or declared a public nuisance including the name and location of the business for which the license was denied, suspended, revoked, or declared a public nuisance as well as the date of the denial, suspension, revocation, or declaration as a public nuisance; and

c. The applicant or any other individual listed pursuant to Subsection (3)(b)(1) of this Section holds any other licenses under this Chapter or other similar lodging facility license ordinances from another city or county and, if so, the names and locations of such other licensed businesses.

(2) The location of the proposed lodging facility, including a legal description of the property, street address and telephone number;

(3) The applicant's mailing address and residential address;

(4) A floor plan of the lodging facility that specifies the number of rooms contained in the lodging facility. The floor plan need not be professionally prepared;

(5) Certification that the proposed location complies with all requirements of the City zoning code;

(6) Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department.

(7) Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate.

(b) 【Such license or license renewal shall be issued upon payment of the license fee and upon certification of the Building Official of the Pueblo Regional Building Department, the Fire Chief and the Director of the City-county Health Department that the premises to be license or relicensed comply with existing applicable building, fire and safety codes, and the regulations enforced by the Health Department.】 Payment in full of City license and application fees and any other fees, fines, liabilities or other debts owed to the City.

(c) 【Any person whose application for a permit to operate a rooming house has been denied may request in writing and shall be granted a hearing on the matter before the License Officer. Such hearing shall be held at such time and place as the License Officer shall direct, not to exceed ten (10) days following the date of filing such request for hearing. The decision of the License Officer shall be in writing, and shall state whether or not there is compliance with the

laws of the State and this Code. Failure to comply with such laws shall be specifically stated; provided, however, that failure of the License Officer to state noncompliance with any law or Code shall not relieve the applicant from responsibility for compliance therewith. **]** **In addition to the basis set forth in Section 9-1-6, the License Officer may deny an application for a Lodging Facility License if the application is based upon the sale of an existing lodging facility, and the existing lodging facility's CFS ratio is at or above 1.89 calls for service per room, or the lodging facility has other compliance issues, in which case, the applicant must provide, as a prerequisite to being granted a license, a remedial plan to reduce the CFS ratio or resolve the other compliance issues. The applicant must reduce the CFS ratio or resolve the issues within 180 days after license is issued or be subject to license suspension or revocation.**

[(d) Any license issued hereunder shall be subject to suspension or revocation in the event that the licensee has permitted his or her hotel or rooming house to become a fire, health or safety hazard to his or her customers or where he or she has permitted it to become either a nuisance, a place of prostitution, a place for gambling or a place for other activities or conditions prohibited by statute or ordinance, or has failed to comply with any provision of this Chapter.

(e) Whenever upon inspection of any hotel, rooming house, lodging houses or boarding and rooming house, the License Officer finds that conditions or practices exist which are in violation of any provision of this Chapter or of any provision of the Housing Code or any rule or regulation adopted pursuant thereto, the License Officer shall take appropriate enforcement action in writing to the operator of such establishment to correct such conditions or practices as provided in Chapter 1 of this Title.

(f) It shall be unlawful for any person to occupy for sleeping or living purposes any rooming unit in any hotel, rooming house or lodging houses of which the license has been suspended or revoked.]

Sec. 9-5-4. – [Registration book required; contents; inspection; exceptions]**License Fee.**

[It shall be the duty of every person keeping a hotel, rooming house, lodging houses or boarding and rooming house, either as principal or by an agent, within the City, to keep at the place where such business is carried on a record or register of the name, address, date of arrival, date of departure and number or other description of the room occupied, of all roomers, lodgers, transients and other persons rooming, lodging or boarding and rooming at such hotel, rooming house, lodging houses or boarding and rooming house; such record shall be kept legible and maintained at all hours. The provisions of this Section shall not apply to private residents keeping permanent roomers.]

The City shall impose a Lodging Facility licensing fee of \$100 per year, which may be amended by City Council by resolution, necessary to defray the costs of investigation, inspection, and processing the documentation of the activities of lodging facilities as allowed by law:

Sec. 9-5-5. - Manager; Change; Registration Book.

(a) A registered Manager shall be on the premises of a lodging facility at all times. A lodging facility may have more than one registered Manager. It is unlawful for any person to work as a Manager of a lodging facility without first registering with the License Officer.

(b) In the event a Licensee changes the Manager of a Lodging Facility, the Licensee shall immediately report such change and register the new Manager, on forms provided by the License Officer, within thirty (30) days of such change.

(c) It shall be the duty of the registered Manager to keep at all times on the premises of the Lodging Facility a record or register ("Register Book") of the name, address, date of arrival, date of departure, and number or other description of the room occupied, of all roomers, lodgers, transients, and other persons rooming, lodging or boarding, and rooming at such Lodging Facility. Such Register Book shall be kept legible, maintained at all hours, and made available for inspection by the License Officer, or their designee, or Inspector upon request.

Sec. 9-5-6. - Transferability; Change of ownership.

(a) No License under this Chapter shall be transferable to another person or any other group acting as a unit.

(b) No License under this Chapter shall be transferred to another hotel name or franchise, or hotel location or building.

Sec. 9-5-7. – Partial Operation.

No Lodging Facility shall operate, and no license shall be granted to it unless and until the entire facility is operational and able to be occupied for its intended purpose. Notwithstanding the foregoing, if a portion of an existing licensed Lodging Facility shall become uninhabitable due to fire, water, or other event, the hotel may continue operating the unaffected Lodging Rooms and common areas so long as operation is deemed safe by the Finance Director, PPD, the Fire Chief, the Regional Building Department, and the City-County Health Department, and the Lodging Facility is actively repairing the damaged area. "Actively repairing" shall include but not be limited to the submission of an insurance claim, hiring of licensed contractors, retention of architects or engineers, and obtaining building permits. Failure to progress or complete repairs within a reasonable amount of time shall be justification to suspend, revoke, or deny a license.

Sec. 9-5-8. – Extended Stay.

No Lodging Facility shall allow anyone to rent, use, access a Lodging Room for more than 30 consecutive days unless the Lodging Facility is designated by the Regional Building Department as a "Long Term Stay Hotel" as defined under the applicable building codes.

Sec. 9-5-9. – Unlawful Acts; Penalties.

(a) In addition to acts set forth in Section 9-1-15 of this Code, it shall be unlawful for any person:

(1) To occupy for sleeping or living purposes any Lodging Room in a Lodging Facility that does not have a license or for which the license has been suspended or revoked.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective upon final passage.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:
Mark Kliff
B7A4F51823AB402...
President of City Council

Action by the Mayor:

- ☒ Approved on 8/28/2024 | 8:07 AM MDT
- ☐ Disapproved on based on the following objections:

Signed by:
Heather Graham
3A85950B7BCA402...
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of , on
- ☐ Council action on failed to override the Mayor's veto.

President of City Council

ATTEST
Signed by:
Vince Petkosek
330F90D300E24F8...
Deputy City Clerk



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: August 12, 2024

TO: President Mark Aliff and Members of City Council
CC: Mayor Heather Graham
VIA: Marisa Stoller, City Clerk
FROM: Carla Sikes, City Attorney
SUBJECT: AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

SUMMARY:

Attached is a proposed Ordinance which amends Title IX, Chapters 1 and 5 of the Pueblo Municipal Code to update and revise the business licensing application and appeal process and amend the Lodging Facility licensing requirements.

PREVIOUS COUNCIL ACTION:

Section 3-13 of the Pueblo City Charter allows for the issuance, suspension or revocation of licenses and permits and fees therefor, for regulatory or revenue purposes. The licensing code is codified in Title IX of the Pueblo Municipal Code. Chapter 1 of Title IX was enacted in or about 1974. The current hotels, lodging houses and boarding houses licensing requirements were established by Charter in Chapter 5 of Title IX, Pueblo Municipal Code with various amendments by way of Ordinance.

BACKGROUND:

Title IX of the Pueblo Municipal Code governs the licensing of businesses within the City of Pueblo. Each Chapter of the Title generally concerns a separate type of license. Portions of the code are confusing and outdated. By amending Chapter 1 of Title IX, the City seeks to create more consistent standards for the application and appeal process. The revision also seeks to provide more specific and consistent qualifications and standards.

The amendments to Chapter 5 of Title IX will address the City's concerns regarding substandard conditions and criminal activity in and around Lodging Facilities within the City. The amendments require additional information to be provided by licensees and will provide greater overall regulation of lodging facilities.

FINANCIAL IMPLICATIONS:

The amendment increases annual license fees and delinquent fees.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

A “no action” alternative would maintain the *status quo*.

RECOMMENDATION:

Approve the Ordinance.

Attachments:

None

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

WHEREAS, City Council of the City of Pueblo desires to update and clarify the business licensing application, approval and appeal process in general;

WHEREAS, City Council of the City of Pueblo desires to address increasing calls for service to the Pueblo Police Department regarding various incidents occurring at hotels and motels within the City;

WHEREAS, City Council determines that establishing a lodging facility licensing program protects the health, safety, and welfare of the public and is the most practical and efficient method to address the foregoing issues. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Title IX, Chapter 1 of the Pueblo Municipal Code is hereby amended as follows:

Section 9-1-1 Definitions.

For the purposes of this Code, in all matters relating to the licensing of any business, the following definitions shall be observed:

(1) “Business” shall include all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, **nonprofit**, or benefit, either directly or indirectly, on any premises in this City, or anywhere else within its jurisdiction.

(2) “City License Officer” or “License Officer” shall mean the **City of Pueblo’s** Director of Finance, **or his or her designee** [of the City], except as to Building Trades Licenses, Title IV, Chapter 1, where said officer shall be the **Building Official or appropriate Board** [Chief Building Inspector]. **The License Officer, or his or her designee, shall have and is vested with the authority to grant or deny licenses; conduct investigations and inspections; and suspend or revoke licenses for cause.**

(3) “Insignia”, or its singular number insigne, shall mean any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

(4) [License or licensee, as used generally herein, shall include respectively the words permit or permittee, and certificate or certificate holder or the holder for any use or period of time of any similar privilege, wherever relevant to any provisions of this Code or other law or

ordinance.] **“Inspector” means any person designated by the City License Officer, Police Chief, Fire Chief, Region Building Department Building Official, or the Director of the City-County Health Department to act as an inspector who shall perform the inspection duties set forth in this Title for that department and such other duties as each may reasonably direct.**

(5) **[Premises is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any business, and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.] “License” means the license required pursuant to this Title and as used generally herein, shall include respectively the words permit, certificate, use, or any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(6) **[Appropriate licensing board shall mean any one (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.] “Licensee” means the individual or entity to which a license is granted under this Title and as used generally herein, shall include respectively the words permittee, certificate holder, or holder for any use or period of time any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(7) **“Appropriate Licensing Board” shall mean any one (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.**

(8) **“Premises” is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any Business, and any personal property which is either affixed to or is otherwise used in connection with any License, Licensee or Business conducted on such premises.**

(9) **“PPD” means and refers to the City of Pueblo Police Department.**

(10) **“Manager” means the person who manages, directs, supervises, oversees, or administers the acts and transactions of, and the acts of employees of, a Licensee, Business, or Premises.**

(11) **“Person” means an individual, firm, association, partnership, company, sole proprietorship, corporation or similar entity.**

(12) **“Hearings Officer” means the Municipal Court Judge or such other person as the Director of Finance may designate to hear appeals under this Title.**

(13) **“Significant Criminal Act” means an act or acts or attempted act or attempted acts that causes serious bodily injury or death to any person or an act or acts that requires a law enforcement specialized unit or tactical response team.**

Sec. 9-1-2 – Application.

. . .

(d) Agents Responsible for Obtaining License. The agents, **Managers**, or other representatives of nonresidents **of the City** who are doing business in the City shall be personally

responsible for the compliance with this Code of their principals and of the businesses they represent [with this Code].

. . .

Sec. 9-1-3 – City License Officer.

(a) Issue Licenses. The License Officer shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Title or other portions of this Code and shall:

(1) Make Rules and Penalties. Promulgate and enforce all reasonable rules and regulations and adopt reasonable civil penalties, in conformity with applicable statutes, ordinances, and Charter, necessary to the operation and enforcement of this Title.

(2) Adopt Forms and Process. Adopt all forms and prescribe the information given therein as to character and other relevant information [matter for all necessary papers] for the applicable license requested. The License Officer may require all forms to be submitted on-line via the City's approved process.

(3) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this Title [Chapter], or other appropriate portions of this Code.

(4) Obtain Endorsement. Submit all applications, in a proper case, to appropriate City, County, or State officials for their endorsements thereon as to compliance by the applicant with all City, County, or State regulations which they have the duty of enforcing. Similarly, in all cases where an examination as to competence and ability is a prerequisite, to submit all such applications to the appropriate City, County, or State officials or licensing board for examination and endorsement on the application of the results of such examination, whether qualified or not qualified. And similarly, where the issuance of a license is within the discretion of the City Council, the Licensing Officer shall submit the application to the City Council for action with the endorsement or report of appropriate City, County, or State officials or licensing board as to compliance with applicable City regulations or such other investigation of character or qualifications as may be required.

(5) Investigation. Investigate and determine the eligibility of any applicant for a license as prescribed herein. The License Officer may request an inspection of the License Premises by an Inspector if he or she determines an inspection is necessary to determine the applicant's eligibility for the license requested.

(6) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Title, or other portions of this Code.

(7) [Give Notice. Notify any applicant of the acceptance or rejection of his or her application and, upon his or her refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.]

. . .

Sec. 9-1-5 – Qualifications of Applicants.

General Standards to be Applied. The general standards set out in this Section relative to the qualifications of every applicant for a City License shall be considered and applied by the License Officer **together with any additional standards set forth in subsequent Chapters and required for a specific License.** The applicant shall **in general:**

(1) Good Moral Character. Be of good moral character. In making such determination, the City License Officer shall consider:

. . .

Sec. 9-1-6. – Procedure for Application; Approval or Denial [issuance of license].

(a) Formal Application Required. Every person required to procure a license under the provisions of this Code or any ordinance or law of the City shall submit an application for such license to the License Officer **on forms provided by, and pursuant to the process adopted by the License Officer.**

(1) Form. Be a statement upon forms provided by the License Officer. **Every license application shall be complete in every detail. If any application is deposited with the License Officer and found, upon examination, to contain any omission or error, it may be returned to the applicant for completion and correction without further action by the License Officer.** Any false statement knowingly made on any application shall be grounds for rejection of such application or revocation of any license issued upon the basis of the false statement.

(2) Contents. Require the disclosure of all information necessary to comply with Section 9-1-5 and of any other information which any applicable provision of this Code or law shall require or which the License Officer shall find to be reasonably necessary to the fair administration of this Title. **No application shall be deemed complete unless accompanied by the following:**

a. If the applicant is:

i. An individual, the individual shall state his or her legal name and any aliases;

ii. A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;

iii. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process; or

iv. A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company

is in good standing under the statutes of the State of Colorado, or in the case of a foreign company, evidence that it is currently authorized to do business in the State of Colorado, the name of the manager, and the name of the registered agent and the address of the registered office for service of process.

b. If the application is for renewal of a license, the application must be filed no later than forty-five (45) days prior to the date upon which the license expires, unless extended by the License Officer, and contain the following additional information:

i. Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department;

ii. Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate;

iii. A statement by Licensee of any changes in ownership, management, or to the criminal history of any Owner, Operator, Person, or Manager relating to that individual's integrity or good moral character.

(3) Payment of Fees. Be accompanied by the full amount of the fees chargeable for such license.

(4) Affirmation. The applicant shall self-certify that all information provided on, and with the application is accurate and truthful under the penalty of perjury.

(b) Issuance of Receipts. Whenever a license cannot be issued at the time the application for the same is made, the License Officer shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the License Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Code.

(c) Duplicate License Procedure. A duplicate license or special permit shall be issued by the License Officer to replace any license previously issued, which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon [the filing by the licensee of an affidavit sworn to before a notary public or other oath-taking official of the State attesting to such fact and the paying] **payment** to the License Officer of a fee of **ten [one]** dollars (\$**10.00**).

. . .

(e) [Disapproval of License. The License Officer shall, upon disapproving any application submitted under the provisions of this Chapter, refund all fees paid in advance to the applicant, provided that the applicant is not otherwise indebted to the City.] **Decision on**

Application. A complete application shall be administratively approved or denied by the License Officer within thirty (30) days of the completed investigation of the application by the License Officer. The License Officer shall deny a license application if:

(1) The application or any investigation demonstrates or establishes that the proposed Licensee or Licensed Premises fails to conform to any requirement of this Title, the Pueblo Municipal Code, or other applicable law;

(2) The applicant knowingly made a false statement or knowingly gave false information in connection with the application;

(3) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has had a license revoked or suspended in any jurisdiction within five (5) years prior to the application;

(4) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has operated a Licensed Premises or Business that was determined at any time to be a public nuisance.

(5) The applicant has outstanding fees, fines, liabilities, or other debts owed to the City.

(6) Issuance of the actual license shall constitute approval of the application. The License Officer may, if deemed necessary, make a written finding that the application conforms to the requirements of this Title based on the information available and the investigation performed by the City or any additional findings as deemed necessary to identify the Director of Finance's basis for approval.

(7) In the event the License Officer denies a license application:

a The License Officer shall prepare written findings of fact stating the reasons or basis for the denial and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

b The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the License Officer's written findings and denial of the license application, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the License Officer's decision to deny a license application shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

c When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.

[(f) Compliance Pending Legal Action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.]

Sec. 9-1-7 – Determination of license fee.

(a) Fee Established. Unless otherwise specifically provided, license fees shall be in the amounts established by the License Officer by Ordinance and published annually on the City's website [in the governing provisions of this Code, and as further determined under this Section].

. . .

(c) Rebate of Fee.

(1) General Prohibition. Except as provided herein, no rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective. No rebate or refund shall be given upon the suspension or revocation of a license.

. . .

Sec. 9-1-9 – Duties of Licensee.

(a) General Standards of Conduct. Every licensee under this Code shall:

(1) Permit all reasonable inspections of his or her business and examinations of his or her books by the License Officer, Inspector, or any other public authority [authorities] so authorized by law.

(2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Comply with all lawful orders of any enforcing authority of the City, PPD, or any local, state, or federal regulatory agency [or any police officer] relating to the conduct of the licensed business.

. . .

Sec. 9-1-10. – Reserved.

Sec. 9-1-11 – Renewal; fee; application.

(a) Unless otherwise provided, any annual license may be renewed upon filing application for the same and payment of the annual license fee. A delinquent license may be renewed within thirty (30) days after becoming delinquent without payment of a delinquency fee. A delinquent license may be renewed more than thirty (30) days but less than ninety (90) days after becoming delinquent, upon the payment of a delinquency fee of one hundred percent (100%)

of the annual license fee in addition to the annual license fee. The License Officer may [shall] suspend the license of any person or premises delinquent more than ninety (90) days. Upon suspension, the License Officer may require inspection of the business or premises by an Inspector or other regulatory agency to ensure compliance with all applicable local, state and federal laws and regulations prior to removal of the suspension and renewal of the license. [, and such suspension shall remain in force] A license shall remain suspended until Licensee has passed all required inspections and all annual fees and a delinquent fee of one hundred percent (100%) of the annual fee, and all other charges or debts owing to the City, shall have been paid in full. The License Officer may place reasonable conditions, requirements, or restrictions on any license renewed or reinstated after suspension that he or she deems necessary to ensure Licensee will comply with the requirements of this Code.

. . .

Sec. 9-1-12 – Inspection; Enforcement.

(a) Inspections.

(1) Persons Authorized. The following persons are authorized to conduct inspections in the manner prescribed herein:

a. License Officer and Inspectors. The License Officer, Inspectors, or any other enforcement official having duties to perform with reference to any licensee or business shall have authority to make all investigations reasonably necessary to the enforcement of this Title. Prior to any License being approved, denied, suspended, or renewed, the License Officer, Inspector, or other enforcement official having duties to perform with reference to any Licensee, Business, or Premises may inspect the Licensee, Business, or Premises for conformance with all applicable laws and all orders from the License Officer or Hearings Officer.

b. [Official Having Duties. The License Officer or any enforcement official shall have authority to order the inspection of licensees, their businesses and premises by any City employees having duties to perform with reference to such licensees or businesses.

c.] Police Officers. All police officers shall have authority to inspect and examine businesses to enforce compliance with this Code.

(2) [Authority of Inspectors.] Right to Enter. All persons authorized to inspect [i]Licensees, [and] Licensed B[b]usinesses, or Premises shall have the authority to enter, with or without a search warrant, at all reasonable times, the following P[p]remises:

a. Those for which a license is required.

b. Those for which a license was issued and which, at the time of inspection, are operating under such a license.

c. Those for which the license has been revoked or suspended.

(3) Reports by Inspectors. Persons inspecting licensees, their businesses or

premises as herein authorized shall report all violations of this Code or of other codes, laws or ordinances to the License Officer or the appropriate licensing board and shall submit such other reports as the License Officer or licensing board shall require. **Any reports of the results of any investigation conducted by any designated Inspector, City department, or other enforcement official having duties to perform with reference to any Licensee, Business, or Premises shall be delivered by the respective Inspector, department, agency, or official to the License Officer not less than fourteen (14) days prior to the date of any hearing on the application, or if no hearing is pending within thirty-five (35) days of the date of the inspection. The License Officer shall provide the official report of any findings based on the inspection to the applicant.**

(b) Provisional Order. When an inspector has reported the violation of this code or of any code, law or ordinance, the License Officer or, where appropriate, the licensing board having jurisdiction over the licensee, shall issue to the affected person a provisional order to comply.

(1) Nature of Notice. The provisional order and all other notices issued in compliance with this Title, unless otherwise provided, shall be in writing, shall be served as provided in Section 1-1-11 of this Code, and shall apprise the person affected of his or her specific violations. In addition to such service, a copy of such notice may be affixed to the principal entrance or to some prominent structure on the premises.

(2) Period of Compliance. The provisional order shall require compliance within ~~fifteen (15)~~ **fourteen (14)** days of personal service on the affected person **or posting of the notice on the Premises.**

(3) Hearing. Upon written application by the person affected before the expiration of the period for compliance, the License Officer or the appropriate licensing board shall **within two (2) business days refer the matter to the Hearings Officer for** [order] a hearing. [Notice of such hearing shall be given the affected person in the manner prescribed.] **Upon failure or refusal of the violator affected to comply with the provisional order or request a hearing prior to the expiration of the period for compliance, the License Officer or appropriate licensing board shall then declare and make the provisional order final.**

(c) Modifying Authority of License Officer. Upon written application, or on his or her own motion, the License Officer or the appropriate licensing board shall have the authority, in a proper case, to extend the time for compliance **with a provisional order or to** [, to grant a new hearing date and to] change, modify or rescind any recommendation or order.

[(d) Final Order. Upon the failure or refusal of the violator to comply with the provisional order or with any order made after the hearing, the License Officer or the appropriate licensing board shall then declare and make the provisional order final.

(1) Revocation or Suspension. The License Officer or the appropriate licensing board shall have power to suspend or revoke licenses upon making and declaring a provisional order final.

(2) Effect of Revocation or Suspension. Upon revocation or suspension, no refund of any portion of the license fee shall be made to the licensee, and he or she shall immediately cease all business at all places under such license.

(e) Summary Action. When the conduct of any licensee, agent or employee is so inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing, the License Officer or appropriate licensing board, within ten (10) days after he or she has acted summarily, shall conduct a special hearing for such action in respect to the summary order as may be therein determined. Notice of such hearing shall be given the affected person in the manner prescribed.

(f) Right of Appeal. Except where otherwise provided, within thirty (30) days after the entry of any decision or order of the appropriate licensing board or Licensing Officer, where there is no provision for review by an appropriate board, any person aggrieved by such decision or order may seek to review the same in District Court. Review shall not be extended further than to determine whether the licensing board or the Licensing Officer has exceeded their jurisdiction or abused their discretion. Pending such appeal, all such rulings or decisions shall remain in full force and effect unless stayed by order of court.

(g) Duration of Suspension or Revocation. No suspension shall be for a period longer than the balance of the calendar year for which the license is issued. As part of the order of suspension, the License Officer or the appropriate board or commission may declare the suspended person ineligible to be licensed for a portion of the next calendar year; provided that no order of suspension and ineligibility shall endure for a total period longer than a twelve-month period from the date of suspension. No person whose license has been revoked shall be eligible to reapply for a license in the same or a related business for a period of one (1) year following such revocation.

(h) Unpaid Fee Constitutes Debt.

(1) The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the City.

(2) The City Attorney, shall, at the direction of the License Officer institute civil suit in the name of the City to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall not bar or prevent a prosecution in Municipal Court for any violation of this Code.】

Sec. 9-1-13 – License Revocation, Suspension or Nonrenewal.

(a) The appropriate licensing board, License Officer, or Hearings Officer may suspend, revoke or not renew a license upon a finding of one or more of the following:

(1) The Licensee has outstanding official orders from the License Officer, Pueblo Police Department, Pueblo Fire Department, Regional Building Department, the Pueblo City-County Health Department, or any other agency having duties to perform with reference to any Licensee, Business, or Premises.

(2) A significant criminal act has occurred in the Business or on the Premises.

(3) The operation of the Licensee, Business, or Premises is such that it is or has negatively impacted the health, safety and/or welfare of its patrons or neighboring businesses, residents, or community.

(4) The Licensee, Business or Premises is delinquent to the City for any

taxes imposed pursuant to Pueblo Municipal Code Title XIV.

(5) An investigation performed by the City or License Officer demonstrates or establishes that the Licensee, Business, or Premises fails to conform to any requirement of this Chapter, the Pueblo Municipal Code, or other applicable law.

(6) The applicant knowingly made a false statement or knowingly gave false information in connection with the application.

(7) It determines that the individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee, Business, or Premises has had a business license revoked or suspended within five (5) years prior to the application.

(8) It determines that the individual applicant or a director or officer of a corporation, partner of a partnership, or manager of a limited liability company or manager of the Licensee, Business, or Premises has operated a licensed business that was determined to be a public nuisance; or

(b) In the event an appropriate licensing board or License Officer revokes, suspends, or does not renew a license:

(1) The appropriate licensing board or License Officer shall prepare written findings of fact stating the reasons or basis for the revocation, suspension or nonrenewal, and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

(2) The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the written findings by the licensing board or License Officer revoking, suspending or not renewing the license, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the decision of the licensing board or License Officer to revoke, suspend or not renew the license shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

(c) In the event the Hearings Officer affirms the decision of the licensing board or Licensing Officer, or revokes, suspends or does not renew a license, the person aggrieved by such decision or order may seek review by the District Court pursuant to C.R.C.P. 106(a)(4).

(d) When the issuance of a license is revoked, suspended, or not renewed and any action is instituted by the applicant to compel its reinstatement or renewal, such applicant shall not engage in the business for which the license was affected unless a license is issued to him or her pursuant to a judgment ordering the same.

(e) Summary Action. When the conduct of any licensee, agent or employee is so inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing,

the License Officer or appropriate licensing board, within two (2) business days after he or she has acted summarily, refer the matter to the Hearings Officer who shall conduct a hearing in respect to the summary order within twenty-one (21) days of the summary action. Notice of such hearing shall be given the affected person by personal service or certified mail, return receipt requested, and regular U.S. mail to the address provided on the License or last license application.

(f) If the licensing board, License Officer or Hearings Officer finds a licensee to be in violation of any provision of this Title, and if it is the Licensee's first violation, the License Officer or Hearings Officer may, in an appropriate case, place the Licensee on a twelve (12) month probationary period and shall impose such mandatory restrictions on the licensee necessary to correct the deficiency or violation.

(g) No suspension shall be for more than twelve months from the date of suspension. No person whose license has been revoked shall be eligible to reapply for a license in the same or a related business for a period of one (1) year following such revocation.

Sec. 9-1-14. - Hearings.

(a) Notice. Whenever a Hearing is requested or required under this Title, the Hearing Officer shall give the licensee reasonable advance notice of the time and place of the hearing, nature thereof, the authority and jurisdiction under which it is to be held and the violation(s) alleged in the complaint. The Hearing Officer or License Officer shall mail such notice to the licensee by first-class mail, certified mail return receipt requested, and regular U.S. Mail at least ten (10) days prior to the hearing. The License Officer shall prepare and post the Licensed Premises with a sign that contains notice of the hearing date, time and location.

(b) Hearing Procedure. The Hearing Officer shall conduct all hearings pursuant to Title I, Chapter 7 of the Pueblo Municipal Code. The standard of proof shall be by a preponderance of the evidence.

Sec. 9-1-15. – Unlawful Acts; Penalties.

(a) It is unlawful and a Class 1 municipal offense for any person, either directly or indirectly, to maintain or operate a Business, Licensee, or Premises without first obtaining a license from the License Officer.

(b) It is unlawful for any person to maintain or operate a Licensee, Business or Premises in violation of the provisions of this Chapter.

Sec. 9-1-16. – Severability

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance, and to this end, the provisions of this Chapter are declared to be severable.

SECTION 2.

Title IX, Section 5 of the Pueblo Municipal Code is hereby amended as follows:

Sec. 9-5-1. – [License Required.] Lodging Facility License

[It shall be unlawful to conduct, keep or maintain any hotel, rooming house or lodging houses by whatever name designated in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of the owner or operator, without obtaining a license therefor as hereinafter set forth; provided, however, that apartment houses and multiple dwellings shall not be required to be licensed hereunder. Such license shall be displayed in a conspicuous place within sight of the main entrance of the rooming house or lodging houses at all times. Such license shall not be transferable. Every person holding such a license shall give notice in writing to the City Clerk within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership or interest in or control of any hotel, rooming house or lodging houses. Such notice shall include the name and address of the person succeeding to the ownership or control of such hotel, rooming house or lodging houses. The former owner shall not be relieved of responsibility until such notice is filed.]

Definitions.

As used in this chapter, the following terms are defined as follows:

(a) "Calls for service" ("CFS") means and includes, but is not limited to, any and all calls to law enforcement that result in a representative being dispatched or directed to the lodging facility.

(1) Calls for service includes:

a. A call to emergency services that results in a response by a law enforcement representative to the lodging facility.

b. Any police-initiated call for service to the lodging facility that results in a criminal report.

c. Any call to emergency services or police-initiated call for service within the lodging facility's surrounding neighborhood regarding activity that results in a criminal report, when such activity is associated with lodging facility staff and/or lodging facility guests and/or visitors.

(2) Calls for service shall not include traffic citations in which the lodging facility's address is used as the location of violation.

(b) "Calls for service ratio" means the number of calls for service divided by the number of rooms in service at the lodging facility.

(c) "Lodging Facility" means a hotel, motel, motor hotel, inn, boarding house, lodging house, homeless shelter, or other similar facility that: (1) has lodging rooms; (2) is located within any commercial or mixed use zone district in the City; (3) accommodates one or more guests under any rental agreement, concession, permit, right of access, license to use or other agreement, whether written or verbal, where the rental period of any lodging room is less than thirty (30) consecutive days.

(d) "Lodging room" means and includes any room, guestroom or sleeping accommodation that accommodates one or more guests.

(e) "Owner" means any person that is the record owner of real property as listed with the Pueblo County Assessor upon which a lodging facility is located. "Owner" shall also mean any part owner, joint owner or lessor of the whole or part of the land or buildings situated on such real property.

(f) "Operator" means any person who is the proprietor of a Lodging Facility, whether in the capacity of owner, lessee, receiver, sublessee, franchisee, manager or mortgagee in possession thereof, or agent of any aforementioned, who offers and accepts payment for any lodging rooms, or board and lodging, and retains the right of access to, and control of, the lodging facility or lodging room.

Sec. 9-5-2. [- Fees.] - License required.

[The license fee for conducting such a hotel, rooming house or lodging houses where not more than twenty (20) rooms are kept for rent shall be the sum of five dollars (\$5.00) per year, and where more than twenty (20) rooms are kept for rent, the license fee therefor shall be the sum of ten dollars (\$10.00) per year.]

(a) It shall be unlawful to conduct, keep, or maintain a Lodging Facility within the City of Pueblo without first obtaining a license therefor. Such license shall be displayed in a conspicuous place within sight of the main entrance of the Lodging Facility at all times.

(b) All Lodging Facilities existing within the City shall apply or re-apply for a license within ninety (90) days of the effective date of this ordinance. All Lodging Facilities existing within the City upon the effective date of this ordinance that have, based on data provided by the Pueblo Police Department, with a Calls for Service Ratio of 1.89 or more during the previous twelve (12) month period shall meet with representatives from the PPD to discuss measures to mitigate criminal activity occurring on the lodging facility's premises. Such meeting shall occur before a lodging facility license is granted.

**Sec. 9-5-3. – [Application, approval of department heads; supervision; revocation.]
Application; Decision; Appeal.**

(a) [Before any license is granted, an application shall be filed by the applicant with the License Officer containing such information as the License Officer shall require, including two (2) or more references as to the integrity and moral character of the applicant.] All applicants for a license shall file an application with the License Officer pursuant to Section 9-1-6. The License Officer shall accept no application that is not complete in every detail. In addition to the information required in Section 9-1-6, no application for a Lodging Facility License shall be deemed complete unless accompanied by the following:

(1) One or more statements as to whether:

a. The applicant or any other individual listed pursuant to subsection (1) of this Section has:

i. Previously operated, is currently operating, or has been employed at a lodging facility; or

ii. Had a previous lodging facility license under this Chapter, or other lodging facility license ordinances, resolutions or other regulations from another city or county, denied, suspended or

revoked, or declared a public nuisance, including the name and location of the business for which the license was denied, suspended, revoked; or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance.

b. The applicant or any other individuals listed pursuant to Subsection 3(b)(1) of this Section has been a partner in a partnership or an officer or director of a corporation or manager of a limited liability company of a business whose lodging facility license has previously been denied, suspended, revoked, or declared a public nuisance including the name and location of the business for which the license was denied, suspended, revoked, or declared a public nuisance as well as the date of the denial, suspension, revocation, or declaration as a public nuisance; and

c. The applicant or any other individual listed pursuant to Subsection (3)(b)(1) of this Section holds any other licenses under this Chapter or other similar lodging facility license ordinances from another city or county and, if so, the names and locations of such other licensed businesses.

(2) The location of the proposed lodging facility, including a legal description of the property, street address and telephone number;

(3) The applicant's mailing address and residential address;

(4) A floor plan of the lodging facility that specifies the number of rooms contained in the lodging facility. The floor plan need not be professionally prepared;

(5) Certification that the proposed location complies with all requirements of the City zoning code;

(6) Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department.

(7) Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate.

(b) **【Such license or license renewal shall be issued upon payment of the license fee and upon certification of the Building Official of the Pueblo Regional Building Department, the Fire Chief and the Director of the City-county Health Department that the premises to be license or relicensed comply with existing applicable building, fire and safety codes, and the regulations enforced by the Health Department.】 Payment in full of City license and application fees and any other fees, fines, liabilities or other debts owed to the City.**

(c) **【Any person whose application for a permit to operate a rooming house has been denied may request in writing and shall be granted a hearing on the matter before the License Officer. Such hearing shall be held at such time and place as the License Officer shall direct, not to exceed ten (10) days following the date of filing such request for hearing. The decision of the License Officer shall be in writing, and shall state whether or not there is compliance with the**

laws of the State and this Code. Failure to comply with such laws shall be specifically stated; provided, however, that failure of the License Officer to state noncompliance with any law or Code shall not relieve the applicant from responsibility for compliance therewith. **]** **In addition to the basis set forth in Section 9-1-6, the License Officer may deny an application for a Lodging Facility License if the application is based upon the sale of an existing lodging facility, and the existing lodging facility's CFS ratio is at or above 1.89 calls for service per room, or the lodging facility has other compliance issues, in which case, the applicant must provide, as a prerequisite to being granted a license, a remedial plan to reduce the CFS ratio or resolve the other compliance issues. The applicant must reduce the CFS ratio or resolve the issues within 180 days after license is issued or be subject to license suspension or revocation.**

[(d) Any license issued hereunder shall be subject to suspension or revocation in the event that the licensee has permitted his or her hotel or rooming house to become a fire, health or safety hazard to his or her customers or where he or she has permitted it to become either a nuisance, a place of prostitution, a place for gambling or a place for other activities or conditions prohibited by statute or ordinance, or has failed to comply with any provision of this Chapter.

(e) Whenever upon inspection of any hotel, rooming house, lodging houses or boarding and rooming house, the License Officer finds that conditions or practices exist which are in violation of any provision of this Chapter or of any provision of the Housing Code or any rule or regulation adopted pursuant thereto, the License Officer shall take appropriate enforcement action in writing to the operator of such establishment to correct such conditions or practices as provided in Chapter 1 of this Title.

(f) It shall be unlawful for any person to occupy for sleeping or living purposes any rooming unit in any hotel, rooming house or lodging houses of which the license has been suspended or revoked. **]**

Sec. 9-5-4. – [Registration book required; contents; inspection; exceptions]**License Fee.**

[It shall be the duty of every person keeping a hotel, rooming house, lodging houses or boarding and rooming house, either as principal or by an agent, within the City, to keep at the place where such business is carried on a record or register of the name, address, date of arrival, date of departure and number or other description of the room occupied, of all roomers, lodgers, transients and other persons rooming, lodging or boarding and rooming at such hotel, rooming house, lodging houses or boarding and rooming house; such record shall be kept legible and maintained at all hours. The provisions of this Section shall not apply to private residents keeping permanent roomers.]

The City shall impose a Lodging Facility licensing fee of \$100 per year, which may be amended by City Council by resolution, necessary to defray the costs of investigation, inspection, and processing the documentation of the activities of lodging facilities as allowed by law:

Sec. 9-5-5. - Manager; Change; Registration Book.

(a) A registered Manager shall be on the premises of a lodging facility at all times. A lodging facility may have more than one registered Manager. It is unlawful for any person to work as a Manager of a lodging facility without first registering with the License Officer.

(b) In the event a Licensee changes the Manager of a Lodging Facility, the Licensee shall immediately report such change and register the new Manager, on forms provided by the License Officer, within thirty (30) days of such change.

(c) It shall be the duty of the registered Manager to keep at all times on the premises of the Lodging Facility a record or register ("Register Book") of the name, address, date of arrival, date of departure, and number or other description of the room occupied, of all roomers, lodgers, transients, and other persons rooming, lodging or boarding, and rooming at such Lodging Facility. Such Register Book shall be kept legible, maintained at all hours, and made available for inspection by the License Officer, or their designee, or Inspector upon request.

Sec. 9-5-6. - Transferability; Change of ownership.

(a) No License under this Chapter shall be transferable to another person or any other group acting as a unit.

(b) No License under this Chapter shall be transferred to another hotel name or franchise, or hotel location or building.

Sec. 9-5-7. – Partial Operation.

No Lodging Facility shall operate, and no license shall be granted to it unless and until the entire facility is operational and able to be occupied for its intended purpose. Notwithstanding the foregoing, if a portion of an existing licensed Lodging Facility shall become uninhabitable due to fire, water, or other event, the hotel may continue operating the unaffected Lodging Rooms and common areas so long as operation is deemed safe by the Finance Director, PPD, the Fire Chief, the Regional Building Department, and the City-County Health Department, and the Lodging Facility is actively repairing the damaged area. "Actively repairing" shall include but not be limited to the submission of an insurance claim, hiring of licensed contractors, retention of architects or engineers, and obtaining building permits. Failure to progress or complete repairs within a reasonable amount of time shall be justification to suspend, revoke, or deny a license.

Sec. 9-5-8. – Extended Stay.

No Lodging Facility shall allow anyone to rent, use, access a Lodging Room for more than 30 consecutive days unless the Lodging Facility is designated by the Regional Building Department as a "Long Term Stay Hotel" as defined under the applicable building codes.

Sec. 9-5-9. – Unlawful Acts; Penalties.

(a) In addition to acts set forth in Section 9-1-15 of this Code, it shall be unlawful for any person:

(1) To occupy for sleeping or living purposes any Lodging Room in a Lodging Facility that does not have a license or for which the license has been suspended or revoked.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective upon final passage.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: AN ORDINANCE AMENDING CHAPTER 6 OF TITLE XVI OF THE PUEBLO MUNICIPAL CODE RELATING TO AND INCREASING SEWER USER CHARGES.

SUMMARY:

Attached is an Ordinance amending Chapter 6 of Title XVI of the Pueblo Municipal Code relating to and increasing sewer user charges.

PREVIOUS COUNCIL ACTION:

Ordinance No. 10489 awarded an agreement between the City of Pueblo and Financial Consulting Solutions Group, Inc., DBA. FCS Group for the 2023 Biennial Wastewater Rate Review

Ordinance No. 10429 awarded an agreement between the City of Pueblo and Financial Consulting Solutions Group, Inc., DBA FCS Group, Inc. and named Financial Consulting Solutions Group, Inc., DBA FCS Group, as the Rate Consultants of Record for the Pueblo Wastewater Department, on April 12, 2023.

BACKGROUND:

Pueblo's Municipal Code presently requires that a review of wastewater rates be performed at least every two years to ensure that the rates generate sufficient revenue to fund total operation and maintenance costs of the wastewater system, and to ensure that the rates maintain the proportionate distribution of costs among user classes (Section 16-6-37).

In accordance with this requirement, FCS Group, the Wastewater Rate Consultant of Record, reviewed the 20-year Capital Improvement Plan, the Wastewater Department's debt service requirements, and the fund balances. During the May 6, 2024, Work Session, a detailed presentation was given regarding the findings and proposed increase in rates.

The study indicated that due to increased regulatory requirements, and capital improvement requirements, increased rates will be required. The Wastewater Department is currently working on capital projects to maintain compliance with water quality regulations as well as the Selenium Discharger Specific Variance. Further improvements to the collection system and pilot projects for treatment will be needed to maintain compliance with the Discharger Specific Variance. The ordinance has therefore been prepared to provide for annual increases in wastewater rates for Pueblo residences and industries, and for the Blend Sanitation District, beginning in 2025.

FINANCIAL IMPLICATIONS:

The proposed ordinance anticipates that the City Council will periodically adjust sanitary sewer rates.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

Residents within the City of Pueblo and the Blend Sanitation District are the primary stakeholders affected by this rate increase. There was one stakeholder meeting held during a presentation given at a City Council work session on May 8, 2024.

ALTERNATIVES:

The no action alternative would continue wastewater service fee increases previously adopted and effective January 1, 2020, but would not address future increases necessary at a level sufficient to fund capital improvements to the Water Reclamation Facility and collection system to attain compliance with water quality regulations and maintain the aging infrastructure. Failure to maintain compliance will create the potential for enforcement actions by state and federal authorities that carry maximum fines of \$54,833 a day per day of violation, and waiting to increase revenues until the compliance deadline arrives will result in much higher rate increases that will place additional burdens on rate payers.

The proposed alternative will implement an increase in the wastewater rate structure beginning January 1, 2025.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. 08-12-24 City of Pueblo Wastewater Draft Rate Review Report 2024

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE XVI OF THE
PUEBLO MUNICIPAL CODE RELATING TO AND INCREASING
SEWER USER CHARGES.

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
(brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 16-6-20 of Chapter 6, Title XVI of the Pueblo Municipal Code, is amended to read as follows:

Sec. 16-6-20. Rates and charges.

(a) Nonindustrial users. The wastewater charge for nonindustrial users shall be the sum of the monthly service charge and monthly sewer volume charge, computed as follows:

(1) Commencing on [January 1, 2020] January 1, 2024 , and for each month in each year thereafter through December 31, 2028, for and in accordance with the calendar months and years indicated in the following table, the monthly service charge portion of the wastewater charge shall be assessed and charged based upon the water meter size of the water line or lines servicing the property in accordance with the following table. Commencing January 1, 2029, the monthly service charge portion of the wastewater charge shall be established from time to time by the City Council by ordinance; provided, however, that if City Council fails at any time to do so, the monthly service charge shall remain at the then last established amount.

[Table 16-6-20(a)(1)]

Year	Jan. 1, 2020 to Dec. 2020	Jan. 1, 2021 to Dec. 2021	Jan. 1, 2022 to Dec. 2022	Jan. 1, 2023 to Dec. 2023	Jan. 1, 2024, to Dec. 2024
Meter Line Size in Inches	Monthly Service Charge (in U.S. Dollars)				
$\frac{5}{8}$ and $\frac{3}{4}$	21.87	23.18	24.34	25.56	26.32
1	26.01	27.57	28.95	30.40	31.31
1½	39.16	41.51	43.58	45.76	47.13
2	58.48	61.99	65.09	68.34	70.39
3	104.12	110.37	115.89	121.68	125.33
4	152.72	161.89	169.98	178.48	183.84
6	250.06	265.07	278.32	292.24	301.01
8	331.54	351.43	369.00	387.45	399.07

<u>Year</u>	<u>Jan. 1, 2024, to Dec. 2024</u>	<u>Jan. 1, 2025, to Dec. 2025</u>	<u>Jan. 1, 2026, to Dec. 2026</u>	<u>Jan. 1, 2027, to Dec. 2027</u>	<u>Jan. 1, 2028, to Dec. 2028</u>
<u>Meter Line Size in Inches</u>	<u>Monthly Service Charge (in U.S. Dollars)</u>				
<u>5/8 and 3/4</u>	<u>26.32</u>	<u>27.64</u>	<u>29.02</u>	<u>30.47</u>	<u>31.99</u>
<u>1</u>	<u>31.31</u>	<u>32.88</u>	<u>34.52</u>	<u>36.25</u>	<u>38.06</u>
<u>1½</u>	<u>47.13</u>	<u>49.49</u>	<u>51.96</u>	<u>54.56</u>	<u>57.29</u>
<u>2</u>	<u>70.39</u>	<u>73.91</u>	<u>77.60</u>	<u>81.49</u>	<u>85.56</u>
<u>3</u>	<u>125.33</u>	<u>131.60</u>	<u>138.18</u>	<u>145.09</u>	<u>152.34</u>
<u>4</u>	<u>183.84</u>	<u>193.03</u>	<u>202.68</u>	<u>212.82</u>	<u>223.46</u>
<u>6</u>	<u>301.01</u>	<u>316.06</u>	<u>331.86</u>	<u>348.46</u>	<u>365.88</u>
<u>8</u>	<u>399.07</u>	<u>419.02</u>	<u>439.97</u>	<u>461.97</u>	<u>485.07</u>

(2) Commencing on January 1, **2024**, and for each month in each year thereafter, through December 31, **2028** for and in accordance with the calendar months and years indicated in the following table, the monthly sewer volume charge portion of the wastewater charge for each property with metered water service furnished and provided by the Board of Water Works shall be the amount shown in the following table for each one thousand (1,000) gallons of water furnished and supplied to the property. Commencing January 1, **2029**, the monthly sewer volume charge portion of the wastewater charge for each one thousand (1,000) gallons of water shall be as established from time to time by the City Council by ordinance; provided, however, that if City Council fails at any time to do so, the monthly sewer volume charge shall remain at the then last established rate.

[Table 16-6-20(a)(2)]

<u>Year</u>	<u>Jan. 1, 2020 to Dec. 2020</u>	<u>Jan. 1, 2020 to Dec. 2020</u>	<u>Jan. 1, 2022 to Dec. 2022</u>	<u>Jan. 1, 2023 to Dec. 2023</u>	<u>Jan. 1, 2024, to Dec. 2024</u>
<u>Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)</u>					
<u>Nonindustrial Use</u>	<u>5.10</u>	<u>5.40</u>	<u>5.67</u>	<u>5.96</u>	<u>6.14</u>

1

Table 16-6-20(a)(2)

<u>Year</u>	<u>Jan. 1, 2024, to Dec. 2024</u>	<u>Jan. 1, 2025, to Dec. 2025</u>	<u>Jan. 1, 2026, to Dec. 2026</u>	<u>Jan. 1, 2027, to Dec. 2027</u>	<u>Jan. 1, 2028, to Dec. 2028</u>
<u>Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)</u>					
<u>Nonindustrial Use</u>	<u>6.14</u>	<u>6.45</u>	<u>6.77</u>	<u>7.11</u>	<u>7.46</u>

(3) The monthly sewer volume charge shall be based upon the monthly water meter measurements and readings (or estimates thereof) of the Board of Water Works and shall be computed and billed as follows:

a. The monthly sewer volume charge shall be the amount specified in Table 16-6-20(a)(2) for the applicable month and year for each one thousand (1,000) gallons of water charged and billed to the property by the Board of Water Works during its January and February monthly billing periods for said year. The term *monthly billing period*, as used herein, commences when

a water meter is read in the prior month and ends when the water meter is read in the subsequent month of billing.

b. The monthly sewer volume charge for each month from and including January 1, **2024**, through and including December 31, **2028** and for the months of January through December each year thereafter, shall be calculated as the amount specified in Table 16-6-20(a)(2) for the applicable month and year in dollars per one thousand (1,000) gallons multiplied by the average of the thousands of gallons of water charged and billed to the property by the Board of Water Works during the immediately preceding January and February.

c. If for any reason, water meter readings are not made or are delayed, the sewer volume charge shall be computed upon an estimate of water services and the actual charge, therefore, shall be made and apportioned upon the actual meter measurement and readings made thereafter.

d. In the event a property is connected to the Board of Water Works system after February of any year or if for some other reason, there is not available an average monthly sewer volume charge based upon the January-to-February billing periods or such periods in prior years, the monthly sewer volume charge shall be an amount equal to the applicable calendar year monthly rate specified in Table 16-6-20(a)(2) per one thousand (1,000) gallons of water used multiplied by five (5) per month for each residential unit served at each property.

e. The sewer volume charge for each property using water not metered by the Board of Water Works shall be an amount equal to the applicable calendar year monthly rate specified in Table 16-6-20(a)(2) per one thousand (1,000) gallons of water used multiplied by five (5) per month for each residential unit served at each property or the applicable calendar year monthly rate specified in Table 16-6-20(a)(2) per one thousand (1,000) gallons of water used per month based upon the January or February monthly estimated water used or actual monthly water used, whichever would be most proportionate to all classes of users, as determined by the Director of Wastewater.

(b) Industrial users.

(1) The wastewater charge for Industrial Users shall be the sum of the monthly service charge based upon the meter size and determined in accordance with Paragraph (a)(1) of this Section, and a monthly sewer volume charge. Commencing on January 1, **2024**, and for each month in each year thereafter, for and in accordance with the calendar months and years indicated in the following table, the monthly sewer volume charge for Industrial Users shall be the amount shown in the following table for each one thousand (1,000) gallons of discharge per month based upon either actual measured discharge or upon water used after adjustment for any permitted use allowance, as determined by the Director of Wastewater plus one hundred percent (100%) of any costs incurred by the City in determining the amount of such discharge. Commencing on January 1, **2029**, the monthly sewer volume charge for Industrial Users shall be as established by the City Council from time to time by ordinance; provided, however, that if City Council fails at any time to do so, the monthly sewer volume charge for Industrial Users shall remain at the then last established rate.

[Table 16-6-20(b)(1)]

Year	Jan. 1, 2020 to Dec. 2020	Jan. 1, 2021 to Dec. 2021	Jan. 1, 2022 to Dec. 2022	Jan. 1, 2023 to Dec. 2023	Jan. 1, 2024 to Dec. 2024
	Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)				
Industrial Use	5.10	5.40	5.67	5.96	6.14

]

Table 16-6-20(b)(1)

<u>Year</u>	<u>Jan. 1, 2024, to Dec. 2024</u>	<u>Jan. 1, 2025, to Dec. 2025</u>	<u>Jan. 1, 2026, to Dec. 2026</u>	<u>Jan. 1, 2027, to Dec. 2027</u>	<u>Jan. 1, 2028, to Dec. 2028</u>
	Monthly Sewer Volume Charge (in U.S. Dollars per 1,000 gallons)				
Industrial Use	6.14	6.45	6.77	7.11	7.46

(2) Industrial Users are also subject to excessive strength surcharges as provided in Article III of this Chapter and all other fees and charges required of Industrial Users by this Title.

(c) Blende Sanitation District.

(1) Commencing on January 1, **2024**, and as adjusted for each month and year thereafter as indicated in the following table, through December 31, **2028**, for wastewater delivered to the City's treatment plant from Blende Sanitation District and derived exclusively from nonindustrial customers, the monthly sewer volume charge shall be the specified monthly nonindustrial use rate for the applicable calendar month and year as set forth in Table 16-6-20(c) below, per one thousand (1,000) gallons, together with such monthly service charges as may be provided by agreement or resolution of the City Council. Commencing January 1, **2029**, the monthly sewer volume charge shall be as established by the City Council from time to time by ordinance; provided, however, that if City Council fails at any time to do so, the monthly sewer volume charge shall remain at the then last established amount.

(2) Commencing on January 1, **2024**, and as adjusted for each month and year thereafter as indicated in the following table, through December 31, **2028**, for wastewater delivered to the City's treatment plant from Blende Sanitation District and derived from industrial customers, the volume charge shall be the specified monthly industrial use rate for the applicable calendar month and year as set forth in Table 16-6-20(c) below, per one thousand (1,000) gallons, together with such monthly service charges as may be provided by agreement or resolution of the City Council, and together with excessive strength surcharges as provided by Article III of this Chapter. Commencing on January 1, **2029**, the monthly sewer volume charge for wastewater delivered by the Blende District derived from industrial customers shall be as established by the City Council from time to time by ordinance; provided, however, that if the City Council fails at any time to do so, the monthly sewer volume charge shall remain at the then last established rate.

[Table 16-6-20(c)]

<u>Year</u>	<u>Jan. 1, 2020 to Dec. 2020</u>	<u>Jan. 1, 2021, to Dec. 2021</u>	<u>Jan. 1, 2022, to Dec. 2022</u>	<u>Jan. 1, 2023, to Dec. 2023</u>	<u>Jan. 1, 2024, to Dec. 2024</u>
	Monthly Sewer Volume Charge (U.S. Dollars per 1,000 gallons)				
Blende Sanitation District Nonindustrial Use	4.05	4.29	4.51	4.73	4.87
Blende Sanitation District Industrial Use	4.05	4.29	4.51	4.73	4.87

]

Table 16-6-20(c)

<u>Year</u>	<u>Jan. 1, 2024,</u> <u>to Dec. 2024</u>	<u>Jan. 1, 2025,</u> <u>to Dec. 2025</u>	<u>Jan. 1, 2026,</u> <u>to Dec. 2026</u>	<u>Jan. 1, 2027,</u> <u>to Dec. 2027</u>	<u>Jan. 1, 2028,</u> <u>to Dec. 2028</u>
	<u>Monthly Sewer Volume Charge (U.S. Dollars per 1,000 gallons)</u>				
<u>Blende</u> <u>Sanitation</u> <u>District</u> <u>Nonindustrial</u> <u>Use</u>	<u>4.87</u>	<u>5.11</u>	<u>5.37</u>	<u>5.64</u>	<u>5.92</u>
<u>Blende</u> <u>Sanitation</u> <u>District</u> <u>Industrial</u> <u>Use</u>	<u>4.87</u>	<u>5.11</u>	<u>5.37</u>	<u>5.64</u>	<u>5.92</u>

(d) Sewer users and septic haulers depositing or discharging liquid waste into the system shall be assessed wastewater charges consisting of the sum of the following components:

(1) Commencing on January 1, **2024**, and as adjusted for each month and year thereafter as indicated in the following table, the amount of the monitoring charge shall be the amount shown in the row for "MC," in Section 16-31-31(d) of Article III of this Chapter for the applicable calendar month and year; and

(2) A combined monthly sewer volume charge and excessive strength surcharge at the specified monthly rate for the applicable calendar year as set forth in Table 16-6-20(d)(2) below, per one thousand (1,000) gallons of liquid waste deposited or discharged into the system.

(3) Commencing January 1, **2029**, the monitoring charge and the monthly sewer volume charge and excessive strength surcharge charge shall be as established from time to time by the City Council by ordinance; provided, however, that if City Council fails at any time to do so, the monthly service charge shall remain at the then last established amount.

(4) For each sand waste load, a charge of sixty dollars (\$60.00) shall be paid in addition to all other charges herein imposed. Sand waste loads are described in Chapter 10.

[Table 16-6-20(d)(2)]

<u>Year</u>	<u>Jan. 1, 2020</u> <u>to Dec. 2020</u>	<u>Jan. 1, 2021 to</u> <u>Dec. 2021</u>	<u>Jan.1, 2022</u> <u>to Dec. 2022</u>	<u>Jan. 1, 2023, to</u> <u>Dec. 2023</u>	<u>Jan. 1, 2024</u> <u>to Dec. 2024</u>
Septic Haulers' Combined Monthly Sewer Volume Charge and Excessive Strength Surcharge (in U.S. Dollars per 1,000 gallons)					
	69.91	74.10	77.81	81.70	84.15

1

Table 16-6-20(d)(2)

<u>Year:</u>	<u>Jan. 1, 2024,</u> <u>to Dec. 2024</u>	<u>Jan. 1, 2025,</u> <u>to Dec. 2025</u>	<u>Jan.1, 2026,</u> <u>to Dec. 2026</u>	<u>Jan. 1, 2027,</u> <u>to Dec. 2027</u>	<u>Jan. 1, 2028,</u> <u>to Dec. 2028</u>
<u>Septic Haulers' Combined Monthly Sewer Volume Charge and Excessive Strength</u> <u>Surcharge (in U.S.Dollars per 1,000 gallons)</u>					
	<u>84.15</u>	<u>88.36</u>	<u>92.78</u>	<u>97.41</u>	<u>102.28</u>

(e) Airport Collection System.

- (1) The wastewater charges for all users connected to the airport collection system shall be as provided in Subsections (a) and (b) of this Section, subject to the provisions of this Subsection (e).
- (2) Reserved.
- (3) Reserved.
- (4) The wastewater charges set forth herein for users connected to the airport collection system shall be in addition to, and not in lieu of, any and all other charges or fees associated with or assessed to property owners or occupants of facilities located at the Pueblo Memorial Airport or the Airport Industrial Park

SECTION 2.

Title XVI, Chapter 6, Article III, Section 16-6-31 of the Pueblo Municipal Code, as amended, is amended to read as follows:

- (a) Users subject to the excessive strength surcharge shall be assessed the surcharge based upon the following formula:

$$[S = Vs \times 8.34 + MC]$$

$$\underline{S = Vs \times 8.34 \times \{ \$BOD \times (BOD - 225) + \$SS \times (SS - 200) \} + MC}$$

[Table 16-6-31(b)]

Year:	Jan. 1, 2020 to Dec. 2020	Jan. 1, 2021 to Dec. 2021	Jan. 1, 2022 to Dec. 2022	Jan. 1, 2023 to Dec. 2023	Jan. 1, 2024 to Dec. 2024
\$BOD (Dollars per pound for excess BOD)	0.380	0.380	0.380	0.380	0.380
\$SS (Dollars per pound for excess SS)	0.190	0.190	0.190	0.190	0.190
MC (Dollars per Month)	350.36	371.38	389.95	409.45	421.73

1

Table 16-6-31(b)

<u>Year:</u>	<u>Jan. 1, 2024 to</u> <u>Dec. 2024</u>	<u>Jan. 1, 2025 to</u> <u>Dec. 2025</u>	<u>Jan.1, 2026 to</u> <u>Dec. 2026</u>	<u>Jan. 1, 2027 to</u> <u>Dec. 2027</u>	<u>Jan. 1, 2028 to</u> <u>Dec. 2028</u>
<u>\$BOD (Dollars</u> <u>per pound for</u> <u>excess BOD)</u>	<u>0.380</u>	<u>0.380</u>	<u>0.380</u>	<u>0.380</u>	<u>0.380</u>
<u>\$SS (Dollars</u> <u>per pound for</u> <u>excess SS)</u>	<u>0.190</u>	<u>0.190</u>	<u>0.190</u>	<u>0.190</u>	<u>0.190</u>
<u>MC (Dollars</u> <u>per Month)</u>	<u>421.73</u>	<u>442.82</u>	<u>464.96</u>	<u>488.21</u>	<u>512.62</u>

SECTION 3.

This Ordinance may be enforced as provided in Sections 16-7-80, 16-7-87, 16-7-92, 16-9-13, 16-7-41 and 16-7-92 of Title XVI of the Pueblo Municipal Code, as amended, the remedies therein stated being cumulative, with the exercise of any one or more not constituting any bar or limitation to the exercise of the other. Any person found guilty of a violation of this Ordinance shall be punished as provided in Section 1-2-1 of the Pueblo Municipal Code, as amended.

SECTION 4.

The Mayor is hereby authorized to execute said contract on behalf of Pueblo, A Colorado Municipal Corporation, and the Acting City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 5.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance and the attached agreement to effectuate the transactions described therein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

City of Pueblo

Wastewater Utility



WASTEWATER UTILITY RATE STUDY

DRAFT REPORT
May 2024

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FCS GROUP
Solutions-Oriented Consulting

May 17, 2024

Andra Ahrens

Director of Wastewater
City of Pueblo
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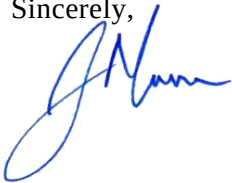
Subject: City of Pueblo Wastewater Rate & PIF Study

FCS GROUP is pleased to provide this Wastewater Rate Study Report documenting our analyses, findings, and recommendations for adjusting the City of Pueblo Wastewater (City) utility rates for 2024 through 2033.

This report encompasses much effort not only from FCS GROUP but also from you and your team. We are very thankful for the time and dedication put into the Study by City staff leadership without which we would not have been able to complete our work.

We followed standard wastewater rate-setting principles described by the Water Environment Federation in completing our engagement for the City. The report is a comprehensive but not exhaustive description of our analyses and findings.

Sincerely,



Jason Mumm
Principal

Table of Contents

Executive Summary	2
Introduction.....	2
Utility Background	2
Assumptions.....	3
Fiscal Policies	3
Fund Balances	5
Rate Study	6
Financial Plan Analysis	6
Operating Fund	6
Projected Performance and Affordability	11
Bill Impacts.....	12
Recommendation	12
Appendix	12
Table 1: Revenue Requirement (10-Year Forecast)	12
Table 2: Fund Balance (10-Year Forecast)	13
Table 3: Adopted and Proposed Rate Schedule	14

List of Tables

Table 1: Summary of Fiscal Policies	5
Table 2: Wastewater Utility Fund Cash Balances	5
Table 3: Financial Summary	10
Table 4: Key Performance Indicators.....	11

List of Exhibits

Exhibit 1: Revenue Requirement Overview	6
Exhibit 2: Existing and Proposed Debt Service Payments	7
Exhibit 3: Capital Funding Forecast	8
Exhibit 4: Revenue at Existing 2024 Rates	9
Exhibit 5: Revenue at Proposed Rates	10
Exhibit 6: Adopted and Proposed Monthly Wastewater Rates	12

EXECUTIVE SUMMARY

INTRODUCTION

In June of 2023, The City of Pueblo (City) engaged FCS GROUP to conduct a Wastewater Utility Financial Plan Study (Study) aimed at determining the necessary level of rate revenue required to cover annual operating expenses, existing and proposed debt service payments, and to fund the capital improvement program while ensuring the preservation of key financial performance metrics. The primary objectives of this Study were:

Update of Wastewater Financial Plan. The Study involved updating the wastewater financial plan for the ten years of 2024 through 2033.

Determination of Rate Adjustments. The Study set out to determine the appropriate wastewater rate adjustments from 2024 through 2033. We calculated these adjustments to generate sufficient revenue, sustain adequate cash reserves, and ensure adequate debt service coverage.

Assessment of Affordability. An essential aspect of the Study was the assessment of the affordability of the City's wastewater services. We based our assessment on the present median household income projected through 2033.

Evaluate Connection Fees. We evaluated the City's connection fees to ensure they remain equitable and consistent with the costs associated with new connections to its wastewater system. Based on this comprehensive assessment and discussions with City staff, we concluded that the connection fee inputs have not changed significantly enough to warrant adjusting the current fees. We recommend reviewing the fees in future studies to ensure they remain equitable and consistent with the evolving costs associated with new connections.

This executive summary report encapsulates our Study's assumptions, findings, and recommendations. For detailed calculations supporting these findings, please refer to the Appendix section of this report.

Utility Background

The City's sewer utility helps protect the public health and environment by safely and effectively collecting and treating wastewater from residential, commercial, and industrial customers. The City provides this service to approximately 112,848 wastewater customers.

The City's wastewater fund is financially self-sustaining, funding capital and operating expenses derived from user rates, plant investment fees, system development fees, interest income, and other miscellaneous sources. User rate revenue is designed to meet all operating costs, debt service coverage, and maintain adequate reserves. Revenue requirements include operations and maintenance (O&M), existing and proposed debt payments, and capital expenditures.

The City maintains a wastewater collection and treatment facility network, including over 456 miles of gravity piping, 7.6 miles of force mains, and nine lift stations. This infrastructure ensures the effective transportation and treatment of wastewater, essential for promoting the community's well-being and ensuring environmental sustainability.

Assumptions

The operating and maintenance expenditure forecast largely relies on the City's 2024 adopted budget for the Wastewater Utility. The line items in the budget are then adjusted each year by utilizing one of the following factors:

- Customer Growth – will remain consistent throughout the Study based on nominal historical growth rates provided by the City. The growth rate averages 0.51 percent throughout the study period.
- General Cost Inflation – assumed to be 4.5 percent in 2024, then holding 3.5 percent per year going forward starting in 2025. This forecast is based on the CPI-U West professional forecast for the Consumer Price Index.
- Construction Cost Inflation – assumed to be 4.5 percent in 2024, then holding 3.5 percent per year going forward starting in 2025. This forecast is based on the ENR Construction Cost Index for Denver.
- Labor Cost Inflation – assumed to be 3.0 percent in 2024, then holding at 2.75 percent per year going forward starting in 2025 based on the Employment Cost Index – Wages and Salaries, as well as discussions with City staff.
- Benefits Cost Inflation - assumed to be 3.25 percent per year based on the Employment Cost Index – Benefits and a discussion with City staff.
- Fund Interest Earnings – assumed to be 1.75 percent in 2024, then holding at 1.0 percent per year going forward starting in 2025 based on the ColoTrust Prime and discussions with City staff.
- Proposed Debt Service – based on a 3% annual interest rate, 20-year term, 0% issuance costs, and not debt service reserve.

Fiscal Policies

The basic framework for evaluating utility revenue needs includes sound fiscal policies. Several policy topics are important to consider as part of managing the finances of the wastewater utility, including Cash Reserves, Capital Funding, and Rate Funded System Reinvestment.

When evaluating fund reserve levels and objectives, it is important to recognize that the value of reserves lies in their potential use. A reserve strategy that deliberately avoids any use of reserves negates their purpose. The fluctuation of reserve levels may indicate that the system is working, while the lack of variation over many years strongly suggests that the reserves are, in fact, unnecessary.

Operating Reserves

An operating reserve provides a liquidity cushion; it protects the utility from the risk of short-term variation in the timing of revenue collection or payment of expenses. The most common operating reserve minimum balance target for wastewater utilities with monthly or bi-monthly billing is 45 to 60 days of operating expenses. The City's policy is to maintain a minimum reserve of 25% of annual operating expenditures (equivalent to 90 days), generally consistent with industry standards. FCS GROUP does not recommend a change to this policy.

Recommended Policy: Consistent with the City's existing policy, achieve a year-end minimum balance target of **90 days (25%)** of total annual operating expenditures. This equates to a target of roughly **\$3.02 million** based on 2024 budgeted expenditures totaling \$12.26 million.

Capital Reserve

This reserve provides emergency funding for unexpected asset failures or other unanticipated capital needs. This capital reserve policy does not guard against catastrophic system failure or extreme acts of nature. Minimum balances for capital reserves are often based on a percentage (commonly 1% to 2%) of the original cost of utility fixed assets or an amount determined sufficient to fund an emergency capital project or equipment failure.

Recommended Policy: A *minimum* capital ending fund balance target of **1% of fixed assets** (non-depreciated original cost of construction) is recommended. This equates to **\$2.09 million** in the 2024 test year based on a fixed asset inventory provided by City staff, totaling approximately \$162.36 million as of the end of 2022. Capital reserves larger than this may be prudent if the City is saving for future capital projects that cannot be funded with same-year rate revenue or existing reserves.

Debt Related Policies

As of 2023, the Utility maintains \$13.85 million in outstanding debt through SRF and revolving fund loans. Annual payments on this debt are scheduled through 2030, averaging \$1,638,719 annually during the forecast period. Based on discussions with staff, the City prefers that the wastewater utility continue to take on a hybrid approach, utilizing both cash and debt-funding capital projects during the ten-year forecast period covered by this Study.

Debt Reserve

A debt reserve is most often required as a condition of bond issuance, though some loan programs also require one. The reserve intends to protect bondholders (or the agency issuing loans) from the risk of the borrower defaulting on their payments by causing the issuer to deposit funds into a restricted account used only to satisfy the reserve requirement. Once the debt is repaid, the bondholders release the reserve requirement, and the funds are then available for normal use. It is most often equal to the average or maximum annual debt service.

Recommended Policy: The policy should be dictated by terms outlined in contracts for debt obligations.

Debt Service Coverage

Debt service coverage is typically a requirement associated with revenue bonds, and it is an important benchmark to measure the riskiness of a utility's capital funding plans. It represents a margin, expressed as a multiple of the annual debt service, meant to increase the likelihood of timely repayment. A common debt service coverage ratio is 1.25x, meaning net operating revenue (gross revenue less operations and maintenance expenses) is 125% of the debt service payment for the year.

Recommended Policy: While 1.10 or 1.25 are common legal minimum coverage ratios for revenue bonds, FCS GROUP recommends a more conservative internal policy coverage target of at least 1.50 should the wastewater utility choose to utilize debt in the future.

Table 1 summarizes the recommended fiscal policies for the wastewater utility.

Table 1: Summary of Fiscal Policies

Policy	Recommended Target
Operating Reserve	25% of operating expenditures
Capital Reserve	A minimum of 1% of the original cost of fixed assets
Debt Service Coverage	If issued, an internal policy target of at least 1.50

Fund Balances

At the beginning of 2023, the cash and investments balance for the wastewater fund was \$63.9 million. The City internally distinguishes between operating, capital, and debt reserve funds, as shown in **Table 2**.

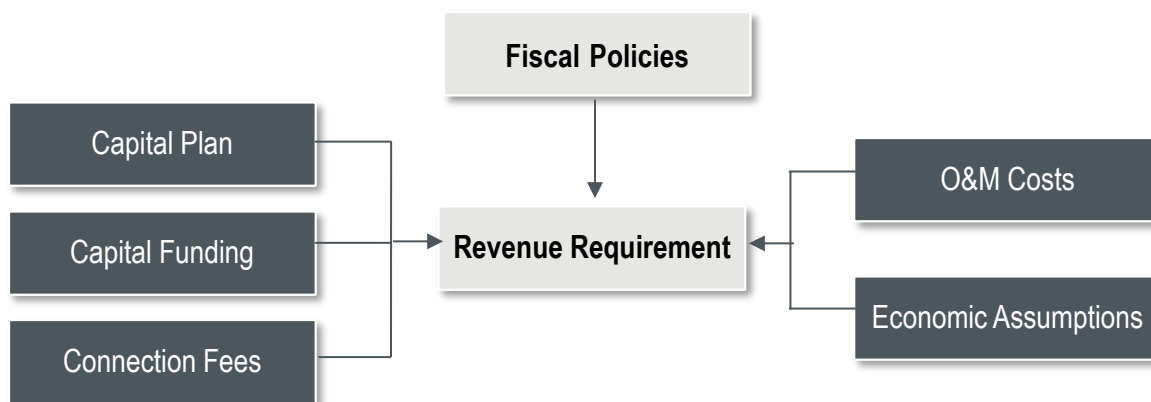
Table 2: Wastewater Utility Fund Cash Balances

Description	Beginning 2023 Cash Balances
Operating Reserve	\$12,256,827
Capital Reserve	37,948,668
Debt Reserve	13,674,364
Total Beginning Cash January 1, 2023	\$63,879,859

Rate Study

The main purpose of this rate study is to develop a funding plan (“revenue requirement”) for the City’s wastewater utility. The revenue requirement identifies the total revenue needed to fully fund the utility on a standalone basis considering operating and maintenance expenditures, fiscal policy achievement, and the capital project needs of the wastewater utility.

Exhibit 1: Revenue Requirement Overview



FINANCIAL PLAN ANALYSIS

Operating Fund

The operating fund monitors the financial operations linked to the maintenance of the wastewater system and supports the capital improvement program. As of the beginning of 2023, the Utility's initial fund balance stands at \$63.9 million.

Sources of Funds

The main source of operating fund revenue comes from wastewater rates, which account for nearly 98 percent of the total operating fund revenue. The remaining 2 percent is from interest earnings and other non-rate revenue streams.

Revenue Requirements

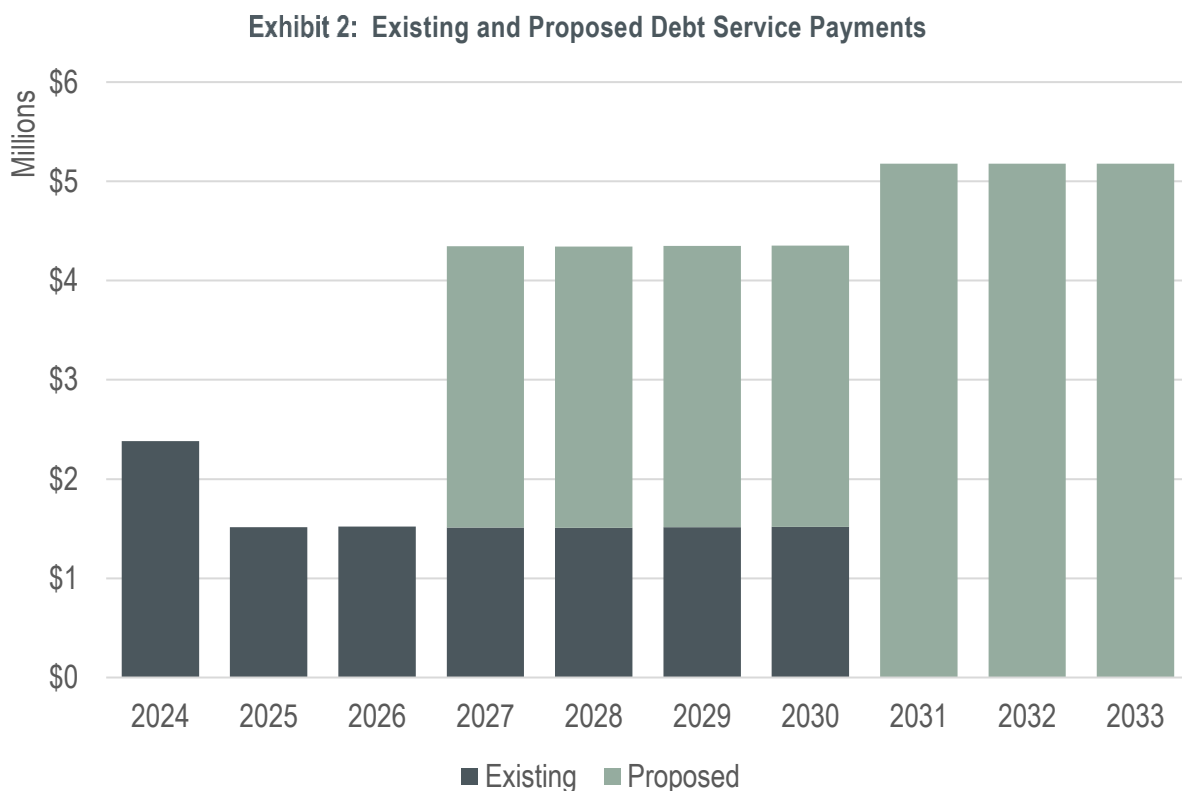
Appendix Table 1 summarizes the Operation and Maintenance (O&M) expenses. These costs cover personnel salaries, materials, supplies, and contractual services essential for the regular wastewater collection, treatment, and disposal activities. The assumptions section above provides context for the annual inflation rates, derived from historical patterns and consistently applied across the study duration. Furthermore, the Study incorporates routine capital enhancements, including investments in

equipment, fixtures, and the expansion of the vehicle fleet. Commencing in 2024 at \$12.3 million, the combined operating expenses escalate to \$15.7 million by 2033.

Exhibit 2 below outlines existing and proposed annual debt service payments for the capital program, encompassing principal, interest, and administrative fees. The debts pertain to various series, including Series 2003, 2009, 2010, 2012, and 2014 SRF loans and upcoming SRF loans. Below, we detail future debt series issuance, highlighting major debt issues and associated capital projects.

- 2025 Debt Series of \$39 million
 - Secondary Clarifier Mechanism Replacement
- 2029 Debt Series of \$32.2 million
 - Gravity Thickener / Fermenter
 - Tertiary Process for Regulation 31

The City's debt service payments are expected to peak at \$5.36 million in 2029, decreasing with the repayment of the older debts. See Exhibit 2 below for a visual representation of existing and proposed debt services from 2024 to 2033.

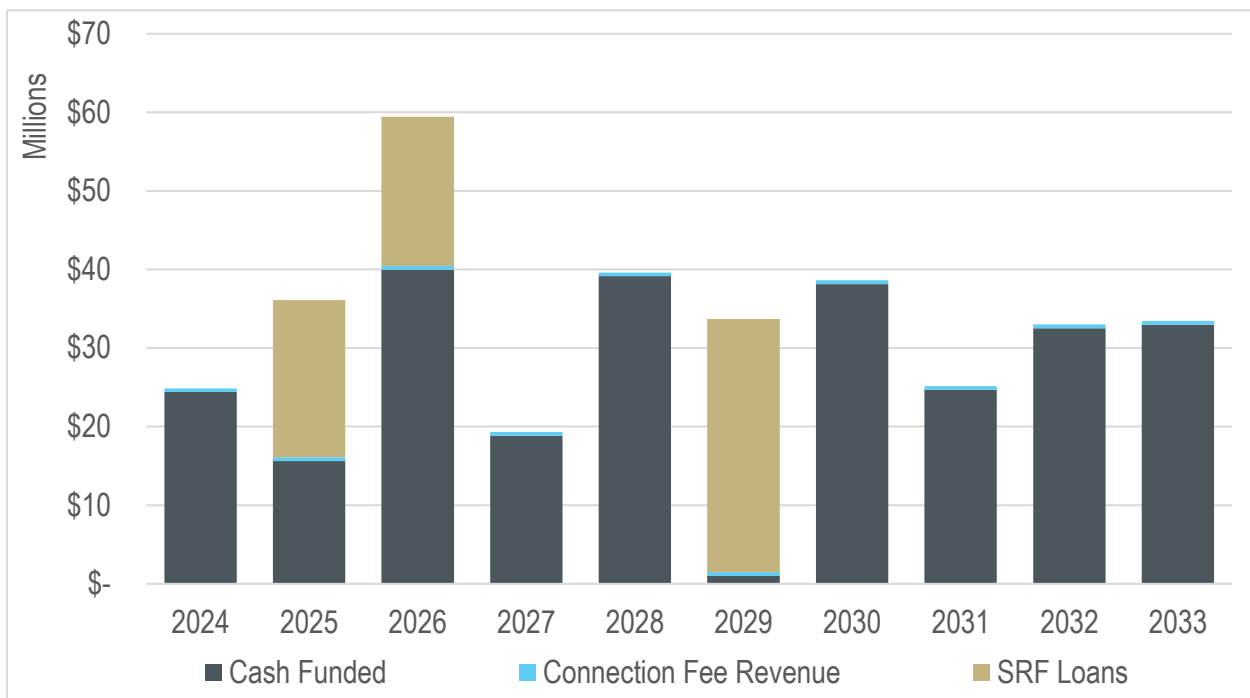


In **Exhibit 3** below, the Wastewater CIP outlines \$343.3 million in forecasted capital spending. Funding sources include \$267.4 million from rate revenue and reserves, \$4.8 million from connection fees, and \$71.2 million from State Revolving Fund loans. To address challenges like aging

infrastructure and inflation, we recommend maintaining reserve levels at 1% of net plant assets, starting at \$2.1 million and increasing to \$5.3 million by the end of the forecast period. These funds are crucial for addressing the following issues:

- Repair and replace aging infrastructure.
- Enhance nutrient removal systems to comply with permit regulations.
- Implement yearly rehabilitation initiatives for the Water Reclamation Facility's electrical systems.

Exhibit 3: Capital Funding Forecast

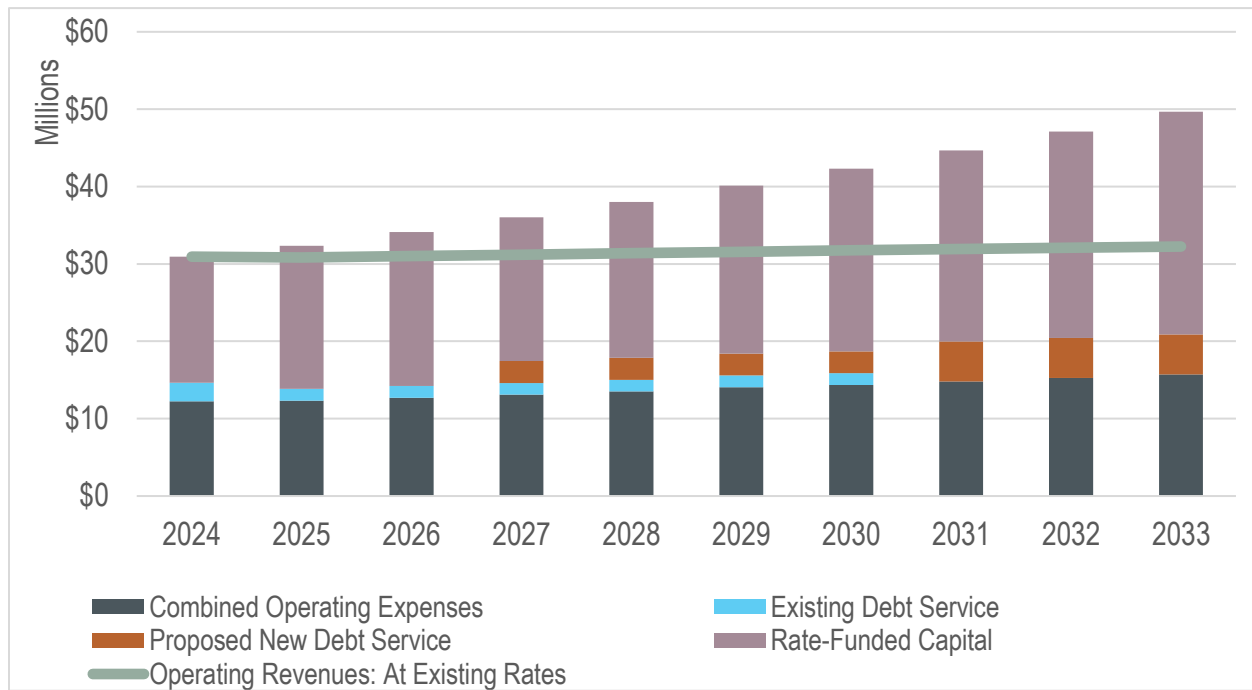


Indicated Revenue Adjustments

Revenue under existing 2024 rates is insufficient to meet the sum of annual O&M, debt service, and funding of capital projects, let alone maintaining appropriate reserve levels coverage requirements.

Exhibit 4 demonstrates the projected costs vs. the expected revenue from the existing wastewater rates.

Exhibit 4: Revenue at Existing 2024 Rates



To meet its obligations, the City should initiate rate increases of 5.0% starting in 2025 and continuing until at least 2033. **Exhibit 5** visually represents the revenue adequacy at the proposed rates for the study period between 2024 and 2033.

Exhibit 5: Revenue at Proposed Rates

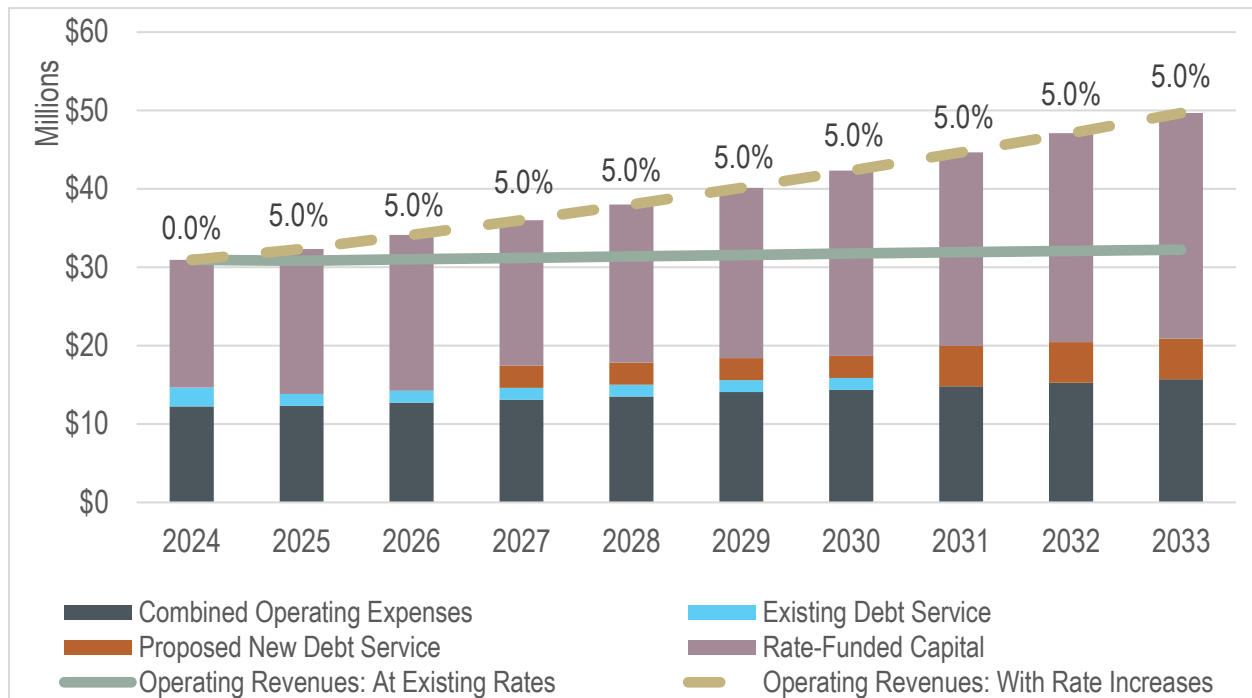


Table 3 summarizes the revenues and revenue requirements in the financial plan for 2025 to 2029, incorporating the recommended rate increases. Appendix Table 1 includes a detailed analysis of the financial plan and related calculations.

Table 3: Financial Summary

Revenue Requirement	2025	2026	2027	2028	2029
Operating Revenues	\$32,339,536	\$34,131,950	\$36,022,117	\$38,014,734	\$40,115,366
O&M Expenses	\$12,339,818	\$12,718,886	\$13,109,773	\$13,512,853	\$14,066,035
Debt Service	\$1,515,927	\$1,522,643	\$4,346,938	\$4,342,734	\$4,350,275
Cash-Funded Capital	\$18,483,791	\$19,890,421	\$18,565,406	\$20,159,147	\$21,699,056
Total Expenditures	\$32,339,536	\$34,131,950	\$36,022,117	\$38,014,734	\$40,115,366
Annual Surplus/(Deficiency)	-	-	-	-	-
Revenue Increase	5.0%	5.0%	5.0%	5.0%	5.0%

Projected Performance and Affordability

In 2021, the City's Median Household Income (MHI) was \$46,766¹, equivalent to \$51,116 in current-day dollars². The current average residential wastewater bill is approximately \$56,204 for a 5/8-inch water meter and 4,000 gallons per month. The median residential stormwater bill is \$5.36 in 2024. The City bills wastewater and stormwater together.

Table 4 outlines key performance indicators and affordability data for 2025-2029. Our projections confirm that the City can maintain reserve levels and debt service coverage throughout the forecast. Compliance with CWRPDA loan covenants includes three months' O&M reserves and 110% debt service coverage (1.10x); our forecast shows the City should meet both requirements. In addition, the City plans to use a substantial portion of its cash reserves to fund upcoming capital projects, reducing the need for rate increases. The calculations for the metrics outlined in Table 2 are as follows:

- Debt Service Coverage (Net Revenues Available for Debt Service / Total Debt Service),
- Days Cash on Hand (Unrestricted Cash / O&M Expenses * 365 days),
- MHI Indicator (Total Monthly Bill / (Annual Median Household / 12 Months)).

Table 4: Key Performance Indicators

Residential Indicator	2025	2026	2027	2028	2029
Total Monthly Utility Bill	\$58.78	\$61.46	\$64.26	\$67.20	\$70.30
Annual MHI	\$52,598	\$54,124	\$55,693	\$57,308	\$58,970
Percent of MHI	1.34%	1.36%	1.38%	1.41%	1.43%
Debt Service Coverage	2025	2026	2027	2028	2029
Net Revenues	\$18,483,791	\$19,890,421	\$18,565,406	\$20,159,147	\$21,699,056
Debt Service	\$1,515,927	\$1,522,643	\$4,346,938	\$4,342,734	\$4,350,275
Debt Service Coverage	12.19	13.06	4.27	4.64	4.99
Operating Reserve	2025	2026	2027	2028	2029
Operating Reserve (days)	90	90	90	90	90
Operating Reserve \$	\$3,042,695	\$3,136,164	\$3,232,547	\$3,331,936	\$3,468,337

¹ Source: <https://www.census.gov/quickfacts/fact/table/pueblocitycolorado/INC110221#INC110221>

² Adjusted by historical Employment Cost Index (ECI) – Wages and Salaries provided by the U.S. Bureau of Labor Statistics, <https://www.bls.gov/eci/home.htm>

Bill Impacts

Proposed Rates

FCS GROUP recommends future rate increases of 5.0% in 2025 through at least 2033 to meet the City's currently defined financial obligations. **Exhibit 6** shows the existing adopted 2024 rates and the proposed rates through 2028. See Appendix Table 3 for the complete 2024 through 2033 adopted and proposed rates schedule.

Exhibit 6: Adopted and Proposed Monthly Wastewater Rates

Across-the-Board Rate Schedule	Adopted 2024	Proposed 2025	Proposed 2026	Proposed 2027	Proposed 2028
Annual System-Wide Rate Increase	3.00%	5.00%	5.00%	5.00%	5.00%
Fixed Monthly charge by Meter Size					
3/4"	\$26.32	\$27.64	\$29.02	\$30.47	\$31.99
1"	\$31.31	\$32.88	\$34.52	\$36.25	\$38.06
1 1/2"	\$47.13	\$49.49	\$51.96	\$54.56	\$57.29
2"	\$70.39	\$73.91	\$77.60	\$81.49	\$85.56
3"	\$125.33	\$131.60	\$138.18	\$145.09	\$152.34
4"	\$183.84	\$193.03	\$202.68	\$212.82	\$223.46
6"	\$301.01	\$316.06	\$331.86	\$348.46	\$365.88
8"	\$399.07	\$419.02	\$439.97	\$461.97	\$485.07
Volume Charge: per kgal of water usage					
Non-Industrial Use	\$6.14	\$6.45	\$6.77	\$7.11	\$7.46
Industrial Use	\$6.14	\$6.45	\$6.77	\$7.11	\$7.46
Blende Sanitation District Non-Industrial Use	\$4.87	\$5.11	\$5.37	\$5.64	\$5.92
Blende Sanitation District Industrial Use	\$4.87	\$5.11	\$5.37	\$5.64	\$5.92
Septic Haulers	\$84.15	\$88.36	\$92.78	\$97.41	\$102.28
Excessive Strength Surcharge (\$ / lb)					
BOD ⁽¹⁾	\$0.38	\$0.40	\$0.42	\$0.44	\$0.46
TSS ⁽²⁾	\$0.19	\$0.20	\$0.21	\$0.22	\$0.23
Monitoring Charge (\$ / bill)					
All Excessive Strength Customers	\$421.73	\$442.82	\$464.96	\$488.21	\$512.62

(1) Applicable to strength concentrations in excess of 225 milligrams per liter of Biological Oxygen Demand (BOD)

(2) Applicable to strength concentrations in excess of 200 milligrams per liter of Total Suspended Solids (TSS)

Recommendation

Regular updates to the financial plan are essential to account for shifts in customer growth, volume sales, operating expenses, capital improvement needs, capital financing requirements, inflation, regulatory mandates, and other external influences. These updates provide valuable insights for determining necessary rate adjustments in response to these variables.

While indices like the Consumer Price Index (CPI) offer a general measure of inflation, wastewater costs are influenced by specific factors not fully accounted for by the CPI, such as regulatory changes, infrastructure maintenance, energy costs, and chemical expenses. Consequently, it is crucial for the City to regularly review its wastewater utility financial plan to recognize and address these nuanced factors.

APPENDIX

Table 1: Revenue Requirement (10-Year Forecast)

Revenue Requirement	Budget		Projected							
	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Revenues										
Rate Revenues Under Existing Rates	\$ 30,121,475	\$ 30,198,783	\$ 30,386,345	\$ 30,571,366	\$ 30,754,124	\$ 30,934,764	\$ 31,111,989	\$ 31,284,804	\$ 31,451,037	\$ 31,610,513
Non-Rate Revenues	<u>808,568</u>	<u>630,814</u>	<u>631,005</u>	<u>631,940</u>	<u>632,903</u>	<u>633,897</u>	<u>635,261</u>	<u>635,979</u>	<u>613,252</u>	<u>614,376</u>
Total Revenues	\$ 30,930,043	\$ 30,829,597	\$ 31,017,350	\$ 31,203,305	\$ 31,387,028	\$ 31,568,662	\$ 31,747,251	\$ 31,920,783	\$ 32,064,289	\$ 32,224,889
Expenses										
Cash Operating Expenses	\$ 12,262,275	\$ 12,339,818	\$ 12,718,886	\$ 13,109,773	\$ 13,512,853	\$ 14,066,035	\$ 14,357,150	\$ 14,799,175	\$ 15,255,013	\$ 15,725,102
Existing Debt Service	2,381,695	1,515,927	1,522,643	1,511,299	1,507,095	1,514,636	1,517,739	-	-	-
New Debt Service	-	-	-	2,835,639	2,835,639	2,835,639	2,835,639	5,178,219	5,178,219	5,178,219
System Reinvestment Funding	-	-	-	-	-	-	-	-	-	-
Additions Required to Meet Reserves	-	-	-	-	-	-	-	-	-	-
Total Expenses	\$ 14,643,970	\$ 13,855,745	\$ 14,241,529	\$ 17,456,711	\$ 17,855,587	\$ 18,416,310	\$ 18,710,527	\$ 19,977,394	\$ 20,433,232	\$ 20,903,320
Net Surplus (Deficiency)	\$ 16,286,074	\$ 16,973,852	\$ 16,775,821	\$ 13,746,594	\$ 13,531,441	\$ 13,152,351	\$ 13,036,723	\$ 11,943,389	\$ 11,631,058	\$ 11,321,569
Additions to Meet Coverage	-	-	-	-	-	-	-	-	-	-
Total Surplus (Deficiency)	\$ 16,286,074	\$ 16,973,852	\$ 16,775,821	\$ 13,746,594	\$ 13,531,441	\$ 13,152,351	\$ 13,036,723	\$ 11,943,389	\$ 11,631,058	\$ 11,321,569
Annual Rate Increase	0.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%
Cumulative Rate Increase	0.00%	5.00%	10.25%	15.76%	21.55%	27.63%	34.01%	40.71%	47.75%	55.13%
Rate Revenues After Increases	\$ 30,121,475	\$ 31,708,723	\$ 33,500,945	\$ 35,390,177	\$ 37,381,830	\$ 39,481,469	\$ 41,693,041	\$ 44,020,861	\$ 46,467,506	\$ 49,038,281
Additional Taxes from Rate Increase	-	-	-	-	-	-	-	-	-	-
Non-Rate Revenues	<u>808,568</u>	<u>630,814</u>	<u>631,005</u>	<u>631,940</u>	<u>632,903</u>	<u>633,897</u>	<u>635,261</u>	<u>635,979</u>	<u>613,252</u>	<u>614,376</u>
Total Operating Revenues After Rate Increases	\$ 30,930,043	\$ 32,339,536	\$ 34,131,950	\$ 36,022,117	\$ 38,014,734	\$ 40,115,366	\$ 42,328,303	\$ 44,656,840	\$ 47,080,758	\$ 49,652,657
Net Cash Flow After Rate Increase	\$ 16,286,074	\$ 18,483,791	\$ 19,890,421	\$ 18,565,406	\$ 20,159,147	\$ 21,699,056	\$ 23,617,775	\$ 24,679,446	\$ 26,647,526	\$ 28,749,337

Table 2: Fund Balance (10-Year Forecast)

	Budget		Projected							
Fund Balance	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033
Operating Reserve										
Beginning Balance	\$ 2,857,290	\$ 3,023,575	\$ 3,042,695	\$ 3,136,164	\$ 3,232,547	\$ 3,331,936	\$ 3,468,337	\$ 3,540,119	\$ 3,649,112	\$ 3,761,510
Net Cash Flow After Rate Increase	16,286,074	18,483,791	19,890,421	18,565,406	20,159,147	21,699,056	23,617,775	24,679,446	26,647,526	28,749,337
less: Transfer of Surplus to Capital Fund	(24,126,945)	(18,464,671)	(19,796,952)	(18,469,023)	(20,059,757)	(21,562,655)	(23,545,994)	(26,952,148)	(26,535,128)	(28,633,424)
Ending Balance	\$ 3,023,575	\$ 3,042,695	\$ 3,136,164	\$ 3,232,547	\$ 3,331,936	\$ 3,468,337	\$ 3,540,119	\$ 3,649,112	\$ 3,761,510	\$ 3,877,422
Actual Days of O&M	90 days	90 days	90 days	90 days	90 days	90 days	90 days	90 days	90 days	90 days
Minimum Balance Requirement	\$ 3,023,575	\$ 3,042,695	\$ 3,136,164	\$ 3,232,547	\$ 3,331,936	\$ 3,468,337	\$ 3,540,119	\$ 3,649,112	\$ 3,761,510	\$ 3,877,422
Maximum Balance Requirement	\$ 3,023,575	\$ 3,042,695	\$ 3,136,164	\$ 3,232,547	\$ 3,331,936	\$ 3,468,337	\$ 3,540,119	\$ 3,649,112	\$ 3,761,510	\$ 3,877,422
Capital Reserve										
Beginning Balance	\$ 41,849,749	\$ 42,295,922	\$ 64,536,918	\$ 26,019,245	\$ 25,912,488	\$ 7,086,027	\$ 27,703,263	\$ 13,387,235	\$ 15,790,858	\$ 9,951,185
plus: System Reinvestment Funding	-	-	-	-	-	-	-	-	-	-
plus: Transfers from Operating Fund	24,126,945	18,464,671	19,796,952	18,469,023	20,059,757	21,562,655	23,545,994	26,952,148	26,535,128	28,633,424
plus: Capital Grants / Other Resources	-	-	-	-	-	-	-	-	-	-
plus: SCF Revenue	309,868	310,663	312,593	314,496	316,376	318,234	320,057	321,835	323,545	325,186
plus: Plant Investment Revenue	156,096	156,497	157,469	158,428	159,375	160,311	161,229	162,125	162,986	163,813
plus: Revenue Bond Proceeds	-	-	-	-	-	-	-	-	-	-
plus: SRF Loan Proceeds	-	39,000,000	-	-	-	32,218,697	-	-	-	-
plus: Other Loans 2 Proceeds	-	-	-	-	-	-	-	-	-	-
plus: Other Loans 3 Proceeds	-	-	-	-	-	-	-	-	-	-
plus: Interest Earnings	732,371	422,959	645,369	260,192	259,125	70,860	277,033	133,872	157,909	99,512
Total Funding Sources	\$ 67,175,029	\$ 100,650,712	\$ 85,449,301	\$ 45,221,383	\$ 46,707,121	\$ 61,416,784	\$ 52,007,576	\$ 40,957,216	\$ 42,970,426	\$ 39,173,119
less: Capital Expenditures	(24,879,107)	(36,113,793)	(59,430,056)	(19,308,895)	(39,621,094)	(33,713,521)	(38,620,341)	(25,166,359)	(33,019,241)	(33,473,507)
Ending Capital Fund Balance	\$ 42,295,922	\$ 64,536,918	\$ 26,019,245	\$ 25,912,488	\$ 7,086,027	\$ 27,703,263	\$ 13,387,235	\$ 15,790,858	\$ 9,951,185	\$ 5,699,612
Minimum Target Balance	\$ 2,092,895	\$ 2,454,033	\$ 3,048,334	\$ 3,241,423	\$ 3,637,634	\$ 3,974,769	\$ 4,360,972	\$ 4,612,636	\$ 4,942,828	\$ 5,277,563
Combined Beginning Balance	\$ 44,707,039	\$ 45,319,497	\$ 67,579,613	\$ 29,155,409	\$ 29,145,035	\$ 10,417,963	\$ 31,171,601	\$ 16,927,355	\$ 19,439,969	\$ 13,712,695
Combined Ending Balance	\$ 45,319,497	\$ 67,579,613	\$ 29,155,409	\$ 29,145,035	\$ 10,417,963	\$ 31,171,601	\$ 16,927,355	\$ 19,439,969	\$ 13,712,695	\$ 9,577,035
Ending Total Days of Operating Expenditures	1,349 days	1,999 days	837 days	811 days	281 days	809 days	430 days	479 days	328 days	222 days
Combined Minimum Target Balance	5,116,470	5,496,728	6,184,497	6,473,970	6,969,570	7,443,106	7,901,091	8,261,748	8,704,338	9,154,986

Table 3: Adopted and Proposed Rate Schedule

Across-the-Board Rate Schedule	Previous 2022	Existing 2023	Adopted 2024	Proposed 2025	Proposed 2026	Proposed 2027	Proposed 2028	Proposed 2029	Proposed 2030	Proposed 2031	Proposed 2032	Proposed 2033
Annual System-Wide Rate Increase			3.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%	5.00%
Fixed Monthly charge by Meter Size												
3/4"	\$24.34	\$25.56	\$26.32	\$27.64	\$29.02	\$30.47	\$31.99	\$33.59	\$35.27	\$37.03	\$38.89	\$40.83
1"	\$28.95	\$30.40	\$31.31	\$32.88	\$34.52	\$36.25	\$38.06	\$39.96	\$41.96	\$44.06	\$46.26	\$48.57
1 1/2"	\$43.58	\$45.76	\$47.13	\$49.49	\$51.96	\$54.56	\$57.29	\$60.15	\$63.16	\$66.32	\$69.63	\$73.11
2"	\$65.09	\$68.34	\$70.39	\$73.91	\$77.60	\$81.49	\$85.56	\$89.84	\$94.33	\$99.05	\$104.00	\$109.20
3"	\$115.89	\$121.68	\$125.33	\$131.60	\$138.18	\$145.09	\$152.34	\$159.96	\$167.95	\$176.35	\$185.17	\$194.43
4"	\$169.98	\$178.48	\$183.84	\$193.03	\$202.68	\$212.82	\$223.46	\$234.63	\$246.36	\$258.68	\$271.62	\$285.20
6"	\$278.32	\$292.24	\$301.01	\$316.06	\$331.86	\$348.46	\$365.88	\$384.17	\$403.38	\$423.55	\$444.73	\$466.97
8"	\$369.00	\$387.45	\$399.07	\$419.02	\$439.97	\$461.97	\$485.07	\$509.33	\$534.79	\$561.53	\$589.61	\$619.09
Volume Charge: per kgal of water usage												
Non-Industrial Use	\$5.67	\$5.96	\$6.14	\$6.45	\$6.77	\$7.11	\$7.46	\$7.84	\$8.23	\$8.64	\$9.07	\$9.53
Industrial Use	\$5.67	\$5.96	\$6.14	\$6.45	\$6.77	\$7.11	\$7.46	\$7.84	\$8.23	\$8.64	\$9.07	\$9.53
Blende Sanitation District Non-Industrial Use	\$4.51	\$4.73	\$4.87	\$5.11	\$5.37	\$5.64	\$5.92	\$6.22	\$6.53	\$6.85	\$7.20	\$7.55
Blende Sanitation District Industrial Use	\$4.51	\$4.73	\$4.87	\$5.11	\$5.37	\$5.64	\$5.92	\$6.22	\$6.53	\$6.85	\$7.20	\$7.55
Septic Haulers	\$77.81	\$81.70	\$84.15	\$88.36	\$92.78	\$97.41	\$102.28	\$107.40	\$112.77	\$118.41	\$124.33	\$130.54
Excessive Strength Surcharge (\$ / lb)												
BOD ⁽¹⁾	\$0.38	\$0.38	\$0.38	\$0.40	\$0.42	\$0.44	\$0.46	\$0.48	\$0.51	\$0.53	\$0.56	\$0.59
TSS ⁽²⁾	\$0.19	\$0.19	\$0.19	\$0.20	\$0.21	\$0.22	\$0.23	\$0.24	\$0.25	\$0.27	\$0.28	\$0.29
Monitoring Charge (\$ / bill)												
All Excessive Strength Customers	\$389.95	\$409.45	\$421.73	\$442.82	\$464.96	\$488.21	\$512.62	\$538.25	\$565.16	\$593.42	\$623.09	\$654.24

(1) Applicable to strength concentrations in excess of 225 milligrams per liter of Biological Oxygen Demand (BOD)

(2) Applicable to strength concentrations in excess of 200 milligrams per liter of Total Suspended Solids (TSS)



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

SUMMARY:

Attached is a proposed Ordinance which amends Title IX, Chapters 1 and 5 of the Pueblo Municipal Code to update and revise the business licensing application and appeal process and amend the Lodging Facility licensing requirements.

PREVIOUS COUNCIL ACTION:

Section 3-13 of the Pueblo City Charter allows for the issuance, suspension or revocation of licenses and permits and fees therefor, for regulatory or revenue purposes. The licensing code is codified in Title IX of the Pueblo Municipal Code. Chapter 1 of Title IX was enacted in or about 1974. The current hotels, lodging houses and boarding houses licensing requirements were established by Charter in Chapter 5 of Title IX, Pueblo Municipal Code with various amendments by way of Ordinance.

BACKGROUND:

Title IX of the Pueblo Municipal Code governs the licensing of businesses within the City of Pueblo. Each Chapter of the Title generally concerns a separate type of license. Portions of the code are confusing and outdated. By amending Chapter 1 of Title IX, the City seeks to create more consistent standards for the application and appeal process. The revision also seeks to provide more specific and consistent qualifications and standards.

The amendments to Chapter 5 of Title IX will include short-term rentals in the definition of Lodging Facilities and require owners of short-term rentals to obtain a Lodging

Facility license. This will allow the City to regulate this growing area of the market. In addition, the amendments address the City's concerns regarding substandard conditions and criminal activity in and around Lodging Facilities within the City.

FINANCIAL IMPLICATIONS:

The amendment increases annual license fees and delinquent fees.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

A "no action" alternative would maintain the *status quo*.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. FINAL - Ordinance - Title IX Chapter 1 and Chapter 5

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTERS 1 AND 5 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE TO UPDATE AND REVISE THE BUSINESS LICENSING APPLICATION AND APPEAL PROCESS, AMEND THE LODGING FACILITY LICENSING REQUIREMENTS, AND PROVIDE PENALTIES FOR VIOLATION THEREOF

WHEREAS, City Council of the City of Pueblo desires to update and clarify the business licensing application, approval and appeal process in general;

WHEREAS, City Council of the City of Pueblo desires to regulate short-term rentals by requiring they be licensed as Lodging Facilities;

WHEREAS, City Council of the City of Pueblo desires to address increasing calls for service to the Pueblo Police Department regarding various incidents occurring at hotels and motels within the City;

WHEREAS, City Council determines that establishing a lodging facility licensing program is the most practical and efficient method to address the foregoing issues. NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Title IX, Chapter 1 of the Pueblo Municipal Code is hereby amended as follows:

Section 9-1-1 Definitions.

For the purposes of this Code, in all matters relating to the licensing of any business, the following definitions shall be observed:

(1) “Business” shall include all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in this City, or anywhere else within its jurisdiction.

(2) “City License Officer” or “License Officer” shall mean the City of Pueblo’s Director of Finance, or his or her designee [of the City], except as to Building Trades Licenses, Title IV, Chapter 1, where said officer shall be the Building Official or appropriate Board [Chief Building Inspector]. The License Officer, or his or her designee, shall have and is vest with the authority to grant or deny licenses; conduct investigations and inspections; and suspend or revoke licenses for cause.

(3) “Insignia”, or its singular number insigne, shall mean any tag, plate, badge, emblem, sticker or any other kind of device which may be required for any use in connection with any license.

(4) [License or licensee, as used generally herein, shall include respectively the words

permit or permittee, and certificate or certificate holder or the holder for any use or period of time of any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.] **“Inspector” means any person designated by the City License Officer, Police Chief, Fire Chief, Region Building Department Building Official, or the Director of the City-County Health Department to act as an inspector who shall perform the inspection duties set forth in this Title for that department and such other duties as each may reasonably direct.**

(5) [Premises is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any business, and any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.] **“License” means the license required pursuant to this Title and as used generally herein, shall include respectively the words permit, certificate, use, or any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(6) [Appropriate licensing board shall mean any one (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.] **“Licensee” means the individual or entity to which a license is granted under this Title and as used generally herein, shall include respectively the words permittee, certificate holder, or holder for any use or period of time any similar privilege, wherever relevant to any provisions of this Code or other law or ordinance.**

(7) **“Appropriate licensing board” shall mean any one (1) of several boards each created by a specific provision of this Code and authorized to examine applicants to ascertain their qualifications, competency and fitness to perform the work for which such applicants seek to be licensed.**

(8) **“Premises” is meant to include all lands, structures, places, the equipment and appurtenances connected or used therewith in any business, and any personal property which is either affixed to or is otherwise used in connection with any Licensee or Licensed Business conducted on such premises.**

(9) **“PPD” means and refers to the City of Pueblo Police Department.**

(10) **“Manager” means the person who manages, directs, supervises, oversees, or administers the acts and transactions of, and the acts of employees of, a Licensee, Licensed Business, or Licensed Premises.**

(11) **“Person” means an individual, firm, association, partnership, company, sole proprietorship, corporation or similar entity.**

(12) **“Hearings Officer” means the Municipal Court Judge or such other person as the Director of Finance may designate to hear appeals under this Title.**

Sec. 9-1-2 – Application.

. . .

(d) Agents Responsible for Obtaining License. The agents, **Managers**, or other representatives of nonresidents **of the City** who are doing business in the City shall be personally responsible for the compliance **with this Code** of their principals and of the businesses they

represent [with this Code].

. . .

Sec. 9-1-3 – City License Officer.

(a) Issue Licenses. The License Officer shall collect all license fees and shall issue licenses in the name of the City to all persons qualified under the provisions of this Title or other portions of this Code and shall:

(1) Make Rules **and Penalties.** Promulgate and enforce all reasonable rules and regulations **and adopt reasonably civil penalties, in conformity with applicable statutes, ordinances, and Charter,** necessary to the operation and enforcement of this Title.

(2) Adopt Forms **and Process.** Adopt all forms and prescribe the information given therein as to character and other relevant **information** [matter for all necessary papers] **for the applicable license requested. The License Officer may require all forms to be submitted on-line via the City's approved process.**

(3) Require Affidavits. Require applicants to submit all affidavits and oaths necessary to the administration of this **Title** [Chapter], or other appropriate portions of this Code.

(4) Obtain Endorsement. Submit all applications, in a proper case, to appropriate City, **County, or State** officials for their endorsements thereon as to compliance by the applicant with all City, **County, or State** regulations which they have the duty of enforcing. Similarly, in all cases where an examination as to competence and ability is a prerequisite, to submit all such applications to the appropriate **City, County, or State officials or** licensing board for examination and endorsement on the application of the results of such examination, whether qualified or not qualified. And similarly, where the issuance of a license is within the discretion of the City Council, the Licensing Officer shall submit the application to the City Council for action with the endorsement or report of appropriate City, **County, or State** officials **or licensing board** as to compliance with applicable City regulations or such **other** investigation of character **or qualifications** as may be required.

(5) Investigation. Investigate and determine the eligibility of any applicant for a license as prescribed herein. **The License Officer may request an inspection of the License Premises by an Inspector if he or she determines an inspection is necessary to determine the applicant's eligibility for the license requested.**

(6) Examine Records. Examine the books and records of any applicant or licensee when reasonably necessary to the administration and enforcement of this Title, or other portions of this Code.

(7) [Give Notice. Notify any applicant of the acceptance or rejection of his or her application and, upon his or her refusal of any license or permit, at the applicant's request, state in writing the reasons therefor and deliver them to the applicant.]

. . .

Sec. 9-1-5 – Qualifications of Applicants.

General Standards to be Applied. The general standards set out in this Section relative to the qualifications of every applicant for a City License shall be considered and applied by the License Officer **together with any additional standards set forth in subsequent Chapters and required for a specific License.** The applicant shall **in general:**

(1) Good Moral Character. Be of good moral character. In making such determination, the City License Officer shall consider:

. . .

Sec. 9-1-6. – Procedure for Application; Approval or Denial [issuance of license].

(a) Formal Application Required. Every person required to procure a license under the provisions of this Code or any ordinance or law of the City shall submit an application for such license to the License Officer **on forms provided by, and pursuant to the process adopted by the License Officer.**

(1) Form. Be a statement upon forms provided by the License Officer. **Every license application shall be complete in every detail. If any application is deposited with the License Officer and found, upon examination, to contain any omission or error, it may be returned to the applicant for completion and correction without further action by the License Officer.** Any false statement knowingly made on any application shall be grounds for rejection of such application or revocation of any license issued upon the basis of the false statement.

(2) Contents. Require the disclosure of all information necessary to comply with Section 9-1-5 and of any other information which any applicable provision of this Code or law shall require or which the License Officer shall find to be reasonably necessary to the fair administration of this Title. **No application shall be deemed complete unless accompanied by the following:**

a. If the applicant is:

i. An individual, the individual shall state his or her legal name and any aliases;

ii. A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;

iii. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process; or

iv. A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company is in good standing under the statutes of the State of Colorado, or in

the case of a foreign company, evidence that it is currently authorized to do business in the State of Colorado, the name of the manager, and the name of the registered agent and the address of the registered office for service of process.

b. If the application is for renewal of a license, the application must be filed no later than forty-five (45) days prior to the date upon which the license expires, unless extended by the License Officer, and contain the following additional information:

i. Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department;

ii. Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate;

iii. A statement by Licensee of any changes in ownership, management, or to the criminal history of any Owner, Operator, Person, or Manager relating to that individual's integrity or good moral character.

(3) Payment of Fees. Be accompanied by the full amount of the fees chargeable for such license.

(4) Affirmation. The applicant shall self-certify that all information provided on, and with the application is accurate and truthful under the penalty of perjury.

(b) Issuance of Receipts. Whenever a license cannot be issued at the time the application for the same is made, the License Officer shall issue a receipt to the applicant for the money paid in advance. Such receipt shall not be construed as the approval of the License Officer for the issuance of a license; nor shall it entitle or authorize the applicant to open or maintain any business contrary to the provisions of this Code.

(c) Duplicate License Procedure. A duplicate license or special permit shall be issued by the License Officer to replace any license previously issued, which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon [the filing by the licensee of an affidavit sworn to before a notary public or other oath-taking official of the State attesting to such fact and the paying] **payment** to the License Officer of a fee of **ten [one]** dollars (\$**10.00**).

. . .

(e) [Disapproval of License. The License Officer shall, upon disapproving any application submitted under the provisions of this Chapter, refund all fees paid in advance to the applicant, provided that the applicant is not otherwise indebted to the City.] **Decision on Application. A complete application shall be administratively approved or denied by the**

License Officer within thirty (30) days of the completed investigation of the application by the License Officer. The License Officer shall deny a license application if:

(1) The application or any investigation demonstrates or establishes that the proposed Licensee or Licensed Premises fails to conform to any requirement of this Title, the Pueblo Municipal Code, or other applicable law;

(2) The applicant knowingly made a false statement or knowingly gave false information in connection with the application;

(3) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has had a license revoked or suspended in any jurisdiction within five (5) years prior to the application;

(4) The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee or Licensed Premises, has operated a Licensed Premises or Business that was determined at any time to be a public nuisance.

(5) The applicant has outstanding fees, fines, liabilities, or other debts owed to the City.

(6) Issuance of the actual license shall constitute approval of the application. The License Officer may, if deemed necessary, make a written finding that the application conforms to the requirements of this Title based on the information available and the investigation performed by the City or any additional findings as deemed necessary to identify the Director of Finance's basis for approval.

(7) In the event the License Officer denies a license application:

a The License Officer shall prepare written findings of fact stating the reasons or basis for the denial and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

b The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the License Officer's written findings and denial of the license application, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the License Officer's decision to deny a license application shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

c When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.

[(f) Compliance Pending Legal Action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the business for which the license was refused unless a license is issued to him or her pursuant to a judgment ordering the same.]

. . .

Sec. 9-1-7 – Determination of license fee.

(a) Fee Established. Unless otherwise specifically provided, license fees shall be in the amounts established by the License Officer by Ordinance and published annually on the City's website [in the governing provisions of this Code, and as further determined under this Section].

. . .

(c) Rebate of Fee.

(1) General Prohibition. Except as provided herein, no rebate or refund of any license fee or part thereof shall be made by reason of the nonuse of such license or by reason of a change of location or business rendering the use of such license ineffective. No rebate or refund shall be given upon the suspension or revocation of a license.

. . .

Sec. 9-1-9 – Duties of Licensee.

(a) General Standards of Conduct. Every licensee under this Code shall:

(1) Permit all reasonable inspections of his or her business and examinations of his or her books by the License Officer, Inspector, or any other public authority [authorities] so authorized by law.

(2) Ascertain and at all times comply with all laws and regulations applicable to such licensed business.

(3) Comply with all lawful orders of any enforcing authority of the City, PPD, or any local, state, or federal regulatory agency [or any police officer] relating to the conduct of the licensed business.

. . .

Sec. 9-1-11 – Renewal; fee; application.

(a) Unless otherwise provided, any annual license may be renewed upon filing application for the same and payment of the annual license fee. A delinquent license may be renewed within thirty (30) days after becoming delinquent without payment of a delinquency fee. A delinquent license may be renewed more than thirty (30) days but less than ninety (90) days after becoming delinquent, upon the payment of a delinquency fee of one hundred percent (100%) of the annual license fee in addition to the annual license fee. The License Officer may [shall]

suspend the license of any person or premises delinquent more than ninety (90) days. Upon suspension, the License Officer may require inspection of the business or premises by an Inspector or other regulatory agency to ensure compliance with all applicable local, state and federal laws and regulations prior to removal of the suspension and renewal of the license. [, and such suspension shall remain in force] A license shall remain suspended until Licensee has passed all required inspections and all annual fees and a delinquent fee of one hundred percent (100%) of the annual fee, and all other charges or debts owing to the City, shall have been paid in full. The License Officer may place reasonable conditions, requirements, or restrictions on any license renewed or reinstated after suspension that he or she deems necessary to ensure Licensee will comply with the requirements of this Code.

. . .

Sec. 9-1-12 – Inspection; Enforcement.

(a) Inspections.

(1) Persons Authorized. The following persons are authorized to conduct inspections in the manner prescribed herein:

a. License Officer and Inspectors. The License Officer, Inspectors, or any other enforcement official having duties to perform with reference to any licensee or business shall have authority to make all investigations reasonably necessary to the enforcement of this Title. Prior to any License being approved, denied, suspended, or renewed, the License Officer, Inspector, or other enforcement official having duties to perform with reference to any Licensee, Licensed Business, or Premises may inspect the Licensee, Licensed Business, or Premises for conformance with all applicable laws and all orders from the License Officer or Hearings Officer.

b. [Official Having Duties. The License Officer or any enforcement official shall have authority to order the inspection of licensees, their businesses and premises by any City employees having duties to perform with reference to such licensees or businesses.

c.] Police Officers. All police officers shall have authority to inspect and examine businesses to enforce compliance with this Code.

(2) [Authority of Inspectors.] Right to Enter. All persons authorized to inspect [i]Licensees and Licensed B[b]usinesses shall have the authority to enter, with or without search warrant, at all reasonable times, the following P[p]remises:

a. Those for which a license is required.

b. Those for which a license was issued and which, at the time of inspection, are operating under such a license.

c. Those for which the license has been revoked or suspended.

(3) Reports by Inspectors. Persons inspecting licensees, their businesses or premises as herein authorized shall report all violations of this Code or of other codes,

laws or ordinances to the License Officer or the appropriate licensing board and shall submit such other reports as the License Officer or licensing board shall require. **Any reports of the results of any investigation conducted by any designated Inspector, City department, or other enforcement official having duties to perform with reference to any Licensee, Licensed Business, or Premises shall be delivered by the respective Inspector, department, agency, or official to the License Officer not less than fourteen (14) days prior to the date of any hearing on the application, or if no hearing is pending within thirty-five (35) days of the date of the inspection. The License Officer shall provide the official report of any findings based on the inspection to the applicant.**

(b) Provisional Order. When an inspector has reported the violation of this code or of any code, law or ordinance, the License Officer or, where appropriate, the licensing board having jurisdiction over the licensee, shall issue to the affected person a provisional order to comply.

(1) Nature of Notice. The provisional order and all other notices issued in compliance with this Title, unless otherwise provided, shall be in writing, shall be served as provided in Section 1-1-11 of this Code, and shall apprise the person affected of his or her specific violations. In addition to such service, a copy of such notice may be affixed to the principal entrance or to some prominent structure on the premises.

(2) Period of Compliance. The provisional order shall require compliance within **[fifteen (15)] fourteen (14) days of personal service on the affected person or posting of the notice on the Premises.**

(3) Hearing. Upon written application by the person affected before the expiration of the period for compliance, the License Officer or the appropriate licensing board shall **within two (2) business days refer the matter to the Hearings Officer for [order] a hearing. [Notice of such hearing shall be given the affected person in the manner prescribed.] Upon failure or refusal of the violator affected to comply with the provisional order or request a hearing prior to the expiration of the period for compliance, the License Officer or appropriate licensing board shall then declare and make the provisional order final.**

(c) Modifying Authority of License Officer. Upon written application, or on his or her own motion, the License Officer or the appropriate licensing board shall have the authority, in a proper case, to extend the time for compliance **with a provisional order or to [**, to grant a new hearing date and to**]** change, modify or rescind any recommendation or order.

[(d) Final Order. Upon the failure or refusal of the violator to comply with the provisional order or with any order made after the hearing, the License Officer or the appropriate licensing board shall then declare and make the provisional order final.

(1) Revocation or Suspension. The License Officer or the appropriate licensing board shall have power to suspend or revoke licenses upon making and declaring a provisional order final.

(2) Effect of Revocation or Suspension. Upon revocation or suspension, no refund of any portion of the license fee shall be made to the licensee, and he or she shall immediately cease all business at all places under such license.

(e) Summary Action. When the conduct of any licensee, agent or employee is so

inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing, the License Officer or appropriate licensing board, within ten (10) days after he or she has acted summarily, shall conduct a special hearing for such action in respect to the summary order as may be therein determined. Notice of such hearing shall be given the affected person in the manner prescribed.

(f) Right of Appeal. Except where otherwise provided, within thirty (30) days after the entry of any decision or order of the appropriate licensing board or Licensing Officer, where there is no provision for review by an appropriate board, any person aggrieved by such decision or order may seek to review the same in District Court. Review shall not be extended further than to determine whether the licensing board or the Licensing Officer has exceeded their jurisdiction or abused their discretion. Pending such appeal, all such rulings or decisions shall remain in full force and effect unless stayed by order of court.

(g) Duration of Suspension or Revocation. No suspension shall be for a period longer than the balance of the calendar year for which the license is issued. As part of the order of suspension, the License Officer or the appropriate board or commission may declare the suspended person ineligible to be licensed for a portion of the next calendar year; provided that no order of suspension and ineligibility shall endure for a total period longer than a twelve-month period from the date of suspension. No person whose license has been revoked shall be eligible to reapply for a license in the same or a related business for a period of one (1) year following such revocation.

(h) Unpaid Fee Constitutes Debt.

(1) The amount of any unpaid fee, the payment of which is required hereunder, shall constitute a debt due the City.

(2) The City Attorney, shall, at the direction of the License Officer institute civil suit in the name of the City to recover any such unpaid fee. Such remedy shall be cumulative and in addition to all other remedies and shall not bar or prevent a prosecution in Municipal Court for any violation of this Code.】

Sec. 9-1-13 – License Revocation, Suspension or Nonrenewal.

(a) The appropriate licensing board, License Officer, or Hearings Officer may suspend, revoke or not renew a license upon a finding of one or more of the following:

(1) The Licensee has outstanding official orders from the License Officer, Pueblo Police Department, Pueblo Fire Department, Regional Building Department, the Pueblo City-County Health Department, or any other agency having duties to perform with reference to any Licensee, Licensed Business, or Premises.

(2) A significant criminal act has occurred in the Licensed Business or on the Licensed Premises.

(3) The operation of the Licensee, Licensed Business, or Premises is such that it is or has negatively impacted the health, safety and/or welfare of its patrons or neighboring businesses, residents, or community.

(4) The Licensee, Licensed Business or Premises is delinquent to the City for any taxes imposed pursuant to Pueblo Municipal Code Title XIV.

(5) An investigation performed by the City or License Officer demonstrates or establishes that the Licensee, Licensed Business, or Premises fails to conform to any requirement of this Chapter, the Pueblo Municipal Code, or other applicable law.

(6) The applicant knowingly made a false statement or knowingly gave false information in connection with the application.

(7) It determines that the individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the Licensee, Licensed Business, or Premises has had a business license revoked or suspended within five (5) years prior to the application.

(8) It determines that the individual applicant or a director or officer of a corporation, partner of a partnership, or manager of a limited liability company or manager of the Licensee, Licensed Business, or Premises has operated a licensed business that was determined to be a public nuisance; or

(b) In the event an appropriate licensing board or License Officer revokes, suspends, or does not renew a license:

(1) The appropriate licensing board or License Officer shall prepare written findings of fact stating the reasons or basis for the revocation, suspension or nonrenewal, and serve the same upon the applicant by personal service, or certified mail, return receipt requested to the address of the applicant.

(2) The applicant shall have the right to request a public hearing before the Hearings Officer. The applicant shall, within fourteen (14) days of the date of the written findings by the licensing board or License Officer revoking, suspending or not renewing the license, make a written request to the License Officer for a hearing. The License Officer shall forward the request for hearing to the Hearings Officer within two (2) business days. The hearing shall be conducted within forty-two (42) days of the License Officer's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the decision of the licensing board or License Officer to revoke, suspend or not renew the license shall become final. All hearings shall be conducted pursuant to P.M.C. 9-1-14.

(c) In the event the Hearings Officer affirms the decision of the licensing board or Licensing Officer, or revokes, suspends or does not renew a license, the person aggrieved by such decision or order may seek review by the District Court pursuant to C.R.C.P. 106(a)(4).

(d) When the issuance of a license is revoked, suspended, or not renewed and any action is instituted by the applicant to compel its reinstatement or renewal, such applicant shall not engage in the business for which the license was affected unless a license is issued to him or her pursuant to a judgment ordering the same.

(e) Summary Action. When the conduct of any licensee, agent or employee is so inimically to the public health, safety and general welfare as to constitute a nuisance and thus give rise to an emergency, the License Officer or the appropriate licensing board shall have authority to summarily order the cessation of business and the close of premises or to suspend or revoke the license. Unless waived by the licensee in writing, the License Officer or appropriate licensing board, within two (2) business days after he

or she has acted summarily, refer the matter to the Hearings Officer who shall conduct a hearing in respect to the summary order within twenty-one (21) days of the summary action. Notice of such hearing shall be given the affected person by personal service or certified mail, return receipt requested, and regular U.S. mail to the address provided on the License or last license application.

(f) If the licensing board, License Officer or Hearings Officer finds a licensee to be in violation of any provision of this Title, and if it is the Licensee's first violation, the License Officer or Hearings Officer may, in an appropriate case, place the Licensee on a twelve (12) month probationary period and shall impose such mandatory restrictions on the licensee necessary to correct the deficiency or violation.

Sec. 9-1-14. - Hearings.

(a) Notice. Whenever a Hearing is requested or required under this Title, the Hearing Officer shall give the licensee reasonable advance notice of the time and place of the hearing, nature thereof, the authority and jurisdiction under which it is to be held and the violation(s) alleged in the complaint. The Hearing Officer or License Officer shall mail such notice to the licensee by first-class mail, certified mail return receipt requested, and regular U.S. Mail at least ten (10) days prior to the hearing. The License Officer shall prepare and post the Licensed Premises with a sign that contains notice of the hearing date, time and location.

(b) Hearing Procedure. The Hearing Officer shall conduct all hearings pursuant to Title I, Chapter 7 of the Pueblo Municipal Code. The standard of proof shall be by a preponderance of the evidence.

Sec. 9-5-14. – Unlawful Acts; Penalties.

(a) It is unlawful for any person to maintain or operate a Licensee, Licensed Business, or Premises without first obtaining a license from the License Officer.

(b) It is unlawful for any person to maintain or operate a Licensee, Licensed Business or Premises in violation of the provisions of this Chapter.

(c) Violation of any provision of this Title shall be a Class II municipal offense.

Sec. 9-5-15. – Severability

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance, and to this end, the provisions of this Chapter are declared to be severable.

SECTION 2.

Title IX, Section 5 of the Pueblo Municipal Code is hereby amended as follows:

Sec. 9-5-1. – [License Required.] Lodging Facility License

[It shall be unlawful to conduct, keep or maintain any hotel, rooming house or lodging houses by whatever name designated in which space is let by the owner or operator to three (3) or more persons who are not husband or wife, son or daughter, mother or father, or sister or brother of

the owner or operator, without obtaining a license therefor as hereinafter set forth; provided, however, that apartment houses and multiple dwellings shall not be required to be licensed hereunder. Such license shall be displayed in a conspicuous place within sight of the main entrance of the rooming house or lodging houses at all times. Such license shall not be transferable. Every person holding such a license shall give notice in writing to the City Clerk within twenty-four (24) hours after having sold, transferred, given away or otherwise disposed of ownership or interest in or control of any hotel, rooming house or lodging houses. Such notice shall include the name and address of the person succeeding to the ownership or control of such hotel, rooming house or lodging houses. The former owner shall not be relieved of responsibility until such notice is filed.】

Definitions.

As used in this chapter, the following terms are defined as follows:

(a) "Calls for service" ("CFS") means and includes, but is not limited to, any and all calls to law enforcement that result in a representative being dispatched or directed to the lodging facility.

(1) Calls for service includes:

a. A call to emergency services that results in a response by a law enforcement representative to the lodging facility.

b. Any police-initiated call for service to the lodging facility that results in a criminal report.

c. Any call to emergency services or police-initiated call for service within the lodging facility's surrounding neighborhood regarding activity that results in a criminal report, when such activity is associated with lodging facility staff and/or lodging facility guests and/or visitors.

(2) Calls for service shall not include traffic citations in which the lodging facility's address is used as the location of violation.

(b) "Calls for service ratio" means the number of calls for service divided by the number of rooms in service at the lodging facility.

(c) "Lodging Facility" means a hotel, motel, motor hotel, inn, boarding house, lodging house, short-term residential rental, homeless shelter, or other similar facility that: (1) has lodging rooms; (2) is located within any commercial or mixed use zone district in the City; (3) accommodates one or more guests under any rental agreement, concession, permit, right of access, license to use or other agreement, whether written or verbal, where the rental period of any lodging room is less than thirty (30) consecutive days.

(d) "Lodging room" means and includes any room, guestroom or sleeping accommodation that accommodates one or more guests.

(e) "Owner" means any person that is the record owner of real property as listed with the Pueblo County Assessor upon which a lodging facility is located. "Owner" shall also mean any part owner, joint owner or lessor of the whole or part of the land or buildings situated on such real property.

(f) "Operator" means any person who is the proprietor of a Lodging Facility,

whether in the capacity of owner, lessee, receiver, sublessee, franchisee, manager or mortgagee in possession thereof, or agent of any aforementioned, who offers and accepts payment for any lodging rooms, or board and lodging, and retains the right of access to, and control of, the lodging facility or lodging room.

(g) "Short-term residential rental" means the rental of a furnished residential property containing a shared room, a single room, multiple rooms, or an entire property for a period from 1 to 29 days.

(h) "Significant criminal act" means an act or acts or attempted act or attempted acts that causes serious bodily injury or death to any person or an act or acts that requires a law enforcement specialized unit or tactical response team.

Sec. 9-5-2. [- Fees.] - License required.

[The license fee for conducting such a hotel, rooming house or lodging houses where not more than twenty (20) rooms are kept for rent shall be the sum of five dollars (\$5.00) per year, and where more than twenty (20) rooms are kept for rent, the license fee therefor shall be the sum of ten dollars (\$10.00) per year.]

(a) It shall be unlawful to conduct, keep, or maintain a Lodging Facility within the City of Pueblo without first obtaining a license therefor. Such license shall be displayed in a conspicuous place within sight of the main entrance of the Lodging Facility at all times.

(b) All Lodging Facilities existing within the City shall apply or re-apply for a license within ninety (90) days of the effective date of this ordinance. All Lodging Facilities existing within the City upon the effective date of this ordinance that have, based on data provided by the Pueblo Police Department, with a Calls for Service Ratio of 1.89 or more during the previous twelve (12) month period shall meet with representatives from the PPD to discuss measures to mitigate criminal activity occurring on the lodging facility's premises. Such meeting shall occur before a lodging facility license is granted.

**Sec. 9-5-3. – [Application, approval of department heads; supervision; revocation.]
Application; Decision; Appeal.**

(a) [Before any license is granted, an application shall be filed by the applicant with the License Officer containing such information as the License Officer shall require, including two (2) or more references as to the integrity and moral character of the applicant.] All applicants for a license shall file an application with the License Officer pursuant to Section 9-1-6. The License Officer shall accept no application that is not complete in every detail. In addition to the information required in Section 9-1-6, no application for a Lodging Facility License shall be deemed complete unless accompanied by the following:

(1) One or more statements as to whether:

a. The applicant or any other individual listed pursuant to subsection (1) of this Section has:

i. Previously operated, is currently operating, or has been employed at a lodging facility; or

ii. Had a previous lodging facility license under this

Chapter, or other lodging facility license ordinances, resolutions or other regulations from another city or county, denied, suspended or revoked, or declared a public nuisance, including the name and location of the business for which the license was denied, suspended, revoked; or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance.

b. The applicant or any other individuals listed pursuant to Subsection 3(b)(1) of this Section has been a partner in a partnership or an officer or director of a corporation or manager of a limited liability company of a business whose lodging facility license has previously been denied, suspended, revoked, or declared a public nuisance including the name and location of the business for which the license was denied, suspended, revoked, or declared a public nuisance as well as the date of the denial, suspension, revocation, or declaration as a public nuisance; and

c. The applicant or any other individual listed pursuant to Subsection (3)(b)(1) of this Section holds any other licenses under this Chapter or other similar lodging facility license ordinances from another city or county and, if so, the names and locations of such other licensed businesses.

(2) The location of the proposed lodging facility, including a legal description of the property, street address and telephone number;

(3) The applicant's mailing address and residential address;

(4) A floor plan of the lodging facility that specifies the number of rooms contained in the lodging facility. The floor plan need not be professionally prepared;

(5) Certification that the proposed location complies with all requirements of the City zoning code;

(6) Certification that the applicant and proposed location complies with all applicable building, fire, health and safety codes required by the Building Official of the Pueblo Regional Building Department, the Pueblo Fire Department, and the City-County Health Department.

(7) Certification that the applicant has met and conferred with the PPD regarding criminal activity in and around the proposed location and developed a security plan and mitigation plan, as appropriate.

(b) **【Such license or license renewal shall be issued upon payment of the license fee and upon certification of the Building Official of the Pueblo Regional Building Department, the Fire Chief and the Director of the City-county Health Department that the premises to be license or relicensed comply with existing applicable building, fire and safety codes, and the regulations enforced by the Health Department.】 Payment in full of City license and application fees and any other fees, fines, liabilities or other debts owed to the City.**

(c) **【Any person whose application for a permit to operate a rooming house has been denied may request in writing and shall be granted a hearing on the matter before the License Officer. Such hearing shall be held at such time and place as the License Officer shall direct, not**

to exceed ten (10) days following the date of filing such request for hearing. The decision of the License Officer shall be in writing, and shall state whether or not there is compliance with the laws of the State and this Code. Failure to comply with such laws shall be specifically stated; provided, however, that failure of the License Officer to state noncompliance with any law or Code shall not relieve the applicant from responsibility for compliance therewith. **]** **In addition to the basis set forth in Section 9-1-6, the License Officer may deny an application for a Lodging Facility License if the application is based upon the sale of an existing lodging facility, and the existing lodging facility's CFS ratio is at or above 1.89 calls for service per room, or the lodging facility has other compliance issues, in which case, the applicant must provide, as a prerequisite to being granted a license, a remedial plan to reduce the CFS ratio or resolve the other compliance issues. The applicant must reduce the CFS ratio or resolve the issues within 180 days after license is issued or be subject to license suspension or revocation.**

[(d) Any license issued hereunder shall be subject to suspension or revocation in the event that the licensee has permitted his or her hotel or rooming house to become a fire, health or safety hazard to his or her customers or where he or she has permitted it to become either a nuisance, a place of prostitution, a place for gambling or a place for other activities or conditions prohibited by statute or ordinance, or has failed to comply with any provision of this Chapter.

(e) Whenever upon inspection of any hotel, rooming house, lodging houses or boarding and rooming house, the License Officer finds that conditions or practices exist which are in violation of any provision of this Chapter or of any provision of the Housing Code or any rule or regulation adopted pursuant thereto, the License Officer shall take appropriate enforcement action in writing to the operator of such establishment to correct such conditions or practices as provided in Chapter 1 of this Title.

(f) It shall be unlawful for any person to occupy for sleeping or living purposes any rooming unit in any hotel, rooming house or lodging houses of which the license has been suspended or revoked. **]**

Sec. 9-5-4. – [Registration book required; contents; inspection; exceptions] Short-term rentals.

(a) Licensing Requirements. In addition to the requirements set forth in Sections 9-1-6 and 9-5-3, an applicant for a Short-term Residential Rental Lodging Facility License must also provide the following information:

(1) Proof the applicant must be a legal resident of the United States of America.

(2) Proof the applicant owns the Premises by providing a copy of a warranty deed and/or property owner affidavit.

(3) Written approval from their homeowners association (HOA) for use of the property as a Short-term Residential Rental or written documentation demonstrating the Premises is not subject to an HOA.

(4) Provide a copy of the Conditional Use Permit or Limited Use Permit issued by the Zoning Board of Appeals approving use of the Premises as a Short-term Residential Rental.

(5) The name, address and contact information including a 24-hour contact phone number for the owner or individual designated by owner or agent within Pueblo County who can be contacted in the event of an emergency and respond within one hour.

(6) Each Short-term Residential Rental must provide a brochure to tenants on the Licensed Premises, a copy of which shall be provided with their application, setting forth the following information:

a. the Licensee's contact information,

b. a local responsible party's contact information, and any necessary emergency contact information. For the purposes of this section, "local responsible party" means an individual located in Pueblo County during the entire length of the short-term rental period who has access to the licensed premises. The local responsible party shall be and is authorized to make decisions regarding the licensed premises available twenty-four hours (24), seven (7) days a week and can respond within one hour (1) of notification.

c. information pertinent to the neighborhood where the short-term rental is located including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedule, relevant water restrictions, fire evacuation routes, information about burn bans, and any other information, as required by the director, applicable to the short-term residential rental and the surrounding neighborhood.

(7) Proof of property liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00) or provide proof that property liability coverage in an equal or higher amount is provided by all hosting platforms through which the owner will rent the short-term rental unit. Proof of liability insurance is not required if short-term rental reservations are handled exclusively by hosting platforms (websites) that extend liability coverage of not less than five hundred thousand dollars (\$500,000.00) under terms acceptable to the License Officer.

(8) Written affirmation under penalty of perjury that the applicant has read and understands the Rules and Regulations for Short-term Residential Rental units set forth below and as may be amended from time to time by resolution of City Council:

SHORT-TERM RESIDENTIAL RENTAL RULES AND REGULATIONS

- (1) All short-term tenants shall abide by all applicable noise, housing, and public health ordinances of the City and with all other City fire and safety ordinances.
- (2) Listing on hosting platform i.e., AirBnB/VRBO (emailed link or screenshot)
- (3) No meals shall be prepared for or served to the short-term tenants by the owner or the owner's agents.
- (4) The permit with all local contact information and emergency safety information shall be prominently displayed within the short-term rental unit.
- (5) The owner shall maintain and provide proof of property liability insurance in the amount of not less than five hundred thousand dollars (\$500,000.00) or provide proof that property liability coverage in an equal or higher amount is provided by all hosting platforms through which the owner will rent the short-term rental unit. Proof of liability insurance is not required if short-term rental reservations are

handled exclusively by hosting platforms (websites) that extend liability coverage of not less than five hundred thousand dollars (\$500,000.00) under terms acceptable to the License Officer.

- (6) **Advertising.** It shall be unlawful to advertise a short-term residential rental without the City license number clearly displayed on the face of the advertisement.
- (7) For the purpose of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short-term residential rental in order to promote the availability of the short-term rental.
- (8) During the term that a short-term rental unit is occupied by a short-term tenant, the owner and/or the local contact person designated by the owner shall be available twenty-four (24) hours per day, seven (7) days per week, for the purpose of responding within one hour to complaints and/or concerns regarding the condition or operation of the short-term rental unit or the conduct of short-term tenants. If the local contact person designated by the owner changes, then the owner shall update the permit on file within three (3) days.
- (9) **Safety requirements.** Each short-term rental shall have smoke detectors, carbon monoxide detectors, and fire extinguishers on the licensed premises during each short-term rental occupancy. It shall be unlawful to operate a short-term residential rental without smoke detectors, carbon monoxide detectors or fire extinguishers.
- (10) **Compliance with city and state laws.** It shall be unlawful to operate a short-term residential rental that does not comply with all applicable city and state laws. *Short-term residential rentals are also barred where existing covenants prohibit them.*
- (11) **Activities that constitute a nuisance, including but not limited to noise, odors, parking violations, litter debris and any activity that violates municipal, state, or federal law may result in revocation of the license.**

License Fee.

[It shall be the duty of every person keeping a hotel, rooming house, lodging houses or boarding and rooming house, either as principal or by an agent, within the City, to keep at the place where such business is carried on a record or register of the name, address, date of arrival, date of departure and number or other description of the room occupied, of all roomers, lodgers, transients and other persons rooming, lodging or boarding and rooming at such hotel, rooming house, lodging houses or boarding and rooming house; such record shall be kept legible and maintained at all hours. The provisions of this Section shall not apply to private residents keeping permanent roomers.**]**

The City shall impose a Lodging Facility licensing fee of \$250 per year, which may be amended by City Council by resolution, necessary to defray the costs of investigation, inspection, and processing the documentation of the activities of lodging facilities as allowed by law:

Sec. 9-5-5. - Manager; Change; Registration Book.

(a) A registered Manager shall be on the premises of a lodging facility at all times. A lodging facility may have more than one registered Manager. It is unlawful for any person to work as a Manager of a lodging facility without first registering with the License Officer.

(b) In the event a Licensee changes the Manager of a Lodging Facility, the Licensee shall immediately report such change and register the new Manager, on forms

provided by the License Officer, within thirty (30) days of such change.

(c) It shall be the duty of the registered Manager to keep at all times on the premises of the Lodging Facility a record or register ("Register Book") of the name, address, date of arrival, date of departure, and number or other description of the room occupied, of all roomers, lodgers, transients, and other persons rooming, lodging or boarding, and rooming at such Lodging Facility. Such Register Book shall be kept legible, maintained at all hours, and made available for inspection by the License Officer, or their designee, or Inspector upon request.

Sec. 9-5-6. - Transferability; Change of ownership.

(a) No License under this Chapter shall be transferable to another person or any other group acting as a unit.

(b) No License under this Chapter shall be transferred to another hotel name or franchise, or hotel location or building.

Sec. 9-5-7. – Partial Operation.

No Lodging Facility shall operate, and no license shall be granted to it unless and until the entire facility is operational and able to be occupied for its intended purpose. Notwithstanding the foregoing, if a portion of an existing licensed Lodging Facility shall become uninhabitable due to fire, water, or other event, the hotel may continue operating the unaffected Lodging Rooms and common areas so long as operation is deemed safe by the Finance Director, PPD, the Fire Chief, the Regional Building Department, and the City-County Health Department, and the Lodging Facility is actively repairing the damaged area. "Actively repairing" shall include but not be limited to the submission of an insurance claim, hiring of contractors, retention of architects or engineers, and obtaining building permits. Failure to progress or complete repairs within a reasonable amount of time shall be justification to suspend, revoke, or deny a license.

Sec. 9-5-8. – Extended Stay.

No Lodging Facility shall allow anyone to rent, use, access a Lodging Room for more than 30 consecutive days unless the Lodging Facility is designated by the Regional Building Department as a "Long Term Stay Hotel" as defined under the applicable building codes.

Sec. 9-5-9. – Unlawful Acts; Penalties.

(a) In addition to acts set forth in Section 9-5-14 of this Code, it shall be unlawful for any person:

(1) To occupy for sleeping or living purposes any Lodging Room in a Lodging Facility that does not have a license or for which the license has been suspended or revoked.

(2) Fail or refuse to comply with the Rules and Regulations for Short-Term Residential Rentals.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts

consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective upon final passage.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: August 26, 2024

TO: President Mark Aliff and Members of City Council

CC: Mayor Heather Graham

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, City Attorney

SUBJECT: AN ORDINANCE APPROVING AN ENGAGEMENT AGREEMENT WITH KONCILJA ENERGY LAW AND POLICY FOR REPRESENTATION IN PUBLIC UTILITIES COMMISSION PROCEEDING NO. 24AL-0275E, APPROVING THE CORRESPONDING JOINT INTEREST AGREEMENT, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

This Ordinance approves an engagement agreement with Koncilja Energy Law and Policy to represent the City in Public Utilities Commission Proceeding No. 24AL-0275E, approves the corresponding Joint Representation Agreement and authorizes the Mayor to sign the same.

PREVIOUS COUNCIL ACTION:

No prior Council action exists with respect to this matter.

BACKGROUND:

On June 14, 2024, Black Hills filed a rate increase review with the Colorado Public Utilities Commission ("PUC") to update its electric rates for its southern Colorado electric system, which serves over 100,000 customers in Pueblo, Cañon City, Rocky Ford and surrounding communities. Black Hills claims the purpose of this increase is to recover necessary infrastructure investment and operating costs, including pay and benefits for local employees.

Black Hills' rate increase request is currently pending before the Public Utilities Commission, Proceeding No. 24AL-0275E. The requested rate increase will have a drastic negative impact on the citizens of Pueblo. Pueblo County and the Pueblo Economic Development Corporation ("PEDCO") will be similarly affected. The interests of the City, Pueblo County and PEDCO are aligned against Black Hills.

The Joint Representation Agreement sets forth the obligations of Koncilja Energy Law and Policy to each of the parties to the Agreement. It also provides the rights and responsibilities of the parties as to each other. Pueblo County and PEDCO have already signed the Joint Representation Agreement.

FINANCIAL IMPLICATIONS:

Koncilja Law and Policy will charge \$495 per hour for Frances Koncilja's time and \$95 per hour for paralegal time. This rate will be billed 1/3 to each party to the Joint Representation Agreement.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to approve the Engagement Agreement and Joint Interest Agreement.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Frances Koncilja Black Hills - PUC Rate Case Engagement Agreement
2. Frances Koncilja Black Hills - PUC Rate Case Joint Interest Agreement
3. Frances Koncilja Black Hills - PUC Rate Case Exhibit A

ORDINANCE NO. 10772

AN ORDINANCE APPROVING AN ENGAGEMENT AGREEMENT WITH KONCILJA ENERGY LAW AND POLICY FOR REPRESENTATION IN PUBLIC UTILITIES COMMISSION PROCEEDING NO. 24AL-0275E, APPROVING THE CORRESPONDING JOINT INTEREST AGREEMENT, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Engagement Agreement retaining Koncilja Public Energy Law and Policy and the corresponding Joint Representation Agreement, attached hereto and having each been approved as to form by the City Attorney, are hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreements for, and on behalf of, the City, and the City Clerk is authorized to affix the seal of the City thereto and attest same. The Mayor is further authorized to execute any and all other documents, consistent with and not materially different than the Joint Representation Agreement, which may contain privileged and confidential information.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreements to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on August 12, 2024.

Final adoption of Ordinance by City Council on August 26, 2024.

DocuSigned by:

B7A4F51823AB462...

President of City Council

Action by the Mayor:

☒ Approved on 8/28/2024 | 8:07 AM MDT.

☐ Disapproved on _____ based on the following objections:

Signed by:
Heather Graham
3A85950B7BCA462...

Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

Signed by:
Vince Petkosek
330F90D300E24F8...

Deputy City Clerk

AGREEMENT

THIS AGREEMENT, effective July XX, 2024, is entered into by and between the City of Pueblo (hereinafter referred to as "City"), and Koncilja Public Energy Law and Policy, LLC (hereinafter referred to the "Firm").

WITNESSETH:

WHEREAS City requires legal counsel to represent the interests of the City and its residents in Proceeding No 24AL-0245E before the Colorado Public Utilities Commission in which Black Hills of Colorado, LLC is requesting to increase base rate revenues and electric rates.

WHEREAS the Firm is capable and qualified to represent the City and its citizens regarding said matter at the Colorado Public Utility Commission and the parties desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

I. ENGAGEMENT OF FIRM

City hereby engages and the Firm hereby accepts such engagement and is hired to perform the work and services more particularly described herein and upon all of the terms and conditions set forth in this Agreement.

II. SCOPE OF WORK AND FEES

The Scope of Work ("Work") to be performed by the Firm is more particularly described in Exhibit A ("Engagement Letter") attached hereto and incorporated herein by this reference. The parties agree that as Work commences if the Work changes the parties agree to jointly prepare an Amendment or Addendum to this Agreement to reflect any such change, definition and/or refinement as may occur and be agreed upon by both parties.

III. COMPENSATION

Compensation for the services of the Firm shall be according to the fee structure and terms as set forth in Exhibit A. Pueblo agrees to pay such compensation incurred in the performance of the Work in accordance with Exhibit A.

IV. NO MULTI-FISCAL YEAR OBLIGATION ON CITY

This Agreement is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City, contrary to Article X, § 20 Colorado Constitution or any other constitutional or statutory debt limitation. The obligations of

the City under this Agreement are subject to annual appropriations made for that purpose by the Board of City Commissioners.

V. TERMINATION

This Agreement may be terminated as follows:

a). **By City.** (i) For its convenience with 30 days notice to the Firm, or (ii) for cause if the Firm materially breaches this Agreement through no fault of City and the Firm neither cures such material breach nor makes reasonable progress towards cure within ten days after City has given written notice of the alleged breach to the Firm.

b). **By the Firm.** (i) For its convenience with 30 days notice to the City; or (ii) for cause if City materially breaches this Agreement through no fault of the Firm and City neither cures such material breach nor makes reasonable progress towards cure within ten days after the Firm has given written notice of the alleged breach to City.

c). **Payment Upon Termination.** In the event of termination, the Firm shall perform such additional work at the direction of the City as is reasonably necessary for the orderly closing of the Work. The Firm shall be compensated for all work performed prior to the effective date of termination, plus work required by the City for the orderly closing of the Work.

VI. INDEMNIFICATION

The Firm agrees to indemnify, hold harmless and, not excluding the City's right to participate, defend City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, volunteers, and any jurisdiction or agency issuing permits for any negligent work or intentional misconduct by the Firm, hereinafter referred to as indemnitee, from all suits and claims, including attorney's fees and cost of litigation, actions, loss, damage, expense, cost or claims of any character or any nature arising out of the work done by the Firm in fulfillment of the terms of this Agreement or on account of any act, claim or amount arising or recovered under workers' compensation law or arising out of the failure of the Firm to conform to any statutes, ordinances, regulation, law or court decree. It is agreed that the Firm will be responsible for primary loss investigation, defense, and judgment costs where this Agreement of indemnity applies. In consideration of the award of a contract, the Firm agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Firm for the City. By requiring this right to indemnification, the City in no way waives or intends to waive the immunity protections provided to the City and its employees under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

VII. INDEPENDENT CONTRACTOR

The parties understand and agree that the Firm shall, at all times during the term of this Agreement, be deemed an independent contractor and not an employee of the City, and shall be responsible

for, and obligated to pay on behalf of its employees, all withholding taxes, social security, unemployment, Workers' compensation, and/or other taxes and shall indemnify and hold the City harmless from and against any and all claims for the same period. The Firm acknowledges and agrees that all of its personnel are its employees only, and not employees or agents of the City for any purpose whatsoever, including for purposes of Workers' Compensation. The Firm has no authority to enter into contracts or other binding obligations on behalf of the City.

VIII. PROHIBITION ON PUBLIC CONTRACTS FOR SERVICES REGARDING EMPLOYMENT OF UNDOCUMENTED IMMIGRANTS

If the Firm has any employees or subcontractors, the Firm shall comply with the provisions of C.R.S. § 8-17.5-101, *et seq.* and this Agreement. The Firm shall not knowingly employ or contract with an undocumented immigrant to perform work under this contract; or enter into a contract with a subcontractor that knowingly employs or contracts with an undocumented immigrant to perform work under this Agreement.

By execution of this Agreement, the Firm certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Firm will participate in either the Federal E-Verify Program or the Colorado Department of Labor & Employment's "Department Program" as identified in C.R.S. §§ 8-17.5-101 (3.7) and (3.3), in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Agreement.

- A. The Firm shall not:
 - (i) Knowingly employ or contract with an undocumented immigrant to perform work under this Agreement; or
 - (ii) Enter into a contract with a subcontractor that fails to certify to the Firm that the subcontractor shall not knowingly employ or contract with an undocumented immigrant to perform work under this Agreement.
- B. The Firm has confirmed the employment eligibility of all employees who are newly hired for employment to perform Work under this Agreement through participation in either the E-Verify Program or Department Program.
- C. If the Firm obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an undocumented immigrant, the Firm shall:
 - (i) Notify the subcontractor and the City within three (3) days that the Firm has actual knowledge that the subcontractor is employing or contracting with an undocumented immigrant; and
 - (ii) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to sub-paragraph (i) above, the subcontractor does not stop employing or contracting with the illegal alien;

except that the Firm shall not terminate the contract with the subcontractor if during such three days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

- D. The Firm shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- E. If the Firm violates this provision of this Agreement, the City may terminate this contract for breach of contract and the Firm shall be liable for actual and consequential damages to the City as required by law.
- F. The City will notify the Office of the Secretary of State if the Firm violates this provision of the Agreement, and the City terminates the Agreement for such breach.

IX. NOTICES

Any notices required or permitted under this Agreement shall be by personal delivery, electronic mail, or Certified Mail sent the United States Post Office at the addresses set forth below:

Notice to CITY

Pueblo City Attorney's Office
ATTN : Carla L. Sikes
City of Pueblo Department of Law
One City Hall Place
Pueblo, CO 81003
Phone : (719) 562-3896
E-Mail : csikes@pueblo.us

Notice to KONCILJA PUBLIC ENERGY LAW AND POLICY, LLC

Frances Koncilja
555 S. Harrison Lane
Denver, Co 80209
Phone : (303) 956-3160
E-Mail : fkoncilja@koncilja.com

X. GOVERNING LAW

This Agreement shall be construed and interpreted under the laws of the State of Colorado.

XI. SEVERABILITY

In the event one or more, but not all, of the provisions of this Agreement are declared to be unlawful or unenforceable by a Court of competent jurisdiction, such determination shall not affect the legality or enforceability of the remainder of the terms and provisions of this Agreement.

XII. BINDING

When executed by the parties hereto, this Agreement shall be a binding agreement and shall inure to the benefit of and be binding upon the parties hereto, their successors and permitted assigns.

XIII. MODIFICATION AND ASSIGNMENT

This Agreement may be modified only by a writing signed by each of the parties hereto. Neither party may assign this Agreement without the express written permission of the other party which permission may be denied for any reason, including an arbitrary reason.

XIV. DUPLICATES

This Agreement may be executed in duplicate original counterparts, each of which shall constitute an original but all which shall constitute one and the same document.

IN WITNESS WHEREOF, the parties have executed this Agreement effective July XX, 2024.

KONCILJA ENERGY LAW AND POLICY, LLC
BY:

Frances Koncilja Date

CITY OF PUEBLO
BY:

Heather Graham, Mayor Date

APPROVED AS TO FORM:

City Attorney Date

JOINT REPRESENTATION AGREEMENT

I. PARTIES

On June 14, 2024, Black Hills Colorado Electric, LLC (“Black Hills”) filed with the Colorado Public Utility Commission, its Advice Letter No. 871 to Increase Base Rate Revenues and Rates in Proceeding No. 24A-0275E. (“Black Hills Rate Case”). The below parties have similar interests and have agreed to jointly dispute the matters asserted by Black Hills and to retain Koncilja Energy Law and Policy, LLC (Law Firm”) to jointly represent them.

The parties to this Agreement effective July X, 2024are:

- A. Pueblo County, (“County”)
- B. The City of Pueblo (“City”)
- C. Pueblo Economic Development Corporation (“PEDCO”)

II. DEFINITIONS

- A. The term “Party” or “Parties” includes each person or entity executing this Agreement and their agents, assigns, employees, representatives, and successors.
- B. “Black Hills Rate Case” refers Proceeding No. 24A-0275E filed with the Colorado Public Utilities Commission on June 14,2024.

III. RECITALS

- A. In the Black Hills Rate Case, Black Hills seeks and additional \$36,760,812 from residents, businesses and commercial industry in their service territory which includes the City and the County. These rate increases are, on average, an increase of approximately 21% across all classes of customers and could be as high as 28%. Among other items, Black Hills seeks approval of a higher profit in the amount of 10.5% and changes to depreciation schedules, changes to net metering for solar customers, as well as the use of different rate schedules.
- B. City, County and PEDCO have common interests, claims and interests in the Black Hills Rate Case and believe they will mutually benefit from a coordinated investigation, preparation and assertion of claims and defenses in the Black Hills Rate Case and the sharing of attorney fees and costs.
- C. In order to facilitate the preparation and assertion of the claims, Parties desire to work together, share certain communications and information, and coordinate interests in the Black Hills Rate Case without jeopardizing or waiving any attorney-client, work product, accountant-client, or other privilege.

IV. AGREEMENT

The Parties agree as follows:

A. Any communications among the Parties or their Counsel on matters of common interest in the investigation, preparation and prosecution of claims and/or possible settlement of the Black Hills Rate Case are intended to and shall remain privileged and confidential communications to the fullest extent allowable by applicable law and ethical standards.

B. This Agreement covers all materials, documents, information, discussions, or any other matters that have been shared or disclosed among the Parties, their Counsel and Firm since the filing of the Black Hills Rate Case

C. Each signatory to this Agreement has the right to terminate its participation at any time. Termination shall be effective upon tendering express written notice to each Party, with a copy to Law Firm. A terminating Party remains bound to maintain the confidentiality of all Joint Interest Materials under this Agreement and information derived therefrom.

By: _____ Heather Graham, Mayor City of Pueblo One City Hall Place Pueblo, Co 81003 APPROVED AS TO FORM: By: _____ Carla L. Sikes, City Attorney City of Pueblo One City Hall Place Pueblo, CO 81003 719-562-3896 csikes@pueblo.us	Pueblo County Attorney By: Cynthia L. Mitchell Pueblo County Attorney 215 W. 10th Street Pueblo Co 81003 719-583-6636 mitchelc@pueblocounty.us
Jeff Shaw President Pueblo Economic Development Corp ("PEDCO")	By: _____ Frances Koncilja Koncilja Energy Law and Policy, LLP 555 S. Harrison Lane Denver, Co 80209 303-956-3160 fkoncilja@koncilja.com

EXHIBIT A

1. Scope of Work—Firm will represent the City of Pueblo, Pueblo County and Pueblo Economic Development Corporation (“PEDCO”) jointly referred to as “Clients.” in opposing the request by Black Hills of Colorado filed before the Colorado Public Utilities Commission as 24AL-0275E (“Black Hills Rate Case”)
2. Firm will charge the amount of \$495 per hour which includes normal photocopying, postage, delivery expenses and long distance phone charges. Firm may also use the services of a paralegal whose hourly rate is \$95. Clients each agree to pay 1/3 of the hourly rate billed on a monthly basis as well as 1/3 of any expenses. The above hourly rate does not include extraordinary expenses, such as expert consultants (if approved by Clients) and/or delivery of large packets of information or presentations. These items will be billed at cost without any markup.
3. Colorado Rules of Professional Conduct 1.7 and 1.8 govern conflicts of interest. Clients and Firm believe that there is a unity of interests among all of the Clients. Black Hills is proposing that in order to avoid “rate shock” to residential customers, the industrial and commercial customers be charged rates in excess of what the Black Hills cost of service study indicates. Black Hills refers to this shifting of costs as “rate mitigation.” To the extent that such rate mitigation creates a conflict of interest, each Client provides consent to this joint representation and waives any conflict. In the event that any of the Clients asserts that the amount of rate mitigation discussed in settlement creates an unwaivable conflict of interest, Firm retains the right to determine which of the Clients to continue to represent and the Client asserting the conflict of interest will obtain the services of separate counsel and agrees not to assert the conflict of interest to disqualify Firm from representing the remaining clients.
4. Any amendment to this Exhibit A shall be in writing.