REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS - CITY HALL
#1 CITY HALL PLACE
MONDAY, April 25, 2022 7:00 P.M.

Individuals Requiring Special Accommodations Should Notify the City Clerk's Office (719) 553-2669 by Noon on the Friday Preceding the Meeting.

A. CALL TO ORDER: President Heather Graham

B. INVOCATION: Pastor George Casias, The Vineyard Of Pueblo

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E.1. Proclamation Presentation: "Southern Colorado Youth Go Day – April 30, 2022" – Akemi Moore, Health Promotion Specialist PDPHE

E.2. Proclamation Presentation: "Servicios De La Raza Day – April 30, 2022" – Rosa Zavala, Servicios De La Raza

F. PUBLIC FORUM

G. COUNCIL MEMBER AND MAYOR COMMENTARY

H. REVIEW OF THE AGENDA
Review Agenda page by page.

I. APPROVAL OF THE AGENDA
Required Council Action: Motion to Amend the Agenda or Approve the Agenda as distributed.

J. READING AND APPROVAL OF MINUTES
Required Council Action: Motion to dispense with the reading and approve the Minutes of the Regular Meeting dated ***Monday, April 11, 2022*** as distributed.

Documents:

04-11Minutes.pdf

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

L.1. MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING DATED MARCH 9, 2022 AND MEETING DATED MARCH 23, 2022

Documents:

PZ Minutes 3-9-22 Signed.pdf
PZ Minutes 3-23-22 Signed.pdf

M. RESOLUTIONS

M.1. A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF $7,942.62 WITH PARKER EXCAVATION, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2630 FORSYTHIA PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

Documents:

Resolution_14857.pdf
Bid Summary_Change Order_Map.pdf

M.2. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $42,280 TO MONTANO CONCRETE, INC., AND SETTING FORTH $12,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-018 SIDEWALK IMPROVEMENTS AT DUTCH CLARK STADIUM AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Removed from agenda

Documents:

Resolution_M-2.pdf
Bid Summary.pdf

M.3. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $169,628.25 TO CEDAR RIDGE LANDSCAPE, INC., AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-022 ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14858.pdf
Bid Summary.pdf

M.4. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $161,711 TO DOUG VAUGHN, LLC, AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-024 ABRIENDO AVENUE ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14859.pdf
Bid Summary.pdf

M.5. A RESOLUTION AUTHORIZING THE TRANSFER OF $100,000 FROM PROJECT NO. CI2204 TO PROJECT NO. CI2206 FOR THE ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT

Documents:

Resolution_14860.pdf

M.6. A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 2 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

Documents:

Resolution_14861.pdf
Easement.pdf

M.7. A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 3 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

Documents:

Resolution_14862.pdf
Easement.pdf

M.8. A RESOLUTION AMENDING A REVOCABLE PERMIT ISSUED TO EL CAMINO HOMEOWNERS ORGANIZATION, INC., A COLORADO NONPROFIT CORPORATION UNDER RESOLUTION 14585 FOR INSTALLATION OF ADDITIONAL IMPROVEMENTS IN BRIDLE TRAIL

Documents:

Resolution_14863.pdf
Revocable Permit Amendment.pdf

M.9. A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, FOR THE USE OF THE PARKING LOT AND DRIVEWAY AT EL PUEBLO MUSEUM

Documents:

Resolution_14864.pdf
Revocable Permit.pdf

M.10. A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT

Moved to Regular Agenda

Documents:

Resolution_14868.pdf

M.11. A RESOLUTION APPOINTING JACQUELINE KEITH TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES

Documents:

Resolution_14865.pdf
Application.pdf

M.12. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF KEN JOHNSON TO THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

Documents:

Resolution_14866.pdf
Application.pdf

M.13. A RESOLUTION CONFIRMING THE APPOINTMENTS BY THE MAYOR OF CHRISTINE MAESTAS AND STEVEN RODRIGUEZ TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS (CCHH)

Documents:

Resolution_14867.pdf
Application_Maestas.pdf
Application_Rodriguez.pdf

N. ORDINANCES – FIRST PRESENTATION

N.1. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN THREE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) LICENSED DENTAL HYGIENE CARE, A COLORADO NONPROFIT CORPORATION; (2) YBARRA'S BOXING CLUB, A COLORADO NONPROFIT CORPORATION; AND (3) THE JUNETEENTH ORGANIZATION OF PUEBLO, INC., A COLORADO NONPROFIT CORPORATION; AS AUTHORIZED BY SECTION 603 (C)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED FORTY-ONE THOUSAND ONE HUNDRED TWENTY-SIX DOLLARS ($141,126) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

Documents:

Ordinance_N-1.pdf
Licensed Dental Hygiene Care Subrecipient Agreement.pdf
Ybarra Boxing Club Subrecipient Agreement.pdf
Juneteenth Organization of Pueblo, Inc Subrecipient Agreement.pdf

N.2. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CO CREATE LLC, A COLORADO LIMITED LIABILITY COMPANY, TO (1) DEVELOP A PRIVATE/PUBLIC SECTOR INVESTMENT STRATEGY AND AN ACTION PLAN FOR DELIVERY OF BROADBAND SERVICES TO QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO AND (2) PRESENT THE MAYOR AND CITY COUNCIL WITH PROJECTS/AGREEMENTS WITH CURRENT OR NEW INTERNET PROVIDERS IN CONNECTION THEREWITH AND FURTHER AUTHORIZING THE PAYMENT OF ONE HUNDRED THOUSAND DOLLARS ($100,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

Documents:

Ordinance_N-2.pdf
Professional Services Agreement.pdf

N.3. 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 2021 AND AMENDING THE BUDGET FOR THE YEAR 2021

Documents:

Ordinance_N-3.pdf
2021 Year end Budget Reconciliation.pdf

N.4. AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED $54,042 BETWEEN THE CITY OF PUEBLO AND RAFTELIS FINANCIAL CONSULTANTS, INC. FOR THE 2022 FINANCIAL CAPACITY STUDY

Documents:

Ordinance_N-4.pdf
Agreement.pdf

N.5. AN ORDINANCE APPROVING AND ACCEPTING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, BOYD'S BOOKKEEPING AND ADMINISTRATION SERVICES, LLC, AND THE SOUTHERN COLORADO ECONOMIC DEVELOPMENT DISTRICT NAVIGATOR PILOT PROGRAM TO PURCHASE AND SETUP SOFTWARE FOR STUDENTS IN THE PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM FOR $4,632

Documents:

Ordinance_N-5.pdf
Agreement.pdf

N.6. AN ORDINANCE VACATING PORTIONS OF PLATTED STREETS AND ALLEYS OF SOUTH BRADFORD STREET, KELLY AVENUE, AND RIVER STREET

Documents:

Ordinance_N-6.pdf
P_Z Report.pdf

N.7. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SOFTWARE AND CONSULTING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND RESOURCE EXPLORATION, INC., A DELAWARE CORPORATION, TO ADVISE THE CITY OF PUEBLO REGARDING PRIORITY BASED BUDGETING MATTERS

Documents:

Ordinance_N-7.pdf
Software and Consulting Agreement.pdf

N.8. AN ORDINANCE AMENDING THE STANDARD FORM PARKLET USE AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR QUALIFYING BUSINESSES

Documents:

Ordinance_N-8.pdf
Parklet Use Agreement.pdf

O. APPROVAL OF CONSENT AGENDA

O.1. I Move To Receive And File The Minutes From The Planning And Zoning Commission, Approve All Resolutions Set Forth In The Consent Agenda; Pass The Ordinances Of The Consent Agenda, Setting The Public Hearings For Monday, May 9, 2022, And Order The Ordinances To Be Published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q.1. A RESOLUTION AUTHORIZING PAYMENT OF FUNDS IN THE AMOUNT OF SEVENTEEN THOUSAND DOLLARS ($17,000) TO THE FIRE DEPARTMENT OF THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, FOR THE FIRE FIT KIDS PROJECT, TO BE PAID FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

Documents:

Resolution_14869.pdf

R. ORDINANCES – FINAL PRESENTATION

R.1. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN NINE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) FRIENDLY HARBOR, A COLORADO NONPROFIT CORPORATION; (2) THE PUEBLO CHILD ADVOCACY CENTER, INC., A COLORADO NONPROFIT CORPORATION; (3) THE PUEBLO RESCUE MISSION, A COLORADO NONPROFIT CORPORATION; (4) PUEBLO DIVERSIFIED INDUSTRIES, INC., A COLORADO NONPROFIT CORPORATION; (5) THE YWCA OF PUEBLO, A COLORADO NONPROFIT CORPORATION; (6) THE SOUTHEASTERN COLORADO AREA HEALTH EDUCATION CENTER FOR RURAL COLORADO'S HEALTH, INC., A COLORADO NONPROFIT CORPORATION; (7) THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, A COLORADO URBAN RENEWAL AUTHORITY; (8) PUEBLO COMMUNITY COLLEGE, A COLORADO COMMUNITY COLLEGE, FOR (A) THE INNOVATIVE AND INTERACTIVE E

Documents:

Ordinance_10156.pdf
Friendly Harbor Subrecipient Agreement.pdf
Pueblo Child Advocacy Center Subrecipient Agreement.pdf
Pueblo Rescue Mission Subrecipient Agreement.pdf
Pueblo Diversified Industries Subrecipient Agreement.pdf
Pueblo YWCA Subrecipient Agreement.pdf
SE Colo Health Education Center Subrecipient Agreement.pdf
Pueblo Urban Renewal Subrecipient Agreement.pdf
Pueblo Community College Youth Innovation Subrecipient Agreement.pdf
Pueblo Community College Female Founders Subrecipient Agreement.pdf

R.2. AN ORDINANCE CREATING PROJECT PT2201 SHOP TRUCK REPLACEMENT, ACCEPTING BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF $18,250 INTO PROJECT PT2201

Documents:

Ordinance_10157.pdf

R.3. AN ORDINANCE ESTABLISHING PROJECT AP2203 – AIRPORT TERMINAL REMODEL DESIGN AND CONSTRUCTION, TRANSFERRING $362,288.40 TO PROJECT AP2203 FROM THE AIRPORT FUND, AND AWARDING A DESIGN

CONTRACT TO CSHQA, INC. FOR PROJECT NO. 21-090 RFP – PUEBLO MEMORIAL AIRPORT TERMINAL REMODEL

Documents:

Ordinance_10158.pdf
Agreement Professional Architectural Services.pdf

R.4. AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $13,545 TO DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., AN ARIZONA CORPORATION, FOR PROJECT EAST GENERAL AVIATION APRON REHABILITATION PROJECT IN CONNECTION WITH BID 17-062 RFQ – PUEBLO MEMORIAL AIRPORT ENGINEER OF RECORD AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Ordinance_10159.pdf
Dibble Professional Services Agreement.pdf

R.5. AN ORDINANCE ESTABLISHING PROJECT CI2120 FOR UNION AND MAIN STREETSCAPE PROJECT, 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: STA M086-095 (24779), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $2,000,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_10160.pdf
InrterGovernmental Agreement.pdf

R.6. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 3 TO THE COOPERATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO URBAN RENEWAL AUTHORITY RELATING TO THE ST. CHARLES INDUSTRIAL PARK URBAN RENEWAL AREA

Documents:

Ordinance_10161.pdf
Amendment No. 3.pdf

R.7. AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE PORTIONS OF PARCEL 522300002 FROM B-3, HIGHWAY AND ARTERIAL BUSINESS, R-3, ONE AND TWO FAMILY RESIDENTIAL, AND R-4, MIXED RESIDENTIAL TO R-6, MULTIPLE RESIDENTIAL AND COMMERCIAL

Documents:

Ordinance_10162.pdf
P_Z Report.pdf

R.8. AN ORDINANCE CHANGING ZONING RESTRICTIONS OF THE FOOTHILLS SUBDIVISION FROM R-8, MANUFACTURED HOME RESIDENTIAL DISTRICT AND B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO A PUD, PLANNED UNIT DEVELOPMENT ZONE DISTRICT GENERALLY LOCATED EAST OF NORTH PUEBLO BOULEVARD AND NORTH OF WEST 24TH STREET

Documents:

Ordinance_10163.pdf
P_Z Report.pdf

R.9. AN ORDINANCE VACATING STREETS AND EASEMENTS IN THE FOOTHILLS SUBDIVISION, A SPECIAL AREA PLAN AND PORTIONS OF OAKLAND BOULEVARD, COLUMBIA AVENUE, EMERSON AVENUE AND THE ENTIRE ALLEY IN BLOCK 11, IRVING PARK SUBDIVISION

Documents:

Ordinance_10164.pdf
P_Z Report.pdf

R.10. AN ORDINANCE APPROVING THE PIKES PEAK PARK, FILING NO. 1 SUBDIVISION

Documents:

Ordinance_10165.pdf
P_Z Report.pdf

R.11. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A LETTER OF INTENT TO SELL 101 W. RIVERWALK PLACE, UNITS 1A AND 1B, TO FULL PLATE MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY FOR ONE MILLION ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS ($1,102,500)

Documents:

Ordinance_10166.pdf
Letter of Intent.pdf

R.12. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO 200 GREENHORN DRIVE, PUEBLO, CO 81004

Documents:

Ordinance_10167.pdf
Agreement For Conveyance Of Real Property And Improvements.pdf
Deed.pdf

S. COUNCIL MEMBER CONFLICT OF INTEREST

Councilmember Heather Graham will ask to be excused from the meeting due to a conflict of interest with agenda item number S-1

S.1. A RESOLUTION GRANTING LOCAL BUSINESSES A DEFERMENT UNTIL JANUARY 1, 2023 TO MAKE THEIR FIRST MONTHLY PAYMENTS ON LOANS FROM THE COVID-19 EMERGENCY PROJECT

Documents:

Resolution_14870.pdf
Exhibit A.pdf

ADJOURN

REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
MONDAY, APRIL 11, 2022 – 7:00 P.M.

MINUTES

A. CALL TO ORDER President Heather Graham

B INVOCATION Pastor Ken Wood, The Avenue Church

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Council Members Present: Larry Atencio, Dennis Flores, Heather Graham, Regina Maestri, Sarah Martinez, Vicente Martinez Ortega, and Lori Winner.

Council Members Present via Zoom: None.

Council Members Absent: None.

Administrative Staff Members Present: Chief of Staff Laura Solano, City Attorney Daniel Kogovsek, City Clerk Marisa Stoller.

E. SPECIAL RECOGNITIONS

- President Heather Graham presented a proclamation "Arbor Day, April 14, 2022" – City of Pueblo to Charlie Kuntz, Forestry Coordinator and Mike Taft, Park Supervisor
- Councilor Martinez presented a proclamation on "Child Abuse Prevention Month April 2022" to Jennifer Chavez, Pueblo Child Advocacy Center

F. PUBLIC FORUM

- Colleen Clark – Wasteful spending
- Elvis Martinez – License plates, roads, City Council
- Frank Cirullo – Restitution & Monument
- Celeste Arellano – Wasteful spending

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

Chief of Staff Laura Solano passed along the Mayor's thanks to Chief Huber regarding the Saturday fire.

MINUTES

H. REVIEW AND APPROVAL OF THE AGENDA

The agenda was reviewed page by page. Ms. Solano requested that item M-3 be removed from the agenda. Ms. Winner requested that item N-11 be moved to the regular agenda. Ms. Solano requested that R-1 be continued to the May 9, 2022 meeting. Ms. Martinez, seconded by Mr. Martinez Ortega, moved to remove item M-3 from the agenda, move item N-11 to the regular agenda, continue item R-1 to the May 9, 2022 agenda and to approve the agenda as modified.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

I. READING AND APPROVAL OF MINUTES

Mr. Flores, seconded by Mr. Martinez Ortega, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **Monday, March 28, 2022** as distributed.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

K. PUBLIC HEARING: ANDIAMO METROPOLITAN DISTRICT SERVICE PLAN

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

PUBLIC HEARING:

- Lea Willy – SEA Construction appeared in person to speak in favor of this resolution

K-1 RESOLUTION NO 14843 APPROVING THE SERVICE PLAN FOR THE ANDIAMO METROPOLITAN DISTRICT

Mr. Flores, seconded by Mr. Martinez Ortega, moved to approve the Resolution.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

L. CONSENT AGENDA

City Clerk Marisa Stoller read the Consent Agenda into the record.

M. RESOLUTIONS

M-1 RESOLUTION NO 14844 APPROVING AMENDMENT #2 TO THE AGREEMENT FOR PROFESSIONAL DESIGN CONSULTING SERVICES IN THE AMOUNT OF $59,915 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BOHANNAN HUSTON, INC., RELATING TO THE FINAL DESIGN FOR THE EASTSIDE PEDESTRIAN, PARKING AND STREETSCAPE IMPROVEMENTS PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

MINUTES

M-2 RESOLUTION NO 14845 ACCEPTING A PUBLIC UTILITY EASEMENT FROM ELB HOLDINGS, LLC, A COLORADO LIMITED LIABILITY COMPANY

M-3 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $42,280 TO MONTANO CONCRETE, INC., AND SETTING FORTH $12,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-018 SIDEWALK IMPROVEMENTS AT DUTCH CLARK STADIUM AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

M-4 RESOLUTION NO 14846 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO PUEBLO COMMUNITY COLLEGE FOR THE USE OF ORMAN AVENUE IN BETWEEN HARRISON AVENUE AND CLEVELAND STREET AND THEIR RIGHTS OF WAY TO INSTALL A DIGITAL MEDIA BOARD AND POLES TO INSTALL OVERHEAD DECORATIVE LED LIGHTS

M-5 RESOLUTION NO 14847 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE NATIONAL MULTIPLE SCLEROSIS SOCIETY FOR THE USE OF SOUTH VICTORIA AVENUE FROM GREENWOOD STREET TO THE D STREET AND A SECTION OF GREENWOOD STREET FROM CITY CENTER DRIVE TO VICTORIA AVENUE AND THEIR RIGHTS OF WAY TO HOST THEIR WALK MS: PUEBLO

M-6 RESOLUTION NO 14848 ESTABLISHING AN APPROVED LIST OF CONTRACTORS TO PERFORM EMERGENCY WATER LINE REPAIRS FOR CITY PARKS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

M-7 RESOLUTION NO 14849 APPOINTING COUNCILOR LARRY ATENCIO TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES APPOINTMENT COMMITTEE

M-8 RESOLUTION NO 14850 CONFIRMING THE APPOINTMENT BY THE MAYOR OF FRED BOATWRIGHT AND RICHARD BLAIR TO COMPLETE A THREE-YEAR TERM EXPIRING DECEMBER 31, 2024 ON THE PUEBLO HUMAN RELATIONS COMMISSION

M-9 RESOLUTION NO 14851 CONFIRMING THE APPOINTMENT BY THE MAYOR OF MICHAEL RILEY TO COMPLETE A FOUR-YEAR TERM EXPIRING AUGUST 1, 2025 ON THE HONOR FARM ENTERPRISE CITIZENS ADVISORY BOARD

M-10 RESOLUTION NO 14852 CONFIRMING THE APPOINTMENT BY THE MAYOR OF GARY MICHELI TO SERVE A THREE-YEAR TERM EXPIRING APRIL 1, 2025 ON THE FIRE BOARD OF APPEALS

M-11 RESOLUTION NO 14853 ADOPTING AND APPROVING STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS FOR THE CITY OF PUEBLO, COLORADO DATED APRIL 11, 2022 - *Introduced March 28, 2022 by Councilor Martinez Ortega and continued to April 11, 2022 meeting*

N. ORDINANCES – FIRST PRESENTATION

MINUTES

N-1 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN NINE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) FRIENDLY HARBOR, A COLORADO NONPROFIT CORPORATION; (2) THE PUEBLO CHILD ADVOCACY CENTER, INC., A COLORADO NONPROFIT CORPORATION; (3) THE PUEBLO RESCUE MISSION, A COLORADO NONPROFIT CORPORATION; (4) PUEBLO DIVERSIFIED INDUSTRIES, INC., A COLORADO NONPROFIT CORPORATION; (5) THE YWCA OF PUEBLO, A COLORADO NONPROFIT CORPORATION; (6) THE SOUTHEASTERN COLORADO AREA HEALTH EDUCATION CENTER FOR RURAL COLORADO'S HEALTH, INC., A COLORADO NONPROFIT CORPORATION; (7) THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, A COLORADO URBAN RENEWAL AUTHORITY; (8) PUEBLO COMMUNITY COLLEGE, A COLORADO COMMUNITY COLLEGE, FOR (A) THE INNOVATIVE AND INTERACTIVE ENTREPRENEURIAL EDUCATION OF PUEBLO, COLORADO'S YOUTH PROJECT THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER AND THE SOUTHERN COLORADO INNOVATIVE LINK; AND (B) THE FEMALE FOUNDER PROJECT, THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER, AS AUTHORIZED BY SECTION 603 (C)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED SEVENTY-FOUR THOUSAND SEVEN HUNDRED TWENTY-EIGHT DOLLARS ($674,728) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-2 AN ORDINANCE CREATING PROJECT PT2201 SHOP TRUCK REPLACEMENT, ACCEPTING BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF $18,250 INTO PROJECT PT2201 – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-3 AN ORDINANCE ESTABLISHING PROJECT AP2203– AIRPORT TERMINAL REMODEL DESIGN AND CONSTRUCTION, TRANSFERRING $362,288.40 TO PROJECT AP2203 FROM THE AIRPORT FUND, AND AWARDING A DESIGN CONTRACT TO CSHQA, INC. FOR PROJECT NO. 21-090 RFP – PUEBLO MEMORIAL AIRPORT TERMINAL REMODEL – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-4 AN ORDINANCE ESTABLISHING EAST GENERAL AVIATION APRON REHABILITATION PROJECT NO. AP2204, TRANSFERRING $13,545 FROM THE AIRPORT FUND, BUDGETING AND APPROPRIATING $13,545 TO PROJECT NO. AP2204, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $13,545 TO DIBBLE & ASSOCIATES CONSULTING

MINUTES

ENGINEERS, INC., AN ARIZONA CORPORATION, FOR PROJECT EAST GENERAL AVIATION APRON REHABILITATION PROJECT IN CONNECTION WITH BID 17-062 RFQ – PUEBLO MEMORIAL AIRPORT ENGINEER OF RECORD AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-5 AN ORDINANCE ESTABLISHING PROJECT CI2120 FOR UNION AND MAIN STREETSCAPE PROJECT, 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: STA M086-095 (24779), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $2,000,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-6 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 3 TO THE COOPERATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO URBAN RENEWAL AUTHORITY RELATING TO THE ST. CHARLES INDUSTRIAL PARK URBAN RENEWAL AREA – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-7 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE PORTIONS OF PARCEL 522300002 FROM B-3, HIGHWAY AND ARTERIAL BUSINESS, R-3, ONE AND TWO FAMILY RESIDENTIAL, AND R-4, MIXED RESIDENTIAL TO R-6, MULTIPLE RESIDENTIAL AND COMMERCIAL – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-8 AN ORDINANCE CHANGING ZONING RESTRICTIONS OF THE FOOTHILLS SUBDIVISION FROM R-8, MANUFACTURED HOME RESIDENTIAL DISTRICT AND B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO A PUD, PLANNED UNIT DEVELOPMENT ZONE DISTRICT GENERALLY LOCATED EAST OF NORTH PUEBLO BOULEVARD AND NORTH OF WEST 24TH STREET – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-9 AN ORDINANCE VACATING STREETS AND EASEMENTS IN THE FOOTHILLS SUBDIVISION, A SPECIAL AREA PLAN AND PORTIONS OF OAKLAND BOULEVARD, COLUMBIA AVENUE, EMERSON AVENUE AND THE ENTIRE ALLEY IN BLOCK 11, IRVING PARK SUBDIVISION – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-10 AN ORDINANCE APPROVING THE PIKES PEAK PARK, FILING NO. 1 SUBDIVISION – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

N-11 MOVED TO REGULAR AGENDA

N-12 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO 200 GREENHORN DRIVE, PUEBLO, CO 81004 – *submitted for First Presentation*

Public Hearing was Set for Monday, April 25, 2022, Notice of Hearing was Ordered Published by Title.

O. APPROVAL OF CONSENT AGENDA

Mr. Atencio, seconded by Mr. Flores, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for **Monday, April 25, 2022,** and Order the Ordinances to be published **BY TITLE.**

Roll Call – Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

P. REGULAR AGENDA

N-11 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A LETTER OF INTENT TO SELL 101 W. RIVERWALK PLACE, UNITS 1A AND 1B, TO FULL PLATE MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY FOR ONE MILLION ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS ($1,102,500) – *submitted for First Presentation*

Ms. Martinez, seconded by Mr. Martinez Ortega, moved to pass the ordinance, set the Public Hearing for Monday, April 25, 2022, and publish the Notice of Hearing by Title.

Roll Call – Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

Q. RESOLUTIONS

Q-1 RESOLUTION NO 14854 AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $6,580,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR 15 GOVERNMENTAL SERVICES PROJECTS AS AUTHORIZED BY SECTION

MINUTES

603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

A staff report and detailed review of the Resolution was given by Chief of Staff Laura Solano.

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Resolution.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

Q-2 A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE GOODNIGHT BARN FOUNDATION IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT THE CHUCK WAGON RENDEZVOUS

A staff report and detailed review of the Resolution was given by Mr. Atencio.

Mr. Atencio, seconded by Mr. Flores, moved to table the Resolution.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

Q-3 RESOLUTION NO 14855 AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO CSU PUEBLO FOUNDATION IN THE AMOUNT OF FIFTEEN HUNDRED DOLLARS ($1,500) TO SPONSOR A TABLE AT THE 2022 PRESIDENT'S GALA

A staff report and detailed review of the Resolution was given by President Heather Graham.

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Resolution

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

Q-4 RESOLUTION NO 14856 TO TREES PLEASE IN THE AMOUNT OF FIVE THOUSAND DOLLARS ($5,000) TO SUPPORT THE DUTCH CLARK RENOVATION PROJECT

A staff report and detailed review of the Resolution was given by President Heather Graham and Councilor Sarah Martinez.

Mr. Martinez Ortega, seconded by Ms. Martinez, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega, and Winner. Motion carried unanimously.

R. ORDINANCES – FINAL PRESENTATION

R-1 CONTINUED TO MAY 9, 2022 MEETING

MINUTES

R-2 ORDINANCE NO 10146 APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $111,949 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES RESPECT TO THE GROUNDWATER DEWATERING WELL PERMIT COMPLIANCE AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Chief of Staff Laura Solano.

PUBLIC HEARING:

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

Mr. Flores, seconded by Mr. Martinez Ortega, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-3 ORDINANCE NO 10147 APPROVING AMENDMENT #1 TO THE INTERGOVERNMENTAL AGREEMENT, BETWEEN PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM PROJECT FUNDING FOR THE EASTSIDE PEDESTRIAN, PARKING AND STREETSCAPE IMPROVEMENTS, BUDGETING AND APPROPRIATING $100,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for Final Presentation*

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

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-4 ORDINANCE NO 10148 APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND BIF IV INTREPID OPCO, LLC, A DELAWARE LIMITED LIABILITY COMPANY AND GRANTING SAID ENTITY A CITY TELECOMMUNICATIONS LICENSE – *submitted for Final Presentation*

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

PUBLIC HEARING:

MINUTES

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-5 ORDINANCE NO 10149 AMENDING ZONING RESTRICTIONS TO THE VILLA BELLA, PLANNED UNIT DEVELOPMENT GUIDE – *submitted for Final Presentation*

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 file Case #Z 2202 dated March 9, 2022, be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-6 ORDINANCE NO 10150 ESTABLISHING PROJECT NO. PS2203 FOR THE NURSE NAVIGATION PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $201,869 TO SAID PROJECT, APPROVING AND ACCEPTING GRANT FUNDS PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE COLORADO DIVISION OF HOMELAND SECURITY & EMERGENCY MANAGEMENT, APPROVING THE RELATED NURSE NAVIGATION AGREEMENT BETWEEN PUEBLO, A MUNICIPAL CORPORATION, AND ACCESS2CARE, LLC AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for Final Presentation*

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

PUBLIC HEARING:

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

Ms. Maestri, seconded by Mr. Martinez Ortega, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-7 ORDINANCE NO 10151 APPROVING AND ACCEPTING AN AGREEMENT BETWEEN THE CITY OF PUEBLO AND HOMELAND SECURITY INVESTIGATIONS REGARDING

MINUTES

REIMBURSEMENT OF POLICE PERSONNEL OVERTIME AND OTHER EXPENSES ACCRUED WHILE WORKING JOINT OPERATIONS – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Police Chief Chris Noeller.

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Ms. Maestri, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-8 ORDINANCE NO 10152 AMENDING THE PUEBLO MUNICIPAL CODE IN ACCORDANCE WITH COLORADO RULES OF CIVIL PROCEDURE RULE 106 – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Assistant City Attorney Michael Miller.

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-9 ORDINANCE NO 10153 ADOPTING AN ENTERTAINMENT DISTRICT; SPECIFICALLY, A BOUNDARY DESCRIPTION PER ARTICLE VII OF CHAPTER 3 OF TITLE XI – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Assistant City Attorney Michael Miller.

PUBLIC HEARING:

- Randy Thurston appeared in person to speak in favor of this ordinance
- Duane Nava, Greater Pueblo Chamber, appeared in person to speak in favor of this ordinance

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

MINUTES

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega and Winner. Motion carried unanimously.

R-10 ORDINANCE NO 10154 APPROVING AND AUTHORIZING THE MAYOR TO SIGN SEVEN SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) BOYS AND GIRLS CLUBS OF PUEBLO COUNTY, A COLORADO NONPROFIT CORPORATION, FOR (A) THE EAST SIDE CLUBHOUSE PROJECT AND (B) TO PURCHASE 2 MINIBUSES; (2) NEIGHBORWORKS SOUTHERN COLORADO, INC., A COLORADO NONPROFIT CORPORATION FOR THE FINANCIAL NAVIGATOR PROGRAM; AND (3) PUEBLO COMMUNITY COLLEGE, A COLORADO COMMUNITY COLLEGE, FOR (A) THE INDUSTRIAL SEWING TRAINING PROGRAM; (B) THE INDUSTRIAL PAINTING TRAINING PROGRAM; (C) THE PLACE FOR ACADEMIC KNOWLEDGE (PEAK) PROGRAM; AND (D) THE SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS (STEM) PROGRAM; ALL AS AUTHORIZED BY SECTION 603 (C)(1)(A) AND (B) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED TEN THOUSAND SEVEN HUNDRED THIRTY FOUR AND 40/100 DOLLARS ($610,734.40) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by City Attorney Daniel Kogovsek.

PUBLIC HEARING:

- Ted Freeman appeared in person to speak against this ordinance

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Ms. Maestri, seconded by Ms. Winner, moved to table this ordinance until the second tranche is received.

Roll Call - Ayes: Maestri and Winner. Nays: Atencio, Flores, Graham, Martinez, and Martinez Ortega. Motion failed 2-5.

The pending motion to approve the Ordinance on Final Presentation was voted on.

Roll Call - Ayes: Atencio, Flores, Graham, Martinez, and Martinez Ortega. Nays: Maestri and Winner. Motion carried 5-2.

S. COUNCIL MEMBER CONFLICT OF INTEREST

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

MINUTES

S. ORDINANCES – FINAL PRESENTATION

S-1 ORDINANCE NO 10155 APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, A MUNICIPAL/COUNTY PUBLIC HEALTH AGENCY, FOR PREMIUM PAY FOR ELIGIBLE WORKERS PERFORMING ESSENTIAL WORK, AS AUTHORIZED BY SECTION 603 (C)(1)(B) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF NINETY ONE THOUSAND THREE HUNDRED SEVENTY ONE DOLLARS ($91,371) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by City Attorney Daniel Kogovsek.

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Mr. Flores, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez Ortega and Winner. Motion carried 6-0 with Councilor Martinez recused.

ADJOURN: 9:28 p.m. President Graham Adjourned the Meeting.

Respectfully submitted,

Marisa Stoller
City Clerk

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak
Alexandra Aznar
Elizabeth Bailey
Cheryl Spinuzzi

MINUTES OF REGULAR MEETING
City of Pueblo, Colorado
Wednesday, March 9, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:38 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Alexandra Aznar, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: none

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner; Danielle Baxter, Planner; John Sakariason, Stormwater Coordinator; and Joe Martellaro, Associate Engineer II.

APPROVAL OF AGENDA

A Motion was made by Bailey to approve the agenda with changes to move V-21-03 & S-21-10 to April 13, 2022, hearing and move Z-21-16, V-21-04, and S-21-12 to March 23, 2022, hearing. Seconded by Aznar.

Motion passed 7-0.

PUBLIC MEETING AGENDA

1. **URP-22-01: Urban Renewal Plan-** Review of the Pueblo Urban Renewal Authority, Mitchell Park South Plan, September 17, 2021, for compliance with the Pueblo Regional Comprehensive Plan, 2002.

Staff report by Danielle Baxter.

BACKGROUND:

Pueblo City Council approved Resolution 14666 on July 26, 2021, authorizing the Pueblo Urban Renewal Authority to conduct a blight study of the area adjacent to the Pueblo Community Health Center, Park Hill location, which is being referred to as Mitchell Park South. A Conditions Study and subsequent Urban Renewal Plan was developed for this area. Mitchell Park South consists of approximately 134-acres located south of E 12th St, west of N Norwood Ave, north of E 3rd St alley, and east of N Joplin Ave. Urban Renewal has completed the Conditions Study and prepared an Urban Renewal Plan based on the results of the survey for Planning and Zoning Commission and City Council consideration.

During the Conditions Survey it was determined that redevelopment would be beneficial for the area indicated. The conditions survey indicated the following characteristics, which are indicative of blight, were found. There are eleven factors of blight listed in the Conditions Survey and eight were found within the survey area.

1. Slum, deteriorated, or deteriorating structures- 21 single family home sites surveyed are severely deteriorated and/or boarded up.
2. Predominance of defective or inadequate street layout- Lack of adequately paved alleys throughout area, which lead to overgrown weeds and soil erosion contaminating water shed.
3. Unsanitary or unsafe conditions- Many boarded-up homes were deemed by Regional Building to be condemned. Several large trees have died and are too expensive for homeowners to remove.
4. Deterioration of site or other improvements- There are approximately 218 rental properties in the survey area. The rental properties have a negative impact on adjoining home and property values. Without adequate parking for multiple tenants, renters drive over curbing and sidewalks destroying city infrastructure.
5. Unusual topography or inadequate public improvements or utilities- Unimproved alleys, broken and non-existent curbing, cracked sidewalks, and erosion are common in the area.
6. Existence of conditions that endanger life or property by fire or other causes- Empty and dilapidated buildings area a fire hazard. Abandoned buildings can be classified as an "attractive nuisance."
7. 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- Many homes violate Pueblo building codes, are dilapidated, deteriorated, and defective in design and construction.
8. 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- The abundance of blight in the survey area will require substantial municipal services and public proceeds. The area is severely underutilized because of the state of existing buildings and other blight factors.

ANALYSIS OF COMPREHENSIVE PLAN COMPLIANCE WITH THE MITCHELL PARK SOUTH URBAN RENEWAL PLAN:

The project site has been designated by the Pueblo Comprehensive Plan as mostly *Urban Residential* with a strip of *Urban Mixed Use* along E 4th St. The current Comprehensive Plan states *Urban Residential* areas, "are found predominantly within the city limits of Pueblo and the urbanizing areas in the City's immediate periphery. Examples include Mesa Junction, Eastside, Bessemer, Northside, Aberdeen, State Park, and Hyde Park. They are generally located on a grid roadway network that interconnects a large portion of the urban area. The existing mixture of housing types that range from single family detached housing to duplexes and multi-family housing will be continued with emphasis on maintaining the existing housing stock and in-fill development. Where appropriate, community scale commercial services will be created to provide the necessary day-to-day needs of residents within walking distance. Development in these Urban Neighborhoods is typically at densities of 4 to 7 units per acre and often reflects the traditional urban residential layout used in the early development of Pueblo. As the City of Pueblo expands to the north, south and southwest, a continuation of these Urban Residential Areas should be continued. Interconnected neighborhoods, sanitary sewer and neighborhood parks should be an integral part of the development."

The Comprehensive Plan defines *Urban Mixed Use* as the city's traditional downtown. "The land use consists of office, retail, higher-density residential and public uses. The Urban Mixed Use is found along Union Avenue and the HARP and northward toward the Pueblo County Courthouse and southward to include Mesa Junction. Lakeside Drive area south of the Downtown and parts of Northern Avenue area are Urban Mixed Use. Within the Urban Mixed Use, retail uses are emphasized on the first floor of all buildings to maintain a high activity level. Office and residential apartments are encouraged on the upper floors in multi-story buildings. Some higher-density, freestanding residential may also exist in this land use category. In addition, all efforts will be made to maintain the unique character of buildings throughout the area and any new development will be built in a style compatible with the surrounding area. The grid pattern street network and building setbacks created by existing buildings will be maintained. Floor area ratios, the relationship of building square footage to the size of the lot, of non-residential development will be encouraged to maintain a ratio of 1.5. Residential densities will be encouraged to reach higher densities than found in typical suburban settings (upwards of 16 units per acre). These suggested densities encourage pedestrian-oriented development patterns reflective of more historic development within the urban area."

The area in question includes the Newport Subdivision, Fletcher Hill Addition, Fletcher Hills Addition 2nd, Fariss & Gartley Addition, Dr. Owen's Heights Subdivision, and Winter's Addition. These subdivisions were platted and recorded between 1880-1900. The proposed blight area redevelopment, as outlined in the Urban Renewal Plan and Conditions Study, will continue the predominantly residential land use in conformity with the Pueblo Comprehensive Plan.

STAFF REVIEW AND FINDINGS:

According to the Urban Renewal Plan for the Mitchell Park South Urban Renewal Project Area, the plan implements the following provisions of the Pueblo Comprehensive Plan:

1. To encourage compatible infill development consistent with the original land uses within the area.

2. To provide maximum opportunities for single family, detached housing rehabilitation.
3. To promote preservation of Urban Residential land use areas where appropriately buffered from existing and future industrial uses currently allowed under existing zoning.
4. To encourage commercial mixed use (re)development to be located within commercial corridors within the area.
5. To interconnect public infrastructure and neighborhood parks to stimulate a safe and walkable urban environment.

RECOMMENDED ACTION:
Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the Mitchell Park South Urban Renewal Plan be **APPROVED.**

HEARING: Castellucci asked if there is a plan in place for Urban Renewal to improve the area. Andrea De La Garza was sworn in and spoke on behalf of Urban Renewal Authority stating there is no specific plan for infill development currently, but they are looking to institute this program for vacant lots and rehab projects soon as it is a priority for the area. Dan Kogovsek asked if there is a prior Urban Renewal area for this tract. Andrea stated there is another east side Urban Renewal area to the west of this boundary that does not connect to this area. The other plan is more specific to the commercial corridor on 4th Street.

MOTION: Motion to approve URP-22-01 to City Council with staff conditions 1-5 was made by Bailey, second by Avalos.

MOTION PASSED 7-0

PUBLIC HEARING AND ACTION

Regular Agenda

1. **Z-22-02: Rezone:** Amendment to the Villa Bella Planned Unit Development relating to the 601.3-acre property located east of Colorado State University-Pueblo, north of Cesar Chavez Blvd

Staff Report by Beritt Odom

BACKGROUND:
December 12, 2007, the Planning and Zoning Commission recommended approval of the Villa Bella Planned Unit Development and rezoning. City Council approved the Villa Bella PUD in January 2008, providing general design standards for the property. On January 25, 2017, the Thunder Village Urban Design Plan was approved by the Planning Zoning Commission, which established additional development design guidelines for portions of the 601.3-acre development.

In April 2021, the Planning and Zoning Commission recommended approval of the Villa Bella Planned Unit Development amendment relating to the mechanism by which future amendments to the PUD Development Guide are requested and approved, as well as amending the land use for parcels 5 and 6 from multifamily residential to single family residential. The intent of the amendment was to streamline the development process and provide increased opportunities for

single family detached residential development. Below is a summary of modifications to the Villa Bella PUD Development Guide approved by City Council through Ordinance No. 9938 dated May 24, 2021:

- Request and approval of future amendments to the Villa Bella PUD Development Guide shall only require consent and approval of the President (and on behalf) of the Thunder Village Metropolitan District.
- Removal of the phased approach to development, instead allow development to occur as market conditions and the local economy allow.
- Removal of the primary design theme of "contemporary western and southwestern regional styles of architecture" to allow more flexibility in design.
- Reducing the minimum required lot size and setbacks for single family detached lots.
- Increasing the maximum lot coverage for single family detached lots from 55% to 75%.
- Inclusion of the Thunder Village Urban Design Plan into the Villa Bella Development Guide to streamline and simplify development, creating one comprehensive document rather than two separate documents.
- Changing the land use designation for Land Use Parcels 10 and 11 from Multi-Family Residential to Single Family Detached residential.

STAFF REVIEW:

Jeff Mark, Caleb Development, LLC, owner of 48.240 acres within the Villa Bella PUD, with approval of Thunder Village Metropolitan District President, Dan DeRose, is proposing to add a new definition of a through lot to the Villa Bella PUD Development Guide to clarify setback requirements within the proposed Villa Bella, Filing No. 2 Subdivision. The proposed subdivision includes multiple single-family residential lots that have street frontage adjacent to what is typically determined to be the front and rear lot lines; however, according to Title 17 of the Pueblo Municipal Code, lots that have street frontage on two sides, running parallel to each other, necessitate two full front-yard setbacks. Requiring two 18-foot front yard setbacks on lots with an 80 to 100-foot depth, drastically reduces the buildable area of the lot. Therefore, Mr. Mark is proposing to add a definition of a through lot that is similar to the Colorado Springs Code of Ordinances through lot definition. The proposed through lot definition only requires a full front yard setback along the street frontage that provides street access to the lot. The proposed amendment also requires the subdivision plat to include a plat note, restricting access to only front and second front yards; access is not permitted from the rear lot line on a double frontage lot.

The applicant is also proposing to amend the rear yard setback for single-family attached homes to 10-feet, which is the same rear-yard setback required for single-family detached homes. Staff does not anticipate any negative externalities stemming from the reduced rear-yard setback, which appears to be a logical change to promote consistency among single-family residential housing products within the development.

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The property is partially developed with attached single family residential, limited commercial, and the Villa Bella charter school.

- **Neighborhood Compatibility:**

North	• A-1, County Agricultural One, undeveloped
East	• A-1, City Agricultural One, undeveloped
South	• B-4, Central Business District, undeveloped • R-5, Multiple Residential and Office District, undeveloped • A-1, City Agricultural One, undeveloped
West	• S-1, Governmental Use, Colorado State University – Pueblo

- **Comprehensive Plan Compliance:**

The project site is designated by the Pueblo Comprehensive Plan as Urban Residential. Zoning in Urban Residential areas may include zone districts for residential, institutional, office, service and commercial uses; however, focus should be placed on zoning for single-family residential homes.

The proposed PUD Development Guide Amendment will not affect the approved uses or residential maximum density within the Villa Bella Planned Unit Development. Therefore, the amendment is consistent with the Comprehensive Plan Designation.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- **Minimum lot size and area:**

The 601.3-acre parcel is larger than the 5-acre minimum requirement of the PUD Zone District.

FINDINGS OF FACT REQUIRED PER §17-8-11 OF THE PUEBLO MUNICIPAL CODE

Municipal Code specifies five (5) criteria to be evaluated in conjunction with a PUD application. The Planning and Zoning Commission, before recommending that any property be zoned to a PUD Zone District, shall make the findings concerning the following:

(1) The PUD and Development Guide are compatible with the surrounding neighborhood and the proposed uses are not incompatible to the uses to which the surrounding area is restricted.

Staff Analysis of Finding #1

The proposed PUD amendment does not change the approved uses, which were determined to be compatible with the surrounding area with the 2021 PUD Amendment approval.

(2) The PUD and Development Guide are in accord and in harmony with the Comprehensive Land Use Plan and are being done for the public good; that is, to serve one (1) or more goals of the Comprehensive Plan and enable legislation and thereby bear a relationship to the public health, safety or general welfare.

Staff Analysis of Finding #2

The project site is designated by the Pueblo Comprehensive Plan as Urban Residential. Zoning in Urban Residential areas may include zone districts for

residential, institutional, office, service and commercial uses; however, focus should be placed on zoning for single-family residential homes.

The proposed PUD Development Guide Amendment will not affect the approved uses or residential maximum density within the Villa Bella Planned Unit Development. Therefore, the amendment is consistent with the Comprehensive Plan Designation.

(3) The PUD and Development Guide would encourage an appropriate use of land.

Staff Analysis of Finding #3
The PUD Guide includes provisions for sustainable and environmentally friendly development that encourages alternative methods of transportation, employment centers and a diversity of housing options. The subject property was originally zoned for development of single-family residential. Due to the proximity to the CSU-Pueblo campus and the football stadium, the westerly one-third of the property will be better suited to be developed as commercial, higher density multi-family and single-family housing.

(4) The PUD and Development Guide would not be so injurious to surrounding properties to the extent of depriving neighboring property owners of any reasonable use of their property.

Staff Analysis of Finding #4
Homes and buildings will be appropriately setback; landscaping will be required; lighting will comply with "dark sky" requirements; and care will be taken, via a Planning and Zoning Commission review of each PUD Site Plan for each building site with greater than one dwelling unit per lot to ensure that all development will be compatible with the neighborhood.

(5) All land contained in the PUD District is within the City, proper notice was sent to surrounding property owners, and the required public hearing was held.

Staff Analysis of Finding #5
All of the land area is within the City of Pueblo and proper notice has been sent by the Department of Land Use Administration to surrounding property owners and the public hearing will be held during a regularly scheduled Planning and Zoning Commission meeting.

RECOMMENDED ACTION:
Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED**.

HEARING: Castellucci requested additional information concerning front yard setbacks and access from streets. Ms. Odom stated there is a requirement of a plat note clearly indicating there is no vehicular access on one of the parallel streets. Jeff Mark (519 Prospect Dr, Castle Rock) and Jason Alwine were sworn in on Zoom to represent the application. Mr. Mark confirmed that there will be no driveway access from any arterial or collector roadways, they will all be off interior residential streets.

No one spoke in support or opposition for the application.

MOTION: Motion to recommend approval of Z-22-02 with staff conditions to City Council was made by Bailey, second by Aznar.

MOTION PASSED 7-0

2. **Z-21-22:** Rezoning a parcel of land, 26.86 acres, located immediately east of Pueblo Blvd and north of Westview Drive, from R-4, Mixed Residential District to R-6, Multiple Residential and Commercial District for the purposes of developing a recreational vehicle park.

Staff Report by Wade Broadhead.

BACKGROUND AND ANALYSIS:
The subject property was annexed into the City in 1973 with the Arkansas River Annexation. Portions of parcel 5522300002 are being rezoned to R-6 to allow the construction of a recreational vehicle park. A recreational vehicle park is a use by review in a R-6 and will require the approval of a special use permit approved by the Zoning Board of Appeals prior to a recreational vehicle park to begin operations.

STAFF REVIEW AND FINDINGS:
The subject property is a large parcel containing unplatted land as well as vacated rights of way and derelict lots from the Saunders Subdivision. The rezoning site landscape is characterized mainly by open desert scrub situated east of Pueblo Boulevard and south of 24th street. The City inherited the Saunders Subdivision which was platted in the County but never developed when this property was annexed. Rights of way including 22nd street were vacated by ordinance in 1957 but the lots remained. The applicant is proposing the development of an RV park. Access, utilities, and development standards will be addressed during the recreational vehicle park special use permit review at the Zoning Board of Appeals. Recreational Vehicle Parks are strictly regulated by Pueblo Municipal Code, Sec 17-4-51(d)(9), (b) a detailed staff review will occur during the subdivision review process to accommodate all development considerations.

The R-6 allows a wide range of housing, restaurant, retail, and office uses by right which are compatible with a large parcel that fronts a very busy state highway and future major intersection due north. There is ample space for various types of development with room for buffering the residential uses to the east and south. The rezoning accommodates the prior zone district uses while allowing flexibility to private owners going forward as the West Side neighborhoods grows and expands.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The project is located in a desert scrub prairie located directly east of Pueblo Boulevard and south of 24th street.

- **Neighborhood Compatibility:**

North	B-3, empty prairie and R-8 manufactured homes
East	A-4, R-8 Manufactured homes and single-family homes on larger lots
South	R-3, Duplex development
West	Honor Farm Open Space

- **Comprehensive Plan Compliance:**

The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." According to Pueblo Municipal Code Section 15-4-51(a)(9) states that the purpose of the R-6 Zone District is designed to retain and provide areas of mixed residence, commercial use and accommodations for transients. While much of the urban residential designation is aimed at small-scale single-family development the Comprehensive Plan does mention that "Community-scale commercial zoning will be appropriate at intersections of two collector roads or of a collector and an arterial road". 24th Street and Pueblo Boulevard are major roads where commercial and mixed-use zoning is appropriate. The R-6 allows a wide range of housing and commercial uses at a neighborhood and community scale to comply with the Urban Residential designation. This property is zoned appropriately and will facilitate compliance with the future land use category of the Pueblo Regional Comprehensive Plan.

Staff has determined that the proposed rezoning is consistent with the comprehensive plan designation.

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application

- Comments **The application contains applicant's information.**

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation or other interest.

- Comments **The property owner is the applicant.**

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- Comments **A full legal description of the property was provided with the application and is attached to the staff report. Staff is working with the representative to refine the legal description before it goes to City Council.**

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

- Comments **The applicant proposes to implement a recreational vehicle park on the site after a subdivision and special use permit review.**

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

- Comments **A site plan has not been provided but will be provided for the special use review and subdivision, and commercial site plan review.**

A statement of the proposed time schedule for beginning and completion of development.

- Comments **The applicant indicated that redevelopment may begin in late 2022 or 2023 after the subdivision and special use permit are approved**

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

- ❑ Comments **The application did not include information regarding the applicant's economic responsibility and capability.**

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- ❑ Minimum lot size and area:
  - The R-6 Zone District requires a minimum of 3000 square foot of lot area for single family.
  - The proposed area will be 28 acres and has over a hundred feet of frontage on 24th Street. The existing site has been reviewed and it complies with the minimum lot area and width for the proposed zone district.

- ❑ Lot coverage:
  - The R-6 Zone District allows a maximum lot coverage of 50%.
  - Staff will check for lot coverage at the time of building permits for the home and any accessory buildings.

Zone District performance standards:

- **Multifamily Residential Standards, Section 17-4-4, (c), of the Pueblo Municipal Code: Standards will be implemented at the time of development.**
- **Recreational Park performance Standards, section 170451(d),(9), of the Pueblo Municipal Code: Standards will be implemented at the time of development.**

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-All lots, blocks. Streets, vacated streets, etc. must be shown in this exhibit. The legal description must also reference the existing lots within the Saunders Subdivision. Joe Martellaro, 2/17/20222.

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED with the following conditions:**

1. **Provide an amended legal description, based on the redlined "Butcher Exhibit for 24th Street and Pueblo Blvd.," February 17, 2022, Joe Martellaro, Associate Engineer II.**
2. **Provided an amended Zoning Map Exhibit, based on the redlined "Butcher Exhibit for 24th Street and Pueblo Blvd.," February 17. 2022, Joe Martellaro, Associate Engineer II.**

All conditions must be met and approved by Planning and Public Works prior to scheduling the rezone for City Council review.

HEARING: Ms. Spinuzzi asked for clarification regarding the cul-de-sac from the residential neighborhood providing access to the park. Mr. Broadhead stated that this will remain a cul-de-sac and will not have a through street. Mr. Castellucci asked for clarification of what else could be

built on this lot if the R-6 rezoning goes through. Jim Butcher (1 Judy's Dream, Pueblo) and Joe Gagliano (7240 Eagleridge Blvd, Pueblo) were sworn in to represent the application. Mr. Butcher stated this is to be an upscale park, catering to traveling public that may stay from a few days to a season. There will not be any units rented on the property, just parking for RVs. Mr. Gagliano stated some cul-de-sacs will need to be evaluated but the intent is that the only access is from 24th St. Ms. Bailey asked if there is a size limitation. Mr. Gagliano stated he is unaware of size limitations, but he is utilizing designs from similar facilities for larger spaces and hookups.

No one else spoke in support of the application.

Tiffany Grainger (Ridgeview Place) was sworn in and spoke in opposition of the application. Ms. Grainger stated that residential is a greater need than an RV park. RV park is not best suited for neighborhood and Pueblo in general. Even though the RV park claims to be upscale there could be increased crime which would be a detriment to the neighborhood. There could be unwanted clientele that is disruptive to the neighborhood. Ms. Grainger also stated that notices may not have been received by all residences and there may be more opposition down the road. No one else spoke in opposition.

Randy Thurston (102 S. Union) was sworn in and spoke on behalf of the applicant. Mr. Thurston stated there are a lot of new homes and apartments being built in Pueblo. What is needed in Pueblo is RV parking for EVRAZ and solar contractors who travel in RVs. Canon City is opening an RV park with 100 spaces. This will be a quality, first class, RV park with amenities and parks. Marijuana restrictions and RV year manufactured restrictions will be in place. Ms. Martinez asked why this parcel was chosen. Mr. Thurston stated it has easy access off the Blvd, close to reservoir, RV parks need major roadways for access. Also, the proposed extension of 24th to Pueblo West would create an ideal location for the community. Mr. Avalos stated this is not a mobile home park, the stay in an RV Park is temporary and not permanent in nature. Ms. Spinuzzi seconded these statements stating that her experience is that these parks are well maintained and would not bring in any additional crime.

MOTION: Motion to recommend approval of Z-21-22 with staff conditions to City Council was made by Bailey, second by Pasternak.

MOTION PASSED 7-0

3. **<u>V-21-02:</u> Alley Vacation:** Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave in the Agram, Laibach, and Wien Subdivisions, (1212 Mahren Avenue)

   Staff report by Danielle Baxter.

   <u>Staff review and findings:</u>
   Platted as part of the Agram Subdivision in 1901, the alley in question allows rear access to homes fronting East Mesa Ave, Mahren Ave, and Egan Ave, down to Roitz Ave. A portion of said alley creates a "T" intersection before turning south toward Roitz Ave. The applicants are requesting to vacate a portion of the alley, which is a dead end. The portion of the alley in question is approximately twenty-five (25) feet in length, and fifteen (15) feet wide, estimated at 375 square

feet. Vacating this portion of the alley will leave a "T" intersection but will decrease the length of that dead end portion of the alley.

The purpose of this partial alley vacation is to deter illegal dumping and vandalism, which the applicants have been facing. There are three applications for this vacation. Two applicants are property owners with lot frontage along the portion of the alley requesting to be vacated. The two applicants with frontage along the portion of the alley requesting to be vacated plan to divide the alley in half and absorb the additional square footage into their respective lots. The third applicant owns Lot 6, Block 1 of the Agram Subdivision, and the vacated portion of the alley will end at their property line. The 375 square feet of alleyway requesting to be vacated, does not house any underground utility mains and the applicants agree to allow utility service lines within the vacated portion of the alley to provide service, if necessary.

The portion of the alley the applicants are requesting be vacated is a dead end that juts past the south turn in the alley. The alley dead ends on the east side of Lot 7 & strip, Block 1 of the Agram Subdivision. The south side of the alley requesting to be vacated abuts Lot 8, Block 1 of the Agram Subdivision.

Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-Per redlined plans from Joe Martellaro, Associate Engineer II, dated 3/4/2022, the following revisions need to be made on the vacation plat before it can be heard at City Council.
    - The description of the vacation plat is not accurate.
    - The applicants must remove the temporary fence they have installed across the alley.

Recommended Action:
Staff recommends that the Vacation be APPROVED with the following condition.

1. The applicant must address all redlined comments on the Alley Vacation within the Agram Subdivision Plat, as noted by Joe Martellaro, Associate Engineer II, City of Pueblo Public Works Department (March 4, 2022). All revisions must be complete and approved by Public Works prior to City Council Review.
2. The applicants must remove the temporary fence they have installed across the alley.

HEARING: Mr. Castellucci asked for clarification as to why the fence needed to be removed. Mr. Martellaro added that the fence as it was temporarily constructed did not follow the vacation lines as proposed. Mark Acosta (1212 Mahren Ave, Pueblo) was sworn in to testify on behalf of the application. Mr. Acosta stated the fence has been removed and thanks the departments involved to help the homeowners keep a close eye on this portion of the alley.

No one spoke in support or opposition of application.

MOTION: Motion to recommend approval of V-21-02 with staff conditions to City Council was made by Pasternak, second by Bailey.

MOTION PASSED 7-0

4. **V-21-05: Street Vacation:** Vacate portions of the following unimproved public rights-of-way:
    - S. Bradford Street and adjacent alley to the west, both public rights-of-way are located south of City Center Drive and east of Interstate-25
    - E. River St, located west of S. Bradford Street and east of Interstate-25,
    - The present Kelly Avenue (Freeway Change Agreement, 10-30-1957) south of City Center Drive and east of Interstate-25.

Staff report by Danielle Baxter.

Staff review and findings:

There are four areas of platted right of way being vacated in this request. The first street the applicant is requesting to be vacated is platted S. Bradford Street located east of I-25 and south of City Center Dr. The area of S. Bradford St is approximately 332 feet long and 80 feet wide, located in Kramer's Subdivision. The second street requesting to be vacated is platted Kelly Ave. Kelly Ave is noted in the freeway change agreement, 10-30-1957. The platted avenue is divided into two parts by platted E. River St, which is also being vacated. The south half of Kelly Ave is approximately 32 feet wide and 509 feet long. The north half of Kelly Ave is approximately 32 feet wide and 123 feet long. Separating Kelly Ave is the platted roadway of River St. River St. was platted to connect Hector Garcia Place (which was previously River St) and E. River Street, before I-25 was constructed. River St is located within the Baxter's, Amin Santa Fe, and Kramer's Subdivisions and is approximately 81 feet wide and 537 feet long. Finally, the last platted access being vacated is an alley located between the Kramer's and Baxter's Subdivisions. The platted alley is approximately 16 feet wide and 356 feet long.

The purpose of this expansive vacation request is to clear up previously platted roadways which are now part of the Colorado Department of Transportation right of way. All the above-mentioned roads and alleys were only platted and were never developed. CDOT is requesting the vacation to eliminate platted roads within their current right of way, adjacent to Interstate-25. Because this vacation is being requested after the development of the I-25 interchange there is no utility work planned in the area, no future roadways, and existing fencing will not be removed.

According to CDOT, the interstate was originally constructed over these platted roadways. When the Ilex and City Center interchanges to I-25 were realigned CDOT agreed to complete this vacation process to eliminate these platted roads that are now currently within CDOT's right of way. All utilities have already been relocated and any remaining utilities with in the CDOT right of way are permitted.

Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:

Staff recommends that the Vacation be APPROVED.

HEARING: Amber Billings (5615 Wills Blvd), CDOT, was sworn in via Zoom to speak on behalf of the application.

No one spoke in support of application.

Fred Barros (20004 Aspen Rose Dr, Weston, CO) was sworn in and spoke in opposition of the proposed vacation. Mr. Barros owns the property at 302 City Center Dr, which borders Bradford, and stated he was not aware of the vacation and wanted clarification from CDOT for the right of way. Mr. Barros is concerned if he is responsible for this new vacated property and continued utility access in the vacated roadways. No one else spoke in opposition to the application. Ms. Billings stated the project began in 2011 at the Ilex interchange and the City Center intersection was completed in 2018. Ms. Billings was working with the previous property owner at 302 City Center Dr around that time and the current fencing already shows the new property line for the adjacent property owner. The utilities within the proposed right of way are there via permits with the city and will not be moved. Ms. Odom confirmed that the vacated portion of the platted roadway is divided in half between property owners and suggested Mr. Barros contact Ms. Billings directly to work out the details.

MOTION: Motion to recommend approval of V-21-05 to City Council was made by Bailey, second by Aznar.

MOTION PASSED 7-0

5a. Z-22-01: Rezone: Rezoning of 23.61 acres from B-P, Business Park to R-5, Mixed Residential and Office District, Lots 1 through 4, Block 2, River's Run Subdivision. Generally located north and east of S. Joplin Ave. and north of S. Portland Ave.

Staff report by Beritt Odom.

BACKGROUND AND ANALYSIS:

The Planning and Zoning Commission approved the River's Run Master Development Plan, Case No. MP-04-01 in 2004. The Master Plan called for rezoning the entire 67.93-acre site from I-3, Heavy Industrial to a mixture of B-P, B-2, R-4, and R-2 to facilitate the development of a mixed-use neighborhood on the historic Walter's Brewery site and within the City's lower Eastside Neighborhood. New owners of the River's Run Subdivision are requesting to deviate from the approved master plan and rezone the southwestern portion of the project area from light industrial/commercial to a multifamily residential/office use to better compliment the single-family development planned for the northern portion of the project site.

Currently, the B-P and B-2 zone districts sit directly south of the R-2 zoned single-family residential lots. Municipal Code B-P Performance Standards restrict structures from being constructed within 100-feet of a residential zone district, making future development in the BP Zone District challenging (§17-4-5, (4)). Furthermore, light-industrial uses located adjacent to residential uses are not harmonious and have the potential to create negative externalities for the residents. Uses within the B-2, Subregional Business District are limited to service and offices uses, such uses are generally included within the R-5 Zone District.

Mr. Haaga indicates in his rezoning request, that he intends to develop an apartment complex adjacent to Joplin Ave. and either office or multifamily uses north of S. Portland Ave., which would better compliment the adjacent single-family uses to the north. In order to accomplish the proposed development, the applicant is also requesting to vacate a portion of Fir Street, drainage/utility easements, and resubdivide Lots 1-8, Block 1. Planning staff concurs with Mr. Haaga and supports the rezoning, vacation, and resubdivision as a means to introduce more compatible development within the southern portion of the River's Run community.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The subject property is unimproved, single-family residences are currently being constructed to the north of the site.

- **Neighborhood Compatibility:**

North	R-2, Single-Family Residential: construction of the single-family homes along Rivers Run Avenue.
East	I-3, Heavy Industrial: historic business records indicate the site has been home to Auto Body, Auto Detail, and Contractor uses.
South	South of S. Joplin Ave., S-3, Flood Plain District: unimproved land. South of S. Portland Ave., Pueblo County I-3, Heavy Industrial: Tony J. Beltramo and Sons Construction Yard.
West	I-3, Heavy Industrial: primarily unimproved with the exception of two single-family residences. S-3, Flood Plain District: unimproved land.

- **Comprehensive Plan Compliance:**
  The subject property lies within a Special Development Area identified in the Pueblo Regional Comprehensive Plan, 2002. These areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further contends that a Master Plan must be prepared prior to development in Special Development Areas. The River's Run Master Development Plan was approved by the Planning and Zoning Commission in 2004. The master plan includes provisions for a mixture of B-P, B-2, R-4, and R-2 zone districts.

  The current property owner is requesting to deviate from the approved master plan by rezoning the B-P and B-2 zone districts to R-5, facilitating multifamily residential and office development. Staff supports the rezoning request as multifamily and office uses are more compatible with the established single-family residential uses located directly north of the rezoning site.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- ❑ **Minimum lot size and area:**
  R-5 lot size depends upon the use, the minimum required lot size is 3,000 square feet for a single-family use; 5,000 square feet for other permitted uses; and 1,000 square feet per dwelling unit for multifamily uses of six dwelling units or more.
  - All existing lots being rezoned exceed the 5,000 square foot minimum and as resubdivided will continue to exceed the minimum area requirement.

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application

❑ Comments **The application contains applicant's information.**

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation or other interest.

❑ Comments **The property owner is the applicant.**

The nature of the amendment and a legal description of the property that would be affected by the amendment.

❑ Comments **A full legal description of the property was provided with the application and is attached to the staff report.**

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

❑ Comments **The applicant proposes to implement multi-family residential development and office/light commercial uses.**

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

❑ Comments **A site plan has not been provided.**

A statement of the proposed time schedule for beginning and completion of development.

❑ Comments **The applicant indicated that redevelopment may begin in 2022.**

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

❑ Comments **The application did not include information regarding the applicant's economic responsibility and capability.**

REFERRAL AGENCIES AND COMMENTS:

- City Wastewater- "The flow analysis between the existing zoning and the proposed zoning was not provided," email from Sonia Mondragon, February 22, 2022.

RECOMMENDED ACTION:

- Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED**.

HEARING: Castellucci asked for clarification that the rezone would make the proposed zone more compatible with existing single-family residences. Ms. Odom confirmed this statement. Aaron Haaga (6375 S Highland Dr, Salt Lake City, UT) was sworn in to speak on behalf of the application. Mr. Haaga added that the rezone supports current development so there is a better buffer between the industrial areas and residential neighborhoods. Ms. Martinez asked what the completion date of development is. Mr. Haaga stated they are developing 67 acres in multiple

phases. Once the rezone is complete, they are looking to construct the apartment complex this summer; it may take five to seven years for the entire build out of the community.

No one spoke in support or opposition of the application.

MOTION: Motion to recommend approval of Z-22-01 to City Council was made by Bailey, second by Pasternak.

MOTION PASSED 7-0

5b. V-22-01: Vacation: Rivers' Run Subdivision Right-of-Way and Easement Vacation. Vacation of a portion of Fir Street and multiple easements within Blocks 1 and 2, Rivers' Run Subdivision. Generally located north and east of S. Joplin Ave. and north of S. Portland Ave

Staff report by Beritt Odom.

Staff review and findings:
Fir Street and the Public Utility and Drainage Easements proposed to be vacated were subdivided in 2005 with the River's Run Subdivision. At the time, Fir Street and the drainage/utility easements were intended to provide drainage and utility service to multiple lots zoned for light industrial and commercial uses. Aaron Haaga, property owner, is requesting to resubdivide Lots 1-8, Block 1, River's Run Subdivision to create two large lots zoned for multifamily residential and commercial uses; therefore, it is no longer necessary to have multiple easements for drainage/utilities and for Fir Street to run the entire length of Block 1. Additionally, Lots 1-4, Block 2, River's Run Subdivision, are proposed to be rearranged into one large lot for multifamily residential development, negating the need for multiple drainage/utility easements to run through the block. The 30–40-foot easement that runs adjacent to the southern and eastern boundary of Block 2 will remain providing drainage and detention for the rearranged parcel.

Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:
The Subdivision Review Committee recommends that the Street and Easement Vacation be recommended for APPROVAL following conditions:

1. Provide a signed and stamped preliminary drainage report in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, Colorado prior to submittal for City Council review and approval.
    a. The report will need to include a discussion about any increases in impervious area and impacts to the detention facility.
    b. The drainage and drainage easements are changing significantly. A new grading plan is required showing the proposed design and drainage basins.
    c. Include all items in the checklist in the report and on the drainage plan.
2. If the new design changes are significant enough to change the easements, dedication statements, maintenance statement, and agreements, then the plat will have to be resubmitted for Planning and Zoning Commission review and recommendation.

3. Water quality must be addressed. All onsite developed stormwater flows are required to be treated prior to being released offsite per the City's Criteria Manual and MS4s permit. Since this is a re-subdivision and it disturbs over an acre, water quality will have to be brough up to current standards.
4. The stormwater facility maintenance agreement is currently under review and needs to be finalized prior to City Council review.

All conditions must be met and approved by the Stormwater Department prior to the Vacation request being scheduled for City Council review.

- **Stormwater Comment: Stormwater Utility Memo from John Sakariason, Stormwater Coordinator, March 1, 2022**

HEARING: Aaron Haaga (6375 S Highland Dr, Salt Lake City, UT) was still under oath to speak on behalf of the application. Mr. Haaga added that the vacation is due to combining lots and they are no longer needed. He also added that the Fir St vacation is for crime reduction in the neighborhood. No one spoke in support or opposition to the application.

MOTION: Motion to recommend approval of V-22-01 with staff conditions to City Council was made by Bailey, second by Avalos.

MOTION PASSED 7-0

5c. S-22-01: Subdivision: Rivers Run Subdivision, 1st Amendment. A re-subdivision of 12.88 acres (13 lots) into three multi-family residential/office lots. Generally located north and east of S. Joplin Ave. and north of S. Portland Ave

Staff report by Beritt Odom.

BACKGROUND AND ANALYSIS:

The Planning and Zoning Commission approved the River's Run Master Development Plan, Case No. MP-04-01 in 2004. The master plan identified the resubdivision area for light industrial uses and it was subsequently subdivided into eight non-residential lots with drainage/utility easements servicing each lot. Mr. Haaga, property owner, is now requesting to deviate from the approved master plan to resubdivide the eight lots into two large lots to facilitate the development of multifamily residential housing within the City's lower Eastside Neighborhood.

The resubdivision site sits directly south of the existing R-2 zoned, single-family residential lots. Mr. Haaga indicates in his subdivision request, that he intends to develop an apartment complex adjacent to Joplin Ave., which would better compliment the adjacent single-family uses to the north. In order to accomplish the proposed development, the applicant is also requesting to vacate a portion of Fir Street, drainage/utility easements; rezone Lots 1-8, Block 1, and Lots 1-4, Block 2; rearrange Lots 1-4, Block 2; and rearrange Lots 1-2, Block 3. Planning staff concurs with Mr. Haaga and supports the rezoning, vacation, rearrangement and resubdivision as a means to introduce more compatible development within the southern portion of the River's Run community.

APPLICABLE 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:	
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	**Conditions required by stormwater (Stormwater Utility Memo, March 1, 2022):** 1. Provide a signed and stamped preliminary drainage report in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, Colorado prior to submittal for City Council review and approval. a. The report will need to include a discussion about any increases in impervious area and impacts to the detention facility. b. The drainage and drainage easements are changing significantly. A new grading plan is required showing the proposed design and drainage basins. c. Include all items in the checklist in the report and on the drainage plan. 2. If the new design changes are significant enough to change the easements, dedication statements, maintenance statement, and agreements, then the plat will have to be resubmitted for Planning and Zoning Commission review and recommendation. 3. Water quality must be addressed. All onsite developed stormwater flows are required to be treated prior to being released offsite per the City's Criteria Manual and MS4s permit. Since this is a re-subdivision and it disturbs over an acre, water quality will have to be brought up to current standards. 4. The stormwater facility maintenance agreement is currently under review and needs to be finalized prior to City Council review. **Wastewater Conditions (email from Sonia Mondragon, February 22, 2022):**

	1. Provide field verified elevation at the connection manholes on the Utility Plan (Subdivision Submittal Checklist Part 1, #23). **General Condition:** 1. The vacation and subdivision plat must be recorded concurrently.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The subject property is unimproved.

- **Neighborhood Compatibility:**

North	R-2, Single-Family Residential: construction of single-family homes along Rivers Run Avenue.
East	I-3, Heavy Industrial: historic business records indicate the site has been home to Auto Body, Auto Detail, and Contractor uses.
South	South of S. Joplin Ave., S-3, Flood Plain District: unimproved land. South of S. Portland Ave., Pueblo County I-3, Heavy Industrial: Tony J. Beltramo and Sons Construction Yard.
West	I-3, Heavy Industrial: primarily unimproved with the exception of two single-family residences. S-3, Flood Plain District: unimproved land.

- **Comprehensive Plan Compliance:**
  The subject property lies within a Special Development Area identified in the Pueblo Regional Comprehensive Plan, 2002. These areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further contends that a Master Plan must be prepared prior to development in Special Development Areas. The River's Run Master Development Plan was approved by the Planning and Zoning Commission in 2004. The master plan includes provisions for a mixture of residential, commercial and light industrial uses.

  The current property owner is requesting to deviate from the approved master plan by rezoning the B-P and B-2 zone districts to R-5, rearranging, and resubdividing the commercial/industrial areas facilitating multifamily residential and office development. Staff supports the subdivision request as multifamily and office uses are more compatible with the established single-family residential uses located directly north of the rezoning site.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:

- **Minimum Lot Size and Area:**
  R-5 lot size depends upon the use, the minimum required lot size is 3,000 square feet for a single-family use; 5,000 square feet for other permitted uses; and 1,000 square feet per dwelling unit for multifamily uses of six dwelling units or more.
    - The two proposed lots exceed the minimum area requirement for the R-5

REFERRAL AGENCIES AND COMMENTS:

- Pueblo Board of Water Works-Please see the attached email from Steven Anselmo, February 23, 2022
- City Wastewater-Please see the attached email from Sonia Mondragon, February 22, 2022
- City Stormwater-Please see the attached memorandum from John Sakariason, Stormwater Coordinator, March 1, 2022

HEARING: Aaron Haaga (6375 S Highland Dr, Salt Lake City, UT) was still under oath to speak on behalf of the application. Mr. Haaga stated he understood the conditions of the report. No one spoke in support or opposition of application.

MOTION: Motion to recommend approval of S-22-01 with all staff conditions to City Council was made by Bailey, second by Aznar.

MOTION PASSED 7-0

6. **ODP-20-01: Overall Development Plan Wildhorse:** Overall Development Plan of approximately 179.38 acres generally located north of West U.S. Highway 50, east of E. Industrial Blvd. and south of Fourth Road.

Staff report by Scott Hobson.

BACKGROUND AND ANALYSIS:
Wildhorse Crossing was annexed into the city as a two-phase annexation on January 31, 2022, by Ordinance Nos. 10103 and 10104. The Annexation Agreement requires the petitioners to submit an Overall Development Plan that includes a Development Plan, Drainage Plan, Sanitary Sewer Plan, Transportation Plan and Environmental Studies to the Planning and Zoning Commission to review and approve. According to Section 12-4-5, (b) of the Pueblo Municipal Code, the Overall Development Plan must correspond to the site's Pueblo Regional Comprehensive Plan land use classification.

The 179.38-acre site is undeveloped and was zoned Pueblo County A-3 and A-1 prior to annexation. The property owners are proposing a mixture of commercial, office, business park, and multifamily residential uses to be established on the site. Proposed land uses and the general circulation plan are included in the attached "Wildhorse Crossing, Planning Areas/Land Use Plan." A Wildhorse Master Traffic Impact Study was, prepared by SM Rocha, LLC, and provides a detailed analysis of the traffic impact that will occur with the full buildout of the proposed development in the land use plan. The transportation study analysis was reviewed by the City of Pueblo Public Works and Transportation Departments. NorthStar Engineering provided the

drainage plan and sanitary sewer plans, which have been reviewed by the City's Stormwater and Wastewater Utility Departments. A 120- foot wide Southern Colorado Power Company easement crosses the property in an east to west direction. The development plan reflects the continuation of the power line to cross the property and has established the land use areas to reflect land uses and roadway alignments that are not inconsistent with the powerline crossing the property. The final acreage of the planning areas bordering Pueblo Boulevard may vary slightly depending on whether the intersections are constructed with traffic signals or round-a-bouts. The proposed land use plan identifies nine planning areas that are designated for the following uses:

PA-1 Auto Dealerships and Auto Service, 15.24 acres
PA-2 Commercial Uses, 14.03 acres
PA-2A Office/Warehouse Uses, 9.76 acres
PA-3 Hotel/Commercial Uses, 11.73 acres
PA-3A Office/Warehouse Uses, 16.41 acres
PA-3B Office/Warehouse Uses, 11.96 acres
PA-4 Retail Uses, 25.22 acres
PA-5 Multifamily Rental Use, 10.93 acres, approx., 270 units
PA-6 Office/Warehouse Uses, 30.54 acres

Comprehensive Plan Compliance:

Wildhorse Crossing is designated as a Special Development Area by the Pueblo Regional Comprehensive Plan, 2002. Special Development areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further contends that a Master Plan must be prepared prior to development in Special Development Areas. The Wildhorse Crossing Overall Development Plan meets the Special Development Area criteria for master planning by providing location specific plans for infrastructure related to private development.

Pueblo Area Council of Governments (PACOG) Long Range Transportation Plan 2045:

The Wildhorse Crossing Overall Development Plan includes provisions for the extension of North Pueblo Boulevard. within the property to accommodate a NR-C Non-Rural Arterial designed roadway with a one hundred fifty (150) foot wide right-of-way, and full movement intersection spacing at two intersections within the property. The one hundred fifty (150) foot right-of-way may be expanded to no greater than a maximum of one hundred seventy-five (175) feet in specific roadway segments if the traffic study results warrant additional width. The right-of-way will include sufficient width for a center median which allows for the installation of full movement turn lanes and intersections. The PACOG 2045 Long Range Transportation Plan identifies the full extension of Pueblo Boulevard, if developed as an extension of the State of Colorado highway system, as an expressway. The right-of-way requirements within the annexation agreement provide for the minimum width identified for an expressway should the north extension of Pueblo Boulevard be considered in the future as an addition to the State of Colorado highway system. There are two proposed full movement (4-way) intersections with the extended Pueblo Boulevard, Wildhorse Road and Dunn Avenue. Both roadways currently exist but are proposed to be realigned for better intersection spacing.

Trails Master Plan Compliance:

The City's 2040 Vision Plan for trail development does not identify any trails planned through Wildhorse Crossing. However, should a trail be developed along Wildhorse Creek, extending through the property, the annexation agreement requires the dedication of a 20-foot-wide trail easement and the construction of a concrete trail through the through the property. The Wildhorse Creek corridor is shown on the land use plan as open river corridor.

Neighborhood Compatibility:

The proposed development is a mixture of retail, high density residential, and business park uses. The proposed annexation site is located adjacent to unincorporated Pueblo County (A-1, Agricultural One, A-2, Agricultural Two, A-3, Agricultural Three Districts). Development north of the site consists of a self-storage facility, Wildhorse Self Storage, a contractor's yard, and an auto salvage yard, Chapas Auto Parts. All businesses are located within the Pueblo A-2 Agricultural District. The property to the east, is undeveloped A-1, Agricultural One in Pueblo County. The property to the south has A-3, Agricultural Three, A-1, Agricultural One, and S-1, Public Use Districts within unincorporated Pueblo County. There is one residence south of the property within the Holiday Hills Subdivision in unincorporated Pueblo County. In addition, the Colorado Department of Transportation Maintenance Facility and Yard is located south of the property within city limits. The area west of the property is undeveloped A-3, Agricultural Three in Pueblo County.

REFERRAL AGENCIES AND COMMENTS:

- City Wastewater-All wastewater comments were addressed with the February 2022, Sanitary Sewer Master Plan.
- City Stormwater- "The 100-ft prudent line setback, from the floodplain, needs to be taken into consideration when planning the subdivisions," Stormwater Utility Memo, from John Sakariason, Stormwater Coordinator, February 23, 2002.

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission approve the Wildhorse Crossing Overall Development Plan.

HEARING: Michael Cuppy (111 E 5th St, Pueblo) and Jim Munch (327 Argyle, Pueblo) were sworn in to represent the application. Mr. Cuppy added this is the required next step after annexation and the site plan shown is not set in stone and could be changed in the future. Mr. Cuppy said any proposed changes will be compared to this approved plan for compliance and all changes will need additional approval. Castellucci asked about street alignments on the site plan and Mr. Cuppy stated the intersections as shown are the agreed upon intersections with CDOT. Mr. Munch added that he was the Planning Director from 1985-2007, he was working on this development for 20-30 years and this is the last major commercial development along Hwy 50. Mr. Munch added there is adequate buffer to properties to the north and he is excited for the development. Ms. Spinuzzi asked if there was an issue obtaining enough designated right of way for CDOT. Mr. Cuppy stated the right of way width as presented is adequate for a major roadway and will be similar to Pueblo Blvd. No one spoke in support or opposition to application. There was a question asked in the audience, the citizen was not sworn in, and the question is not audible on the recording. Mr. Cuppy's response to the question was that Pueblo Blvd will connect to Platteville eventually, however there are multiple hurdles; the proposed plan sets up the alignment for the future connection.

MOTION: Motion to approve ODP-20-01 was made by Bailey, second by Aznar.

MOTION PASSED 7-0

7a. **Z-21-20: Rezoning** 7 Reservoir Drive, Rezoning of .38 acres from A-2, Agricultural-One Zone District to R-1, Single Family Zone District. *Continued from the February 9th, 2022, hearing*

Staff report by Wade Broadhead.

BACKGROUND AND ANALYSIS:

The property located at 7 Reservoir Drive was annexed into the City and in 1973 and zoned A-2 a zone that most closely matched the historic use of the area despite creating some legal nonconforming lots. The applicant is requesting to rezone to R-1 to allow the construction of a single-family house.

STAFF REVIEW AND FINDINGS:

To erect a structure in the City of Pueblo owners need to be on subdivided ground. The current property legal description is metes and bounds so the owner has submitted a one lot subdivision as concurrent review (S-21-11). Currently their lot is .42 acres and the minimum size for a single family is .5 acres, not allowing the lot to conform with minimum sizes for A-2 zone district. The R-1 Zone District allows larger lot development and mostly single family uses. The proposed one lot subdivision would meet the minimum size (7000 sq ft) and lot width (70 ft) for a R-1 zone district. The proposed use is a single-family residence which is a use by right. During the public notice feedback period and site inspection staff learned that two tiny homes are on site. Both of these units will need to be removed before the subdivision moves to City Council and it has been so conditioned in case S-21-11. Though there is no R-1 located nearby the effective use of the R-1 will be complimentary and compatible with the surrounding neighborhood of single-family homes on large lots with some grazing and pastureland.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The property is currently a vacant flat riverfront field.

- **Neighborhood Compatibility:**

North	• A-2, Agricultural Two, single family homes on large lots and the Arkansas River
East	• A-2, Agricultural Two, single family homes on large lots and the Arkansas River
South	• A-2, Agricultural Two, single family homes on large lots and pasture.
West	A-2, Agricultural Two, single family homes on large lots and pastures.

- **Comprehensive Plan Compliance:**
- The project site has been designated by the Pueblo Comprehensive Plan as "Country Residential." The Pueblo Comprehensive Plan designation of *Country Residential* area states that is intended to remain more rural in character without public sewer service but having some suburban amenities such as public water service. This is the one-to-five-acre

lot development …Lot development should be low density and the use of clustering is encouraged." While lacking animal uses, R-1 fits the overall description of Country Residential. This property is zoned appropriately, and the new subdivision will facilitate compliance with the future land use category of the Pueblo Regional Comprehensive Plan. Staff has determined that the proposed rezoning is consistent with the comprehensive plan designation.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- Minimum lot size and area:
  - The R-1 Zone District requires a minimum of 7000 square foot of lot area, with a minimum of 70-foot-wide street frontage.
  - The proposed lot will be .42 acres square feet and has a lot width of 142-feet along Reservoir Drive. The existing site has been reviewed and it complies with the minimum lot area and width for the proposed zone district.

- Lot coverage:
  - The R-1 Zone District allows a maximum lot coverage of 50%.
  - Staff will check for lot coverage at the time of building permits for the home and any accessory buildings.

- **Zone District performance standards:**
  - Single family homes must meet conform with Residential Placement standards (Sec-17-4-11) and have eight design elements to be permitted. The elevations and design standards will be reviewed when a building permit is submitted.

RECOMMENDED ACTION:
Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED:**

HEARING: "Jay" Howard Miller was sworn in by Dan Kogovsek. Commissioner Castellucci asked Mr. Miller if he understood the staff conditions and he said he did. Commissioner Castellucci asked Mr. Miller to address the mobile homes (tiny homes). He explained that he applied for a permit for existing structures, and he initially told the committee staff in July that he would have construction trailers and that's what he considers those. His caretaker had a trailer that was falling apart so that's why he added those buildings, replacing the older structure. Commissioner Castellucci asked staff if that was ok to keep the temporary mobile homes until a permanent home was constructed and Odom and Broadhead responded that it was not allowed. Broadhead said it (the mobile homes) had to be removed before it went to City Council. Mr. Miller said he understands that response but does not agree with it. Odom stated that we do not have provisions for temporary residences and that the city has looked at this issue but has not made changes to the code. Broadhead added that he was not present for initial discussions, but the idea was more of a short-term trailer during construction. Commissioner Castellucci asked Mr. Kogovsek if the Commission had the authority to allow the mobile homes (tiny homes) during construction and if that was not allowed was there any other alternative. Kogovsek could not find an avenue to allow the structures. Mr. Miller gave some history of the property and homes. He

stated that he has owned the house for 14 years and it has been used as a residence for most of that time. He stated that he could look at other uses by rights or conditional uses and asked was there any avenue to allow the homes that are there. Broadhead suggesting continuing the hearing a month to give staff time to work on this issue. Commissioner Avalos said that if Mr. Miller goes through and is denied at this level and the homes are removed, he would have to start all over. Mr. Miller stated he wanted to find some way to allow the house without throwing his roommate out who is a disabled individual. Commissioner Castellucci said he saw nothing wrong if he had the authority to grant this, but he does not and there is no way to accommodate this at this point. He suggested to Mr. Miller taking Mr. Broadhead's suggestion to continue the case. Mr. Hobson stated that most of the properties along this road are not subdivided and the City has received many requests for new houses and buildings, and this has been an issue for multiple properties, not just this one. He stated that the issue wasn't allowing a house without subdivision, the issue would be what uses could continue while a home was constructed. Commissioner Castellucci asked what to do about people who were present today and wanted to testify. Castellucci addressed those present in the audience and on Zoom whether they wanted to testify. A citizen asked if they could testify at both hearings and was told that he could not. Broadhead stated that citizens could ask him questions at any time.

MOTION: Motion to continue case Z-21-20 and S-21-11 to the April 13, 2022, meeting of the Planning and Zoning Commission at the request of the applicant by Bailey, seconded by Avalos.

MOTION PASSED 7-0

7b. **S-21-11: Subdivision** 7 Reservoir Drive, the subdivision of .38 acres into a one lot subdivision to allow the construction of a single-family home. *Continued from the February 9th, 2022, hearing*

HEARING: No hearing, case was continued with the motion at the end of the hearing for Z-21-20.

MOTION: Motion to continue case Z-21-20 and S-21-11 to the April 13, 2022, meeting of the Planning and Zoning Commission at the request of the applicant by Bailey, seconded by Avalos.

MOTION PASSED 7-0

APPROVAL OF MINUTES

Approval of the minutes for the Planning and Zoning Commission Public Hearing held on February 9, 2022. Motion by Bailey, second by Aznar.

MOTION PASSED 7-0

NEW/OLD BUSINESS:

Election of officers. Castellucci asked if anyone wished to step up or step down from a position, there were none. Avalos added that his term ends in July. If Mr. Avalos chooses to leave the Commission when his term ends, the Commission will then elect a Vice Chair. Motion was made

by Bailey to keep all current appointments of Chair, Vice Chair, ZBA Liaison, and TAC Liaisons, second by Aznar.

ADJOURN

There being no further business the Regular Meeting was adjourned at 5:55 p.m.

Respectfully submitted,

Mike Castellucci
Chairperson

Attest:

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.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak
Alexandra Aznar
Elizabeth Bailey
Cheryl Spinuzzi

v

MINUTES OF PLANNING AND ZONING COMMISSION PUBLIC HEARING AND WORKSESSION

City of Pueblo, Colorado
Wednesday, March 23, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:39 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: Alexandra Aznar

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Danielle Baxter, Planner; Andrew Hayes, Public Works Director, Melanie Turner, Transportation Engineer.

APPROVAL OF AGENDA

A Motion was made by Spinuzzi to approve the agenda, Seconded by Bailey.

Motion passed 6-0, Aznar Absent

PUBLIC MEETING AND ACTION

Regular Agenda

1a. Z-21-16 Rezoning: Pikes Peak Park PUD Development Guide.

Staff report Beritt Odom, Principal Planner

BACKGROUND:

NeighborWorks of Southern Colorado purchased the Foothills Subdivision and is requesting to rezone, vacate rights-of-way/easements and re-subdivide to facilitate the development of a mixed-use neighborhood that offers a variety of housing options and commercial services to residents. According to NeighborWorks, the Pikes Peak Park community will offer "permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities to support a walkable, ten-minute neighborhood." Pikes Peak Park PUD, proposes to introduce small residential lots accessed by private drives that face green-spaces, intermixed with more traditional larger-lot residential development, multifamily development, and commercial nodes along W. 24th Street and Sun Mountain Blvd. The previous Foothills Subdivision (approved in 2000) was intended for development of manufactured homes and one commercial node west of what was previously Spaulding Ave and is now Sun Mountain Blvd.

Per the Planned Unit Development Zone District Regulations, a development guide has been submitted which contains information as required by Section 17-8-6, of the Pueblo Municipal Code.

According to the Pikes Peak Park PUD Development Guide, the proposed development will be a "social, economic, and environmentally Resilient Community." The Development Guide goes on to state that a variety of complimentary uses "within walking and cycling distance from one another" "will decrease reliance on the automobile." Therefore, the PUD contains provisions for single-family development on narrow and shallow lots creating a dense residential fabric with a maximum of 619 residential dwelling units and 446 Commercial Mixed-Use dwelling units. The maximum gross density is 12 dwelling units per acre and 20 commercial mixed-use units per acre.

Residential Development Standards:

Pikes Peak Park proposes six types of residential development, multifamily, and accessory dwelling units:

1. Single-family attached;
2. Single-family detached, rear-loaded, shallow lot;
3. Single-family detached rear-loaded, deep lot;
4. Single-family detached front loaded;.
5. Multifamily with three or more units; and
6. Accessory dwelling units

Single-Family Attached

The smallest proposed lots, 20-foot width and a total area of 1,400 square feet, must be developed with attached single-family homes and be rear-loaded (garage or surface parking for the home will be provided adjacent to the rear lot line). Single-family attached homes allow a maximum lot coverage of 75-percent, minimum 15-foot front yard setbacks, minimum 10-foot side-yard setbacks adjacent to a public right-of-way; 5-foot side-yard setbacks when not adjacent

to a public right-of-way: and five-foot rear-yard setback. All single-family attached structures must provide one on-site parking space per dwelling unit.

Single-Family Detached Rear-Loaded Shallow and Deep Lots

Yard and bulk standards for single-family detached, rear-loaded shallow and deep lots are the same. Single-family detached structures on 35-foot-wide lots allow 60-percent lot coverage, require a minimum front-yard setback of 15-feet, five-foot side-yard setback; 10-foot side-yard setback, adjacent to a public right-of-way; and a 5-foot rear-yard setback. Single-family detached structures located on 35-foot-wide lots may face a "green-court" and are accessed by a 20-foot wide dead-end "alley," adjacent to the rear lot line. All structures have a maximum height of two-stories. All detached single-family dwelling units must provide two on-site parking spaces, covered, or uncovered, per dwelling unit.

Single-Family Detached Front-Loaded

Lots with a minimum width of 45-feet are front-loaded from the street and allow for 50-percent lot coverage. Setbacks on 45-foot-wide lots include a minimum 15-foot front-yard setback, 5-foot side-yard setback, 10-foot side yard setback adjacent to a street; and a 15-foot rear-yard setback for the principal structure. All dwelling units must provide two on-site parking spaces, covered, or uncovered, per dwelling unit. All structures have a maximum height of two-stories.

Multifamily (three of more units)

Multifamily residential standards include a 20-foot front-yard setback, 20-foot side-yard setback for the principal structure, 10-foot side-yard setback for garages, and a 10-foot rear-yard setback. The maximum height for multifamily residential structures is three stories. Each multifamily residential structure, to include mixed-use structures must provide 1.25 on-site parking spaces per dwelling unit.

Accessory Dwelling Units

Accessory dwelling units, (ADU) are allowed "over separated parking garages located along private lanes or alleys," and must be developed according to guidelines established by the PUD development guide. The guidelines state that the ADU cannot be sold separately from the principal structure, must be architecturally compatible with the principal structure, have a minimum living area of 400 square feet, meet a minimum ceiling height, and have a covered stair landing. Mobile homes, recreational vehicles/trailers, and sheds may not serve as an ADU. All ADU structures must have one on-site parking space per unit.

All residential development must follow development design guidelines established by the PUD that require, specific building materials, and front porches (on single-family developments). The PUD states that residential development will allow a mixture of housing designs and should follow best practices in architectural design and construction technology; however, specifics of design are not provided within the PUD.

Fire Station/Schools:

The proposed PUD includes provisions for the development of a fire station along the western boundary of the development. No new school sites are proposed for the development, the PUD states that the Chavez-Huerta Preparatory Academy is conveniently located within walking distance of Pikes Peak Park and "work with school district to allow for preferred enrollment status for Pikes Peak Park children." It is unclear who is responsible for working with Chavez-Huerta and whether "preferred enrollment" is a possibility.

Land Uses:
The Pikes Peak Park lists land uses for the two designated planning areas, the Residential Planning Area, and the Commercial Mixed-Use Planning Area. The Residential Planning Area is located within the northern portion of the site, east and west of Sun Mountain Blvd. The Commercial Mixed-Use Planning Area is located adjacent to W. 24th Street, east and west of Sun Mountain Blvd.

Proposed land uses withing the Residential Planning Area include permitted, conditional, and restricted uses. The PUD states that conditional uses must meet applicable conditions contained within the City Municipal Ordinances as determined by the Design Review Board and the Land Use Administrator. The PUD further states that the Design Review Board is required to send a letter of recommendation to the Land Use Administrator recommending approval.

Permitted uses within the Residential Planning Area generally include, single-family residential, paired housing (duplexes), co-housing, community center, parking lot solar array, triplex, fourplex, townhomes, childcare homes, and accessory dwelling units. The conditional uses include, bed and breakfast homes and inns, childcare center, food trucks, home based business, mobile food unit. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Permitted uses within the Commercial Mixed-Use Planning Area generally include retail, service, office, multifamily residential and mixed-use (multifamily residential and commercial uses located within the same structure). Permitted and conditional uses within the Commercial Mixed-Use Planning Areas, follow the same approval process as those within the Residential Planning Area. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Development Design Guidelines:
The PUD Development Guide includes general architectural requirements for multifamily and mixed-use structures, commercial, and single-family residential development.
Design Guidelines for Multifamily, mixed-use, and commercial design guidelines include the following provisions:

1. Site Design-regulations pertaining to the location of parking lots, screening of mechanical and service functions, and landscaping.
2. Building Character-regulations for projections and recesses, windows, entries, awnings, color, texture, materials, etc.
3. Relationship of Buildings to Street-regulations encouraging the entry of structures to be oriented to the street (with the exception of residential units that front a green-space).
4. Massing, Form/Scale-requirements for façade articulation.
5. Signage-multifamily and mixed use must follow the R-5 and R-6 sign regulations for non-commercial development. Signage for commercial development must follow the R-5 and R-6 non-residential sign standards.
6. Open Space-multifamily, mixed use, and commercial development must have common landscaped outdoor space that generally includes pedestrian connections, lighting, street furniture.

Design Guidelines for Single-Family Residential Development:

1. Architectural Design-provisions for quality architecture and a range of architectural styles while insuring attainable housing.
2. Porches and Front Doors-requirements for columns, railings, and other details; encouragement of wrap-around porches.
3. Front Loaded Lots (garages accessed from streets)-encouragement for garage doors to be stepped back and paved on-site parking.
4. Building Materials-regulations pertaining to allowable materials (stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels), where material changes may occur, and the prohibition of vinyl, EIFS and tilt up concrete panels.
5. Roof Design-allowance of sloping, gable, hip, pyramid hip, mansard, gambrel/butterfly, or flat; materials consisting of asphalt shingle, slate, tile, or metal.

Landscaping:
All landscaping will conform to the municipal code, Section 17-4-7, with the additional requirements related to plant size, coverage calculations and low water/maintenance plantings.

Signs:
Signs for multifamily residential and mixed-use development will follow the Pueblo Municipal Code regulations for residential and non-residential uses in the R-6, Multiple-residential and Commercial District. Signs for commercial development will follow the Pueblo Municipal Code regulations for commercial zone districts (B-1, B-2, B-3, B-4, B-P…). Signs for single family residential will follow the Pueblo Municipal Code regulations for residential signs.

Park:
The Pikes Peak Park PUD Development Guide states that a minimum of eight percent of the land area, in a residential subdivision, is dedicated for use as parks and recreational facilities according to section 12-4-7, (e), of the Pueblo Municipal Code. According to the PUD, park land will be dedicated to the Metro District and be developed and maintained by the Metro District. Section 12-4-7, (e), also allows the subdivider to make a cash payment in lieu of land dedication. According to the Municipal Code, the cash payment is made to the City.

Street and Alley/Private Drive Standards:
Pikes Peak Park PUD includes standards for three types of street development, Future Neighborhood Connector Street, Neighborhood Local Street, and Neighborhood Park Street.

1. Neighborhood Connector Street provides three to five additional feet in sidewalk width and greater emergency access than the City's standard Neighborhood Collector roadway classification.
2. Neighborhood Local Street provides two additional feet of roadway width and one additional foot in sidewalk width compared to the City's standard Neighborhood Local Street.
3. Neighborhood Park Street is similar to the Neighborhood Local Street and the City's standard Neighborhood Local Street with the exception that the sidewalk and landscape zone may be located on one side of the street opposite of a park.

Pikes Peak Park also allows for single-family attached and detached homes to be accessed from a public alley or private lane. Both the alley and private lane have a 20-foot width, the alley requires a 12-foot-wide paved surface, and the lane requires the full width to be paved. The Pikes Peak Park, Filing No. 1 Subdivision proposes multiple instances of residential structures being

accessed only from a private lane with a dead end and no provisions for vehicle turn arounds; therefore, the residential lots located at the end of a dead-end alley must provide a 20-foot setback to allow vehicles to turn around and exit the alley or lane without backing into traffic. The City of Pueblo Fire Department granted a variance to the vehicle turn-around requirements for Parcels E, G, and K of the Pikes Peak Park, Filing No. 1 Subdivision. Future residential development accessed by alleys or private lanes will have to provide a turnaround or request additional variances from the Fire Code.

Refuse Collection:
The Pikes Peak Park PUD Development guide states that the Pikes Peak Park Metro District will work directly with a private trash collection company to establish trash collection protocol for "Green court residential products with Private Lanes". The PUD states further that solid waste collection points will be provided within the street right-of-way where dead end alleys or private lanes intersect with public streets. This will reduce congestion within the narrow private lanes and prevent trash trucks from backing into the right of way.

Parking:
Pikes Peak Park proposes reduced parking standards for multifamily residential, retail, restaurant/bar, professional/medical office, and community center uses. The reduction is intended to be no more than 50-percent of what the Municipal Code requires. However, the parking standard for Restaurant/Bar does not meet the 50-percent of municipal code standard. Staff recommends a condition of the PUD approval that the parking space requirement for restaurant/bar be increased by 1.5 spaces totaling 7.5 spaces per 1,000 gross square feet of seating area. The applicant justifies the parking reduction, by stating that the Pikes Peak Park Development is a mixed-use and mixed-income community that co-locates permanently affordable housing with access to services and goods within a "walkable, ten-minute neighborhood." Parking requirements for single-family residential structures is higher than the municipal code because the PUD allows residences to have reduced front-yard setbacks and lot widths; therefore, each residence is limited in its capacity to park vehicles. All single-family residences must provide two off-street parking spaces as opposed to one.

FINDINGS OF FACT REQUIRED PER §17-8-11 OF THE PUEBLO MUNICIPAL CODE

Municipal Code specifies five (5) criteria to be evaluated in conjunction with a PUD application. The Planning and Zoning Commission, before recommending that any property be zoned to a PUD Zone District, shall make the findings concerning the following:

(1) The PUD and Development Guide are compatible with the surrounding neighborhood and the proposed uses are not incompatible to the uses to which the surrounding area is restricted.

Staff Analysis of Finding #1
The proposed Pikes Peak Park PUD Development guide allows for high density residential and a comingling of commercial uses that serve the neighborhood. Adjacent residential development to the south consists of manufactured homes of an average density between 4-7 units per acre. Development further to the south along Westview Drive is approximately 5.4 units per acre. Development Commercial uses within the PUD are restricted to the areas north of W. 24th Street and on either side of the future Sun Mountain Blvd. A detailed listing of the

specific land uses, which are allowed by right and by conditional review, are found in the Development Guide.

(2) The PUD and Development Guide are in accord and in harmony with the Comprehensive Land Use Plan and are being done for the public good; that is, to serve one (1) or more goals of the Comprehensive Plan and enable legislation and thereby bear a relationship to the public health, safety, or general welfare.

Staff Analysis of Finding #2

The proposed Pikes Peak Park includes a mixture of residential and commercial uses. Residential uses include single-family detached, single-family attached, multifamily residential and mixed use residential. The PUD allows a maximum of 1,065 dwelling units, with a total density of 13.48 units per acre, which is much higher than the maximum density of 7 units per acre as recommended by the Comprehensive Plan amended in 2014. The proposed Pueblo Regional Comprehensive Plan, 2022, also designates the subject site as Urban Neighborhood but allows for densities between 6-16 units per acre. Proposed commercial uses are located adjacent to W. 24th Street and Sun Mountain Blvd. West 24th Street is a Principal Arterial, and the future Sun Mountain Blvd is classified as a Minor Arterial, which conforms to the Comprehensive Plan.

The proposed Pikes Peak Park PUD Development Guide is consistent with the provisions for neighborhood commercial servicing the surrounding residential neighborhood. The proposed density within the PUD is significantly higher than what is stated as an appropriate density within the current Comprehensive Plan, but the proposed density is within the range proposed in the 2022 Comprehensive Plan that has been recommended for approval by the Planning & Zoning Commission.

(3) The PUD and Development Guide would encourage an appropriate use of land.

Staff Analysis of Finding #3

According to the Pikes Peak Park PUD Development Guide the proposed development will provide a range of "affordable and attainable housing products." The development will also include ample open space and trail corridors for residents to enjoy. The intent of the parks and trails is to provide a network of space that connect neighborhoods to the regional open space corridors and preserve view corridors. Finally, the southern portion of the development will allow for commercial development to service the residents of the community. All of the aforementioned uses are compatible with the Urban Residential Comprehensive Plan Designation.

(4) The PUD and Development Guide would not be so injurious to surrounding properties to the extent of depriving neighboring property owners of any reasonable use of their property.

Staff Analysis of Finding #4

The proposed mixed-use neighborhood is not anticipated to deprive neighboring property owners of any reasonable use of their property.

(5) All land contained in the PUD District is within the City, proper notice was sent to surrounding property owners, and the required public hearing was held.

Staff Analysis of Finding #5
All of the land area is within the City of Pueblo and proper notice has been sent by the Department of Land Use Administration to surrounding property owners and the public hearing is scheduled with the Planning and Zoning Commission and posted appropriately.

RECOMMENDED ACTION:
Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED** with conditions. Documents addressing the following conditions must be submitted for review and approval by Planning Department staff prior to recommending the PUD amendment to City Council for approval:

1. Provide a full legal description of the rezoning area in a digital word document.
2. Amend Restaurant/Bar parking requirement to "7.5/1,000 gsf" to meet, the agreed upon, 50-percent of Municipal Code parking standards in the Pikes Peak Park PUD (p. 9, Section H. Parking Standards).
3. Amend, Section A, p. 11, "Function" to read, "Primary collector roadway within the neighborhood."

Commissioner Castellucci, asked how many 20-foot lots are located in the proposed Pikes Peak Park Subdivision, Filing No. 1? Beritt Odom explained that the minimum 22-foot lots are reserved for single-family attached residences (townhomes) and are located south of Tahosa Lane and north of Chavanaux Lane on the proposed subdivision. Castellucci asked approximately how many 22-foot lots will be located in this subdivision? Odom stated close to 20-percent of the lots will be the smaller 22-foot lots. Castellucci asked how a two-car garage would fit on these lots and the maximum height to achieve the intended density. Odom stated that the maximum height for single-family is two-stories or 30-feet.

Spinuzzi asked if Parcel Q would be green space. Odom stated that Parcel Q is reserved for future development and that the commission should inquire with the applicant what the interim plans are for the parcel.

Bailey asked if the 20-90 lots would have side easements? Castellucci stated that they are attached townhomes. Each home is accessed from an alley and that is where the green space is that sits adjacent. Odom stated that she is not sure that they sit adjacent to greens space and to inquire with the applicant.

Castellucci asked Andrew Hayes, Public Works Director, asked about the narrow roadways and limited parking. Hayes stated that Public Works and Transportation worked with the applicant to mitigate some circulation and parking concerns. Hayes stated that there are some functional concerns related to dead end alleys fronting green space. Concerns stem from the possibility of large vehicles backing out of the private lanes such as delivery and garbage trucks with limited sight distance. Compromise is to provide garbage collection points at the ends of alleys to limit daily activity in the private lanes. The PUD also includes provisions for the Metropolitan District to contract with a single-service solid waste provider to limit daily activities in the private lanes.

The Fire Department provided a variance to allow the dead-ends with a length of over 150-feet. Sun Mountain classification, a mixed-use collector on the transportation plan. Three lane facility with parking on both sides and a center turn lane. The City and NeighborWorks have agreed upon a striping plan for Sun Mountain, that will allow it to stay two lanes until traffic increases warrant changes in striping and parking. Melanie Turner stated that the applicants requested a 30-foot roadway width; however, the City and NeighborWorks compromised on a 34-foot roadway width to seven-feet of parking on both sides of the road. Public Works will continue to work with the applicant to ensure livability of the neighborhood through the Part II subdivision phase.

HEARING:

Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants testified in favor of the rezoning request.

Castellucci asked Mike Cuppy why high density single-family on small lots was chosen as the preferred development in this area? How will the delivery trucks and parking be accommodated? Ashleigh Winans stated that NeighborWorks hired Civitas to develop the PUD and partner with NorthStar Engineering and Surveying to complete the vacation and subdivision request. Winans stated that the proposed Pikes Peak Park is modeled after the Painted Prairie Community in Aurora. Civitas Master Planned Painted Prairie, which won the National Neighborhood of the Year for the subdivision. They are pairing the small lot single-family development with shared equity, which is a new way to look at affordability. The smaller lots require less infrastructure costs. The Metro District shares the equity in the homes. The housing crisis has spurred innovative ways to develop housing. NeighborWorks has raised over $5 million in private money to develop the Pikes Peak Park community. Horizontal infrastructure costs are less with single-family residences on small lots. Winans went on to state that NeighborWorks has significant experience with development, they are currently developing Cruz Court on the westside with 24 new homes.

Castellucci expressed concerns that the small lot development with reduced parking availability may not appreciate in a similar fashion to other residential developments withing the City. Winans stated that future phases of residential development within Pikes Peak Park will include more traditional single-family development at market rate on larger lots. This will attract a mix of incomes into the neighborhood. Parcel Q will include front-loaded single-family residential development. Castellucci is concerned if there is a crisis similar to 2007, the loans on the homes may be more than they are worth, and the homes will fall into foreclosure leading to blight. Tamara Plesck stated, shared equity takes extreme measures with deed restrictions and consulted with leading experts on deed restrictions to make sure the program will not fail. NeighborWorks also has mitigating measures to help prevent foreclosure for individual homeowners. The Metro District will prevent blight.

The Planning Commission and NeighborWorks continue the discussion on shared equity and affordable housing.

Castellucci asked if the PUD rezoning is coupled with the subdivision. Scott Hobson stated that the rezoning and subdivision are separate.

Mike Cuppy stated that the initial plat covers the southeast corners of the property. The big lots will allow apartment development, which transitions to the townhomes, then small lot residential

(cluster) development fronting the green court, which saves on infrastructure costs. Finally, there will be traditional single-family on larger lots. The purpose was to include all housing types within the first subdivision filing. The PUD allows flexibility for housing types and design, it does not mean that all development will be very dense on small lots. If the small lots and townhomes do not sell the lots may be rearranged to create larger lots and larger homes. The PUD allows flexibility. Castellucci stated that he understands the intent of the walkable neighborhood; however, there are not enough opportunities for employment within walking distance of the neighborhood, therefore people will be driving cars. Discussion regarding the number of cars that homeowners may have followed.

Avalos stated that he likes the mixed income shared equity approach. He asked about the construction of the homes, will the homes have back doors, garages. Tamara stated that the houses will have back doors and garages. Avalos stated that previous affordable housing projects did not work well along Pueblo Blvd. Avalos stated that he anticipates the shared equity model will have a positive affect on home ownership and housing in Pueblo.

Spinuzzi asked if there will be regulations to limit the number of unrelated individuals living in a single-family residence. Tamara stated that the deed restrictions will limit the number of unrelated individuals living in a single-family residence.

Martinez asked if other communities with small lot single-family development have issues with EMR and solid waste accessing the communities? NeighborWorks and NorthStar stated that they were not aware of issues. Tamar stated that they visited Painted Prairie, and Central Park, neither one, seemed to have parking issues. Sarah asked if there would be public transportation service to the Pikes Peak Park development. Tamara stated that they have met with transportation, and they hope to have public transportation service in the community. Martinez asked how much the metro district fee would be? Ashleigh stated that it would be between $75 and $90 per lot, they are hoping that it will be less than mortgage insurance. Martinez asked if the Pikes Peak Park might be a future Urban Renewal District. Ashleigh stated that they are aware of the opportunity, but they have not explored the district yet.

Castellucci asked if the PUD contains regulations for Accessory Dwelling Units. Beritt Odom read the PUD Accessory Dwelling Unit regulations to the commission. Odom stated that the PUD will most likely be interpreted that the ADU is only located above the garage. The PUD states that both the principal structure and ADU have to be under single ownership; however, it does not prevent both units from being rented. The way the PUD is written it is unlikely that they will be allowed on front-loaded traditional single-family homes. The deed restrictions will not allow the principal structure from renting the unit. Additional ADU discussion followed.

No one spoke in support or opposition of this case.

COMMISSION ACTION:
Motion to **APPROVE** Z-21-16 with staff conditions made by Bailey, second by Avalos.

MOTION:

MOTION PASSED 5-1 (Castellucci dissenting, Aznar Absent)

1b. V-21-04 Foothills Subdivision Street and Easement Vacation

Staff report Beritt Odom, Principal Planner

BACKGROUND:
The applicant is requesting to vacate all the streets and easements in the Foothills Subdivision, A Special Area Plan, which was subdivided in 2000. The purpose of the Foothills Street and easement vacation is to facilitate the Pikes Peak Park, Filing No. 1 Subdivision. Vacation of a portion of Oakland Blvd., Columbia Ave., Emerson Ave., and the entire alley in Block 11, Irving Park Subdivision, which is located directly east of the Foothills subdivision, is necessary to accommodate stormwater drainage and infrastructure for the Pikes Peak Park, Filing No. 1 Subdivision. None of the streets proposed to be vacated have been improved or utilized as right-of-way by the public. None of the easements proposed to be vacated contain public utilities.

Recommended Action:
The Subdivision Review Committee recommends that the Street and Easement Vacation be recommended for **APPROVAL.**

HEARING
Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants stated that they did not have additional testimony regarding the vacation request.

COMMISSION ACTION:

Motion to approve V-21-04 with staff conditions made by Bailey, second by Spinuzzi.

MOTION PASSED: 6-0 (Aznar Absent)

1c. S-21-12 Pikes Peak Park, Filing No. 1 Subdivision

Staff report Beritt Odom, Principal Planner

BACKGROUND:
The applicant is requesting to resubdivide 79.01 acres into 114 single-family residential lots; four commercial/mixed use and multifamily residential lots; one lot for possible future Fire Station development; and multiple parcels dedicated to easements, access, park amenities, and future development sites.

The proposed Pikes Peak Park, Filing No. 1 Subdivision is intended to create a walkable, mixed residential community with neighborhood serving retail and includes lots and parcels designed for single-family residential, multifamily residential, commercial/mixed use, public facilities, park amenities, and private access to residential units. This is a resubdivision of the Foothills Subdivision, A Special Area Plan, 2000, which was approved for manufactured home development and a commercial node along W. 24th Street.

The subdivision will create 114 single-family lots with varying sizes to accommodate the three types of single-family residential structures proposed within the Pikes Peak Park PUD, single-family attached, single-family detached rear-loaded, single-family detached front-loaded. Single-family attached residential will be constructed on the 17 lots located south of Tahosa Lane and the eight lots within Block 8, located north of Chavanaux Lane. The single-family attached lots vary in width between 32-feet and 22-feet with a 70-foot depth. The lots front Tahosa Lane and Chavanaux Lane, vehicular access is provided by the private alley, which will be subdivided as Parcels B, C and P. The Pikes Peak Park PUD does not have provisions for a "Private Alley," therefore the dedication of Parcels B and C must be amended to either a "Public Alley" or "Private Lane." Parcel P is a dead-end access parcel; therefore, it must be amended to be a "Private Lane."

Single-family detached, rear-loaded, structures will be constructed on the lots located north of Tahosa Lane, west of Chipeta Way, and north of Chavanaux Drive. Lots within Blocks 3, 4, 5, and 6 front "green courts" and are configured in a cluster pattern. The minimum lot width is 35-feet, minimum lot area is 3,100 square feet, and maximum lot coverage is 60-percent. The proposed PUD allows vehicular access to these homes from dead-end parcels dedicated to public ingress/egress and utilities. The Subdivision plat dedicates these parcels, which provides access to the homes fronting green courts, as "Private Alleys." Pikes Peak Park PUD Development Guide establishes right-of-way standards for a "Public Alley" and a "Private Lane." The Public Alley requires a 12-foot paved drive-lane, and the Private Lane requires a 20-foot paved drive-lane, "where lane serves as fire access." Because Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes and have a dead-end, the plat must be amended to dedicate the parcels as "Private Lanes" not "Private Alley," to insure adequate drive width for residents and emergency services. The Pueblo Fire Department issued a variance to allow "dead-end fire apparatus access roads in excess of 150-feet for Parcel E, blocks 7&8. Additionally, the lots adjacent to the dead-end of the access parcels have a greater setback, 20-feet as opposed to 5-feet, to allow additional space for vehicles to turn around.

Single-family detached residential, front-loaded lots are larger and closer to standard residentially zoned lots. The minimum lot width is 45-feet, minimum lot area is 4,000 square feet, and maximum lot coverage is 50-percent. Residences constructed on these lots will front Sawatch Way, Chipeta Way, and Tahosa Lane. The lots will also have alley access adjacent to the rear lot line, provided by Parcel D. Parcel D is dedicated for public ingress/egress, utilities and "Private Alley." The Pikes Peak Park PUD does not have provisions for a "Private Alley," therefore the dedication of Parcel D must be amended to either a "Public Alley" or "Private Lane."

Commercial, multifamily residential, and commercial mixed-use lots are located along W. 24th Street and Sun Mountain Blvd. Park, trail, and open space amenities are provided within Parcel M. Drainage, detention, and utilities will be provided in Parcel L, Parcels Q and R are "non-Buildable" and are reserved for future resubdivision prior to development. Finally, Lot 1, Block 11, located north of W. 24th Street and adjacent to the western property line, may be developed as a City of Pueblo Fire station in the future.

Recommended Action:

The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation the requested Subdivision be **APPROVED** with the following noted:

- **Request for Deferred Filings,** Request for Deferred Filings: The Subdivision Review Committee has no objection to the Request for Deferred Filings, SRC Memo, March 17, 2022.
- **Overhead Electric Lines:** Three phase overhead electric mainlines exist along the northern property line and adjacent to the western right-of-way boundary of Sun Mountain Blvd. All overhead lines, as identified in the exhibit from Black Hills, must be undergrounded and identified in the Exhibit B of the Subdivision Improvement Agreement (Derek Chavez, email and exhibit, March 16, 2022).

Conditions of Approval:

- (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.):
- Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes, the plat must be amended to dedicate the parcels as "Private Lane" not "Private Alley," to insure adequate drive width for residents and emergency services.
- Dedication of Parcel D must be amended to either a "Public Alley" or "Private Lane."
- Dedication of Parcels B and C must be amended to either a "Public Alley" or "Private Lane."
- Amend the Stormwater Facility Maintenance Agreement, as noted in the "redlined" draft agreement and memorandum from John Sakariason, Stormwater Coordinator, March 16, 2022.
    - Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.

HEARING

Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants stated that they did not have additional testimony regarding the Subdivision request.

COMMISSION ACTION:

Motion to approve S-21-12 with staff conditions made by Bailey, second by Avalos.

MOTION PASSED: 6-0 (Aznar Absent)

WORKSESSION:

Beritt Odom stated that the April 13, 2022, Public Hearing will review the Villa Bella Vacation and Villa Bella, Filing No. 2 Subdivision. Odom also stated that Bart Mikitowicz, Planner, is working with the owner of the Watertower Place to amend the PUD and the Ent Credit Union subdivision (University Park Subdivision 33rd Filing) will be heard in May.

ADJOURN

There being no further business the Regular Meeting was adjourned at 5:49 p.m.

Respectfully submitted,

Mike Castellucci
Chairperson

Attest:

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.

City Clerk's Office Item # M-1

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO**:** President Heather Graham and Members of City Council

CC**:** Nicholas A. Gradisar, Mayor

VIA**:** Marisa Stoller, City Clerk

FROM**:** Andra Ahrens, Interim Director of Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF $7,942.62 WITH PARKER EXCAVATION, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2630 FORSYTHIA PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repair at 2630 Forsythia.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The Wastewater Department was notified that during routine cleaning of the sanitary sewer collection system, the cleaning head became stuck in a hole the main is in the 2600 block of Forsythia. An emergency repair was needed to remove the cleaning head and to prevent a backup.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the low bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related			
Total:	$	3,509.12	45%
Surface Improvement Related			
Total:	$	4,433.50	55%
Grand Total:	$	8,082.62	100%

FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Not approve this Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet
Change Order
Site Location Map

RESOLUTION NO. 14857

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF $7,942.62 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 2630 FORSYTHIA, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary 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 Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

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

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewer at 2630 Forsythia with Parker Excavating Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of $7,942.62.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, a Municipal Corporation, and the City Clerk properly affix the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff 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 therein. 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.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair

Date:

Project Number: 20-059 (WWAN03)

Item	Description	Estimated			K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
1	Remove and Replace 8” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF	28	$ 2,660.00	$ 16,660.00	$ 1,498.00
		>100	LF		$ -	$ -	$ -
2	Remove and Replace 8” PVC More than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
3	Remove and Replace 10” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
4	Remove and Replace 10” PVC More than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
5	Remove and Replace 12” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
6	Remove and Replace 12” PVC More than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
7	Remove and Replace 15” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
8	Remove and Replace 15” PVC More than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
9	Remove and Replace 4” Service Tap Less than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
10	Remove and Replace 4” Service Tap More than 10’ Deep	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
11	Asphalt Patch – 4” HMA on 4” Class 6 ABC For 8" and 10" Pipe	1-20	LF		$ -	$ -	$ -
		21-100	LF	35	$ 2,275.00	$ 2,065.00	$ 1,890.00
		>100	LF		$ -	$ -	$ -
12	Asphalt Patch – 5” HMA on 6” Class 6 ABC For 8” and 10” Pipe	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
13	Asphalt Patch – 4” HMA on 4” Class 6 ABC For 12" and 15" Pipe	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
14	Asphalt Patch – 5” HMA on 6” Class 6 ABC For 12" and 15" Pipe	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
15	Remove and Replace 7” Reinforced Concrete	1-20	SF		$ -	$ -	$ -
		21-100	SF		$ -	$ -	$ -
		>100	SF		$ -	$ -	$ -
16	Remove and Replace 6” Reinforced Concrete	1-20	SF		$ -	$ -	$ -
		21-100	SF		$ -	$ -	$ -
		>100	SF		$ -	$ -	$ -
17	Remove and Replace 4” Concrete	1-20	SF		$ -	$ -	$ -
		21-100	SF		$ -	$ -	$ -
		>100	SF		$ -	$ -	$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		$ -	$ -	$ -
		21-100	LF		$ -	$ -	$ -
		>100	LF		$ -	$ -	$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY	15	$ 2,250.00	$ 2,925.00	$ 1,897.50
		21-100	CY		$ -	$ -	$ -
		>100	CY		$ -	$ -	$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR		2	$ 650.00	$ 300.00	$ 550.00
21	Remove and Replace 48” Diameter Manhole	EA			$ -	$ -	$ -
22	Remove and Replace 60” Diameter Manhole	EA			$ -	$ -	$ -
23	Reinstate Services	EA		6	$ 1,800.00	$ 522.00	$ 1,590.00
24	Mobilization	LS		1	$ 1,500.00	$ 750.00	$ 575.00
				Total	$ 11,135.00	$ 23,222.00	$ 8,000.50
				With Contingency	$ 13,362.00	$ 27,866.40	$ 9,600.60

CONTRACT CHANGE ORDER

CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 Change Order No. : ONE 4/1/2022 Page 1 of 1

Project Name : FY2021 & 2023 Sanitary Sewer Point Repair
2630 FORSYTHIA

Contractor : Parker Excavating, Inc.

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
3	INSTALL EXTRA LEAN CONCRETE (FLOWFILL)		506.00
5	REINSTATE SERVICES	(1,060.00)	
7	TRAFFIC CONTROL		496.12
	TOTAL (Decrease) / Increase	(1,060.00)	1,002.12

Net Adjustment This Change Order	$	(57.88)
Amount of Previous Change Order(s)	$	0.00
Original Contract Amount	$	8,000.50
Total Adjusted Contract Amount To Date	$	7,942.62

Reason For Change: Actual Field Quantities.
Extra work needed to complete project

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date:_____
Associate Engineer II

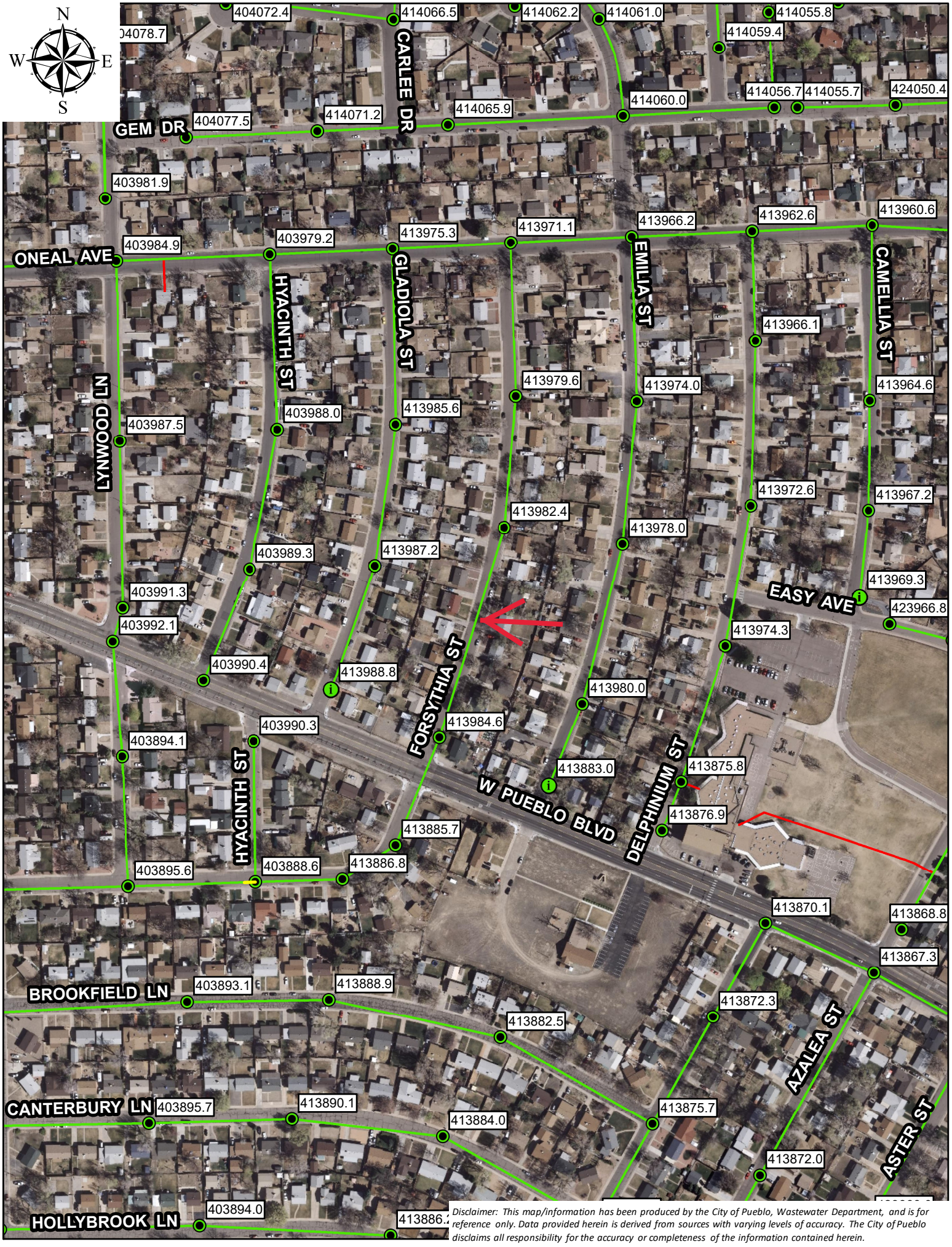
Reviewed by: _____ Date:_____
Wastewater Engineering Manager

Accepted by: _____ Date:_____
Contractor's Representative

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

Approved by: _____ Date:_____
Interim Director of Wastewater

FORM CO100.1299



Disclaimer: This map/information has been produced by the City of Pueblo, Wastewater Department, and is for reference only. Data provided herein is derived from sources with varying levels of accuracy. The City of Pueblo disclaims all responsibility for the accuracy or completeness of the information contained herein.

City Clerk's Office Item # M-2

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $42,280 TO MONTANO CONCRETE, INC., AND SETTING FORTH $12,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-018 SIDEWALK IMPROVEMENTS AT DUTCH CLARK STADIUM AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Montano Concrete, Inc., for Project No. 22-018 Sidewalk Improvements at Dutch Clark Stadium.

PREVIOUS COUNCIL ACTION:

The City of Pueblo's 2020 Annual Action Plan that was approved on June 15, 2021, Ordinance No. 9951 created Project CD2018.

BACKGROUND:

In general, this project consists of asphalt removal and construction of a new six-foot wide concrete trail in front of Dutch Clark Stadium. This project is going to be paid for using CDBG funds, appropriated from the W. 18th Street Expansion Project No. CD2018 in accordance with Bryan Gallagher, Department Director, Housing and Citizen Services.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of $54,280 will be paid from account CD2018 W. 18th Street Expansion.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $42,280 TO MONTANO CONCRETE, INC., AND SETTING FORTH $12,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-018 SIDEWALK IMPROVEMENTS AT DUTCH CLARK STADIUM AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-018 Sidewalk Improvements at Dutch Clark Stadium have been received and examined; and

WHEREAS, the proposal of Montano Concrete, Inc., was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council it authorize Project No. 22-018 to be performed; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-018 Sidewalk Improvements at Dutch Clark Stadium to be performed, and the contract for said project is hereby awarded to Montano Concrete, Inc., in the amount of $42,280.00.

SECTION 2.

Funds for Project 22-018 shall be from Project No. CD2018 W. 18th Street Expansion.

SECTION 3.

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 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……$12,000.00

SECTION 5.

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

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 25, 2022

BY: _____
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Bid: 22-018 (CD2018) Sidewalk Improvements at Dutch Clark Stadium					Montano Concrete, Inc.	Doug Vaughn, LLC	Cedar Ridge Landscape, Inc.	Merriman Land Works dba Flat & Fancy	K.R. Swerdfeger Construction, LLC
Opening Date: March 30, 2022 Time: 10:00:00 AM									
Item	Description	Estimated Quantity							
1	Remove Curb and Gutter	10	LF	*Unit Price*	*10.00*	*5.00*	*10.00*	*11.05*	*118.00*
				Amount	100.00	50.00	100.00	110.50	1180.00
2	Remove Asphalt	100	SF	*Unit Price*	*20.00*	*1.50*	*3.00*	*3.00*	*9.50*
				Amount	2000.00	150.00	300.00	300.00	950.00
3	Construct 6” Curb Head	25	LF	*Unit Price*	*30.00*	*20.00*	*20.00*	*18.00*	*53.00*
				Amount	750.00	500.00	500.00	450.00	1325.00
4	Construct Curb and Gutter	35	LF	*Unit Price*	*50.00*	*26.00*	*35.00*	*45.00*	*53.00*
				Amount	1750.00	910.00	1225.00	1575.00	1855.00
5	Construct 4” Concrete	5400	SF	*Unit Price*	*5.30*	*5.75*	*7.25*	*9.75*	*11.75*
				Amount	28620.00	31050.00	39150.00	52650.00	63450.00
6	Construct 6” Asphalt Patch	100	SF	*Unit Price*	*25.00*	*8.00*	*7.00*	*6.88*	*23.50*
				Amount	2500.00	800.00	700.00	688.00	2350.00
7	Install Tactile Bands	48	SF	*Unit Price*	*60.00*	*30.00*	*60.00*	*15.00*	*118.00*
				Amount	2880.00	1440.00	2880.00	720.00	5664.00
8	Install Irrigation Sleeves (2-inch PVC)	14	LF	*Unit Price*	*20.00*	*10.00*	*15.00*	*30.00*	*24.00*
				Amount	280.00	140.00	210.00	420.00	336.00
9	Mobilization	1	LS	*Unit Price*	*1800.00*	*4500.00*	*2000.00*	*2500.00*	*8700.00*
				Amount	1800.00	4500.00	2000.00	2500.00	8700.00
10	Pedestrian & Construction Traffic Control	1	LS	*Unit Price*	*600.00*	*2500.00*	*400.00*	*2500.00*	*5880.00*
				Amount	600.00	2500.00	400.00	2500.00	5880.00
11	Erosion and Sediment Control	1	LS	*Unit Price*	*1000.00*	*300.00*	*300.00*	*500.00*	*1775.00*
				Amount	1000.00	300.00	300.00	500.00	1775.00
				Grand Total Bid	**$42,280.00**	**$42,340.00**	**$47,765.00**	**$62,413.50**	**$93,465.00**

All prices as submitted - Evaluation Committee will determine if bidder has met bid requirements.

City Clerk's Office Item # M-3

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT**:** A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $169,628.25 TO CEDAR RIDGE LANDSCAPE, INC., AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-022 ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Cedar Ridge Landscape, Inc., for Project No. 22-022 ADA Curb Ramps Phase 1.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In general, this project will consist of the construction of ADA compliant curb ramps and sidewalk on Van Buren Avenue, between Evans Avenue and Pitkin Avenue, between Evans Avenue and Orman Avenue, and on Quincy Avenue. Construction will include replacement of the concrete sidewalk, curb and gutter, asphalt patching, and other items related to the construction.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of $199,628.25 will be paid from account CD2009 ADA Ramps - Citywide.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. 14858

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $169,628.25 TO CEDAR RIDGE LANDSCAPE, INC., AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-022 ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-022 ADA Curb Ramps Phase 1 have been received and examined; and

WHEREAS, the proposal of Cedar Ridge Landscaping, Inc., was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council it authorize Project No. 22-022 to be performed; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-022 ADA Curb Ramps Phase 1 to be performed, and the contract for said project is hereby awarded to Cedar Ridge Landscaping, Inc., in the amount of $169,628.25.

SECTION 2.

Funds for Project 22-022 shall be from Project No. CD2009 ADA Ramps - Citywide.

SECTION 3.

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 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……$30,000.00

SECTION 5.

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

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Bid: 22-022 ADA Curb Ramps Phase 1 (CDBG)					Cedar Ridge Landscape, Inc.	Doug Vaughn, LLC
Opening Date: April 06, 2022 Time: 10:00:00 AM						
Item	**Description**	**Estimated Quantity**				
1	Remove 6”x24” Curb and Gutter	36	LF	*Unit Price*	*8.00*	*5.00*
				Amount	288.00	180.00
2	Remove 9”x30” Curb and Gutter	584	LF	*Unit Price*	*9.00*	*5.00*
				Amount	5,256.00	2,920.00
3	Remove Concrete	4,372	SF	*Unit Price*	*2.25*	*3.20*
				Amount	9,837.00	13,990.40
4	Remove 7” Reinforced Concrete	1,154	SF	*Unit Price*	*3.00*	*3.50*
				Amount	3,462.00	4,039.00
5	Remove Asphalt	1,757	SF	*Unit Price*	*2.75*	*3.20*
				Amount	4,831.75	5,622.40
6	Construct Curb Head	1,402	LF	*Unit Price*	*17.00*	*20.00*
				Amount	23,834.00	28,040.00
7	Construct 6”x24” Curb and Gutter	36	LF	*Unit Price*	*34.00*	*27.00*
				Amount	1,224.00	972.00
8	Construct 9”x30” Curb and Gutter	586	LF	*Unit Price*	*37.00*	*27.00*
				Amount	21,682.00	15,822.00
9	Construct 4” Concrete	4,884	SF	*Unit Price*	*6.75*	*5.65*
				Amount	32,967.00	27,594.60
10	Construct 7” Reinforced Concrete	1,154	SF	*Unit Price*	*13.00*	*9.50*
				Amount	15,002.00	10,963.00
11	Construct 2” Asphalt Patch	33	SF	*Unit Price*	*5.50*	*6.00*
				Amount	181.50	198.00
12	Construct 6” Asphalt Patch	1,716	SF	*Unit Price*	*6.75*	*8.00*
				Amount	11,583.00	13,728.00
13	Install 24”x24” Tactile Bands	126	EA	*Unit Price*	*230.00*	*180.00*
				Amount	28,980.00	22,680.00
14	Mobilization	1	LS	*Unit Price*	*6,500.00*	*21,000.00*
				Amount	6,500.00	21,000.00
15	Construction Traffic Control	1	LS	*Unit Price*	*3,200.00*	*5,000.00*
				Amount	3,200.00	5,000.00
16	Erosion and Sediment Control	1	LS	*Unit Price*	*800.00*	*500.00*
				Amount	800.00	500.00
				Total Base Bid	**$169,628.25**	**$173,249.40**
Base Alternate No. 1						
1	Install Class 6 ABC (Place and Compact)	1	Ton	*Unit Price*	55.00	40.00

All prices as submitted - Evaluation Committee will determine if bidder has met bid requirements.

City Clerk's Office Item # M-4

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT**:** A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $161,711 TO DOUG VAUGHN, LLC, AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-024 ABRIENDO AVENUE ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Doug Vaughn, LLC, for Project No. 22-024 Abriendo Avenue ADA Curb Ramps Phase 1.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

In general, this project will consist of the construction of ADA compliant curb ramps and sidewalk on Abriendo Avenue, between Washington Street and King Street. Construction will include replacement of the concrete sidewalk, curb and gutter, asphalt patching, striping, and other items related to the construction.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of $191,711 will be paid from account CD2116 ADA Ramps - Citywide.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. 14859

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $161,711 TO DOUG VAUGHN, LLC, AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-024 ABRIENDO AVENUE ADA CURB RAMPS PHASE 1 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-024 Abriendo Avenue ADA Curb Ramps Phase 1 have been received and examined; and

WHEREAS, the proposal of Doug Vaughn, LLC, was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council it authorize Project No. 22-024 to be performed; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-024 Abriendo Avenue ADA Curb Ramps Phase 1 to be performed, and the contract for said project is hereby awarded to Doug Vaughn, LLC, in the amount of $161,711.

SECTION 2.

Funds for Project 22-024 shall be from Project No. CD2116 ADA Ramps - Citywide.

SECTION 3.

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 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……$30,000.00

SECTION 5.

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

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Bid: 22-024 Abriendo Avenue ADA Curb Ramps Phase 1 (CDBG) Opening Date: April 12, 2022 Time: 10:00:00 AM						Doug Vaughn, LLC
	Item	Description	Estimated Quantity			
Base Bid: Abriendo Ave. & Washington St. to Abriendo Ave. & Library Crossing	1	Remove Asphalt	1497	SF	*Unit Price*	*3.00*
					Amount	4,491.00
	2	Remove Curb and Gutter	648	LF	*Unit Price*	*5.00*
					Amount	3,240.00
	3	Remove Concrete	6442	SF	*Unit Price*	*3.00*
					Amount	19,326.00
	4	Construct Curb Head	959	LF	*Unit Price*	*19.00*
					Amount	18,221.00
	5	Construct Curb and Gutter	648	LF	*Unit Price*	*26.75*
					Amount	17,334.00
	6	Construct 4" Concrete	4370	SF	*Unit Price*	*5.65*
					Amount	24,690.50
	7	Construct 6" Concrete	805	SF	*Unit Price*	*6.50*
					Amount	5,232.50
	8	Construct 2" Asphalt Patch	1425	SF	*Unit Price*	*6.00*
					Amount	8,550.00
	9	Construct 6" Asphalt Patch	1365	SF	*Unit Price*	*8.00*
					Amount	10,920.00
	10	Install Class 6 Back Fill	25	Ton	*Unit Price*	*40.00*
					Amount	1,000.00
	11	Install Gravel	162	SF	*Unit Price*	*5.00*
					Amount	810.00
	12	Install 24"x30" Tactile Band	12	Each	*Unit Price*	*140.00*
					Amount	1,680.00
	13	Install 24"x24" Tactile Band	66	Each	*Unit Price*	*140.00*
					Amount	9,240.00
	14	Install Pedestrian Pole (4')	2	Each	*Unit Price*	*2,325.00*
					Amount	4,650.00
	15	Install Pedestrian Push Button	6	Each	*Unit Price*	*2,305.00*
					Amount	13,830.00
	16	Install 2" Electrical Conduit & Wiring	49	LF	*Unit Price*	*29.00*
					Amount	1,421.00
	17	Remove/Replace Traffic Pull Box (17"x30")	1	Each	*Unit Price*	*935.00*
					Amount	935.00
	18	Subgrade Stabilization	21	Ton	*Unit Price*	*40.00*
					Amount	840.00
	19	Mobilization	1	LS	*Unit Price*	*10,000.00*
					Amount	10,000.00
	20	Construction Traffic Control	1	LS	*Unit Price*	*5,000.00*
					Amount	5,000.00
	21	Erosion and Sediment Control	1	LS	*Unit Price*	*300.00*
					Amount	300.00
					Total Base Bid	**$161,711.00**
					Bid Alternate No. 1	
Ave.	22	Remove Asphalt	107	SF	*Unit Price*	*3.00*
					Amount	321.00
	23	Remove Curb and Gutter	50	LF	*Unit Price*	*5.00*
					Amount	250.00
	24	Remove Concrete	555	SF	*Unit Price*	*3.00*
					Amount	1,665.00
	25	Construct Curb Head	22	LF	*Unit Price*	*19.00*
					Amount	418.00
	26	Construct Curb and Gutter	50	LF	*Unit Price*	*26.75*
					Amount	1,337.50
	27	Construct 4" Concrete	332	SF	*Unit Price*	*5.65*
					Amount	1,875.80

Bid: 22-024 Abriendo Avenue ADA Curb Ramps Phase 1 (CDBG)						
Opening Date: April 12, 2022 Time: 10:00:00 AM						Doug Vaughn, LLC
	Item	Description	Estimated Quantity			
Bid Alt. No. 1: Abriendo Ave. & Colorado Ave.	28	Construct 6" Concrete	216	SF	*Unit Price*	*6.50*
					Amount	1,404.00
	29	Construct 6" Asphalt Patch	107	SF	*Unit Price*	*6.00*
					Amount	642.00
	30	Install 24"x24" Tactile Band	15	Each	*Unit Price*	*140.00*
					Amount	2,100.00
	31	Install Pedestrian Pole (4')	1	Each	*Unit Price*	*2,325.00*
					Amount	2,325.00
	32	Install Pedestrian Push Button	3	Each	*Unit Price*	*2,305.00*
					Amount	6,915.00
	33	Install 2" Electrical Conduit & Wiring	10	LF	*Unit Price*	*29.00*
					Amount	290.00
	34	Remove/Replace Traffic Pull Box (17"x30")	1	Each	*Unit Price*	*935.00*
					Amount	935.00
	35	Subgrade Stabilization	3	Ton	*Unit Price*	*40.00*
					Amount	120.00
	36	Mobilization	1	LS	*Unit Price*	*1,000.00*
					Amount	1,000.00
	37	Construction Traffic Control	1	LS	*Unit Price*	*1,700.00*
					Amount	1,700.00
	38	Erosion and Sediment Control	1	LS	*Unit Price*	*300.00*
					Amount	300.00
					Total Bid Alternate No. 1	**$23,598.30**
					Bid Aternate No. 2	
Bid Alt. No. 2: Abriendo & Midway Ave. to Abriendo & King Ave.	39	Remove Asphalt	141	SF	*Unit Price*	*3.00*
					Amount	423.00
	40	Remove Curb and Gutter	68	LF	*Unit Price*	*5.00*
					Amount	340.00
	41	Remove Concrete	573	SF	*Unit Price*	*3.00*
					Amount	1,719.00
	42	Construct Curb Head	95	LF	*Unit Price*	*19.00*
					Amount	1,805.00
	43	Construct Curb and Gutter	68	LF	*Unit Price*	*26.75*
					Amount	1,819.00
	44	Construct 4" Concrete	384	SF	*Unit Price*	*5.65*
					Amount	2,169.60
	45	Construct 6" Concrete	186	SF	*Unit Price*	*6.50*
					Amount	1,209.00
	46	Construct 6" Asphalt Patch	141	SF	*Unit Price*	*8.00*
					Amount	1,128.00
	47	Install 24"x24" Tactile Band	12	Each	*Unit Price*	*140.00*
					Amount	1,680.00
	48	Subgrade Stabilization	4	Ton	*Unit Price*	*40.00*
					Amount	160.00
	49	Mobilization	1	LS	*Unit Price*	*1,000.00*
					Amount	1,000.00
	50	Construction Traffic Control	1	LS	*Unit Price*	*1,700.00*
					Amount	1,700.00
	51	Erosion and Sediment Control	1	LS	*Unit Price*	*300.00*
					Amount	300.00
					Total Bid Alternate No. 2	**15,452.60**

All prices as submitted - Evaluation Committee will determine if bidder has met bid requirements.

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: **April 25, 2022**

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT: A RESOLUTION AUTHORIZING THE TRANSFER OF $100,000 FROM PROJECT NO. CI2204 TO PROJECT NO. CI2206 FOR THE ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT

SUMMARY:

Attached is a resolution to approve the transfer of funds in the amount of $100,000 from Project No. CI2204 to Project No. CI2206.

PREVIOUS COUNCIL ACTION:

Project No. CI2206 Adams Avenue and Jackson Street Roundabout Project was established by Ordinance No. 10120, passed on February 14, 2022. The same ordinance also budgeted and appropriated funds in the amount of $900,000 received from the Colorado Department of Transportation (CDOT) under the Highway Safety Improvement Program (HSIP) Grant.

BACKGROUND:

The City of Pueblo was awarded a Highway Safety Improvement Program (HSIP) Grant with an overall project cost of $1,000,000. CDOT will provide $900,000 of the project funding and under the grant agreement, the City of Pueblo is required to provide 10% of the project funding in the amount of $100,000.

FINANCIAL IMPLICATIONS:

Funds in the amount of $100,000 are to be transferred from Project No. CI2204 to Project No. CI2206 as the City of Pueblo match for the HSIP Grant.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

There are no alternatives for completing these improvements without the funding from the HISP Grant or the transferring of the $100,000 from Project No. CI2204 to Project No. CI2206. If the $100,000 Match is not provided, the City of Pueblo cannot take advantage of the awarded HSIP Grant.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Proposed Resolution

RESOLUTION NO. 14860

A RESOLUTION AUTHORIZING THE TRANSFER OF $100,000 FROM PROJECT NO. CI2204 TO PROJECT NO. CI2206 FOR THE ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT

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

SECTION 1.

Funds in the amount of $100,000.00 shall be transferred from Project No. CI2204 to Project No. CI2206, Adams Avenue and Jackson Street Roundabout Project.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # M-6

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Interim Director of Wastewater

SUBJECT: A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 2 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OF OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

SUMMARY:

Attached is a Resolution accepting an easement for public utilities from Outlook Ridge Apartments, LLC, a Colorado Limited Liability Company.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A public sanitary main through private property is required to serve the second phase of apartment buildings at the Outlook Ridge Apartment complex located at 5300 Outlook Boulevard, Lot 2 Block 1 of Outlook Ridge Subdivision, Filing No. 2, which was not previously obtained.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will not allow the required public sanitary main to be constructed per the commercial plans.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Easement and Right of Way

RESOLUTION NO. 14861

A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 2 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OF OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

WHEREAS, the owners of real property, Parcel 51213006, Lot 2 Block1 of Outlook Ridge Subdivision, Filing No. 2, have granted an Easement for Public Utilities, including but not limited to sanitary sewer utilities; and,

WHEREAS, such easement is necessary for the development of the subdivision; NOW, THEREFORE,

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

SECTION 1.

The Easement and Right of Way, copy which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and accepted.

SECTION 2.

The City Clerk is further directed to cause same to be recorded in the Office of the Pueblo
County Clerk and Recorder forthwith.

SECTION 3.

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 4.

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

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

EXHIBIT A

PUBLIC AND PRIVATE UTILITY AND ACCESS EASEMENT
LAND DESCRIPTION

An easement for Public and Private Utility and Access purposes located in a portion of Outlook Ridge Subdivision, Filing No. 2, in the County of Pueblo and State of Colorado and being more particularly described as follows:

Considering the northerly line of Lot 3, Block 1, Outlook Ridge Subdivision, Filing No. 2 to bear S. 87°54'07" W., monumented with a No. 4 rebar with yellow plastic cap, L.S. 12933 and all bearings contained herein being relative thereto.

Commencing from the Northeast Corner of Lot 3, Block 1, Outlook Ridge Subdivision, Filing No. 2 according to the recorded plat thereof as filed for record at Reception No. 2085830; thence S. 47°54'56" W., a distance of 248.27 feet to a point on the easterly property line of Lot 2, Outlook Ridge Subdivision, Filing No. 2 and also being the Point of Beginning; thence southerly and easterly along the easterly line of said Lot 2 the following (13) courses:

1. S. 23°05'01" E., a distance of 21.39 feet;
2. Southeasterly along the arc of a curve to the right whose radius is 179.66 feet, a distance of 41.10 feet;
3. S. 09°53'59" E., a distance of 154.43 feet;
4. N. 80°06'01" E., a distance of 7.26 feet;
5. S. 09°53'59" E., a distance of 10.00 feet;
6. S. 80°06'01" W., a distance of 7.26 feet;
7. S. 09°53'59" E., a distance of 11.24 feet;
8. Southeasterly along the arc of a curve to the right whose radius is 470.00 feet, a distance of 163.14 feet;
9. S. 29°47'16" E., a distance of 87.21 feet;
10. N. 60°12'44" E., a distance of 7.69 feet;
11. S. 29°47'16" E., a distance of 10.00 feet;
12. S. 60°12'44" W., a distance of 7.69 feet;
13. S. 29°47'16" E., a distance of 37.45 feet;

thence S. 50°35'20" W., a distance of 126.44 feet to a point on the westerly property line of said Lot; thence N. 39°24'40" W., a distance of 30.00 feet along the westerly property line of said Lot; thence N. 50°35'20" E., a distance of 120.09 feet; thence N. 29°47'16" W., a distance of 108.34 feet; thence Northwesterly along the arc of a curve to the left whose radius is 500.00 feet, a distance of 41.33 feet; thence S. 65°31'19" W., a distance of 33.31 feet; thence N. 24°42'40" W., a distance of 10.00 feet; thence N. 65°31'19" E., a distance of 33.35 feet; thence Northwesterly along the arc of a curve to the right whose radius is 500.00 feet, a distance of 122.22 feet; thence N. 09°53'59" W., a distance of 175.67 feet; thence Northwesterly along the arc of a curve to the left whose radius is 150.00 feet, a distance of 26.09 feet; thence Southwesterly along the arc of a curve to the left whose radius is 584.96 feet, a distance of 84.91 feet; thence S. 32°16'47" E., a distance of 14.83 feet; thence S. 57°09'42" W., a distance of 10.00 feet; thence N. 32°16'47" W., a distance of 14.77 feet; thence Southwesterly along the arc

of a curve to the left whose radius is 37.97 feet, a distance of 37.97 feet; thence S. 52°37'04" W., a distance of 112.44 feet to a point on the westerly property line of Lot 2, Outlook Ridge Subdivision, Filing No. 2; thence N. 37°22'56" W., a distance of 30.00 feet along said property line; thence N. 52°37'04" E., a distance of 90.58 feet; thence N. 37°22'56" W., a distance of 5.98 feet; thence N. 52°53'27" E., a distance of 10.00 feet; thence S. 37°22'56" E., a distance of 5.93 feet; thence N. 52°49'22" E., a distance of 21.99 feet; N. 35°59'37" W., a distance of 15.25 feet; thence N. 54°00'23" E., a distance of 10.00 feet; thence S. 35°59'37" E., a distance of 15.25 feet; thence Northeasterly along the arc of a curve to the right whose radius is 612.43 feet, a distance of 150.47 feet the Point of Beginning;

And

Commencing from the Southeast Corner of Lot 2, Block 1, Outlook Ridge Subdivision, Filing No. 2 according to the recorded plat thereof as filed for record at Reception No. 2085830; thence N. 51°38'14" E., a distance of 21.01 feet along the southerly property line of Lot 2, Outlook Ridge Subdivision, Filing No. 2 to the Point of Beginning; thence N. 39°24'40" W., a distance of 24.00 feet; thence N. 50°35'20" E., a distance of 104.00 feet; thence N. 39°24'40" W., a distance of 26.40 feet to a point on the southwesterly property line of said Lot; thence N. 50°35'00" E., a distance of 30.00 feet along said property line to the westerly property corner of said Lot; thence S. 39°24'40" E., a distance of 50.00 feet to the southerly property corner of said Lot; thence S. 50°35'20" W., a distance of 134.00 feet along the southerly property line of Lot 2 to the Point of Beginning.

I, Michael L. Cuppy, being a licensed Land Surveyor in the State of Colorado, do hereby state that this land description and exhibit, being made a part hereof, were prepared under my responsible charge and are accurate to the best of my knowledge, information, and belief.



Michael L. Cuppy
Colorado P.L.S. 38485

NorthStar Engineering and Surveying, Inc.
March 15, 2022
JN 95 026 29

EXHIBIT "A"

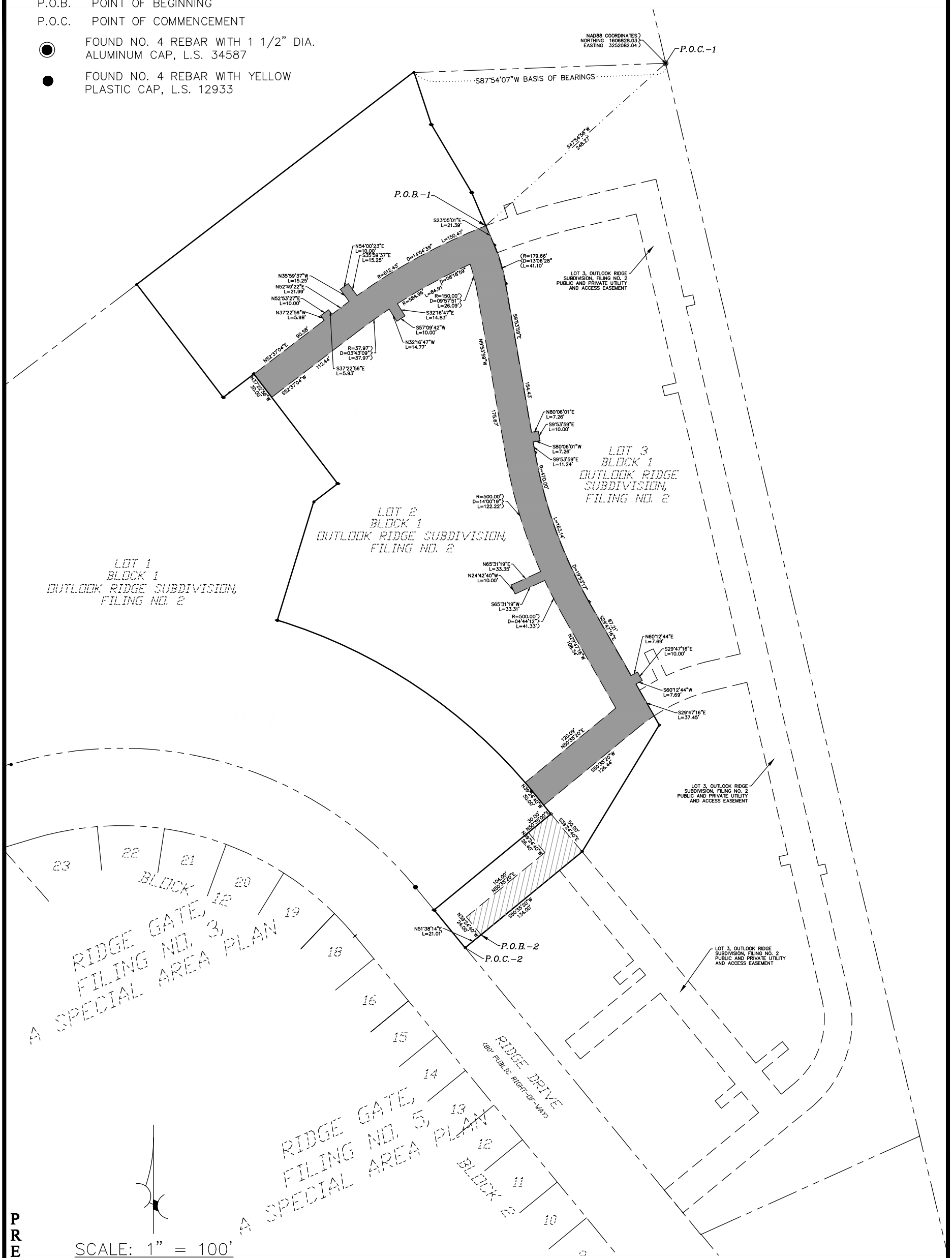
LEGEND

P.O.B. POINT OF BEGINNING

P.O.C. POINT OF COMMENCEMENT

FOUND NO. 4 REBAR WITH 1 1/2" DIA. ALUMINUM CAP, L.S. 34587

FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, L.S. 12933



SCALE: 1" = 100'

0 50' 100' 200'

NOTE:

THIS EXHIBIT WAS NOT PREPARED AS A MONUMENTED LAND SURVEY, AND WAS ONLY PREPARED TO DEPICT THE ATTACHED LAND DESCRIPTION.

BASIS OF BEARINGS:

THE NORTH LINE OF LOT 3, BLOCK 1, OUTLOOK RIDGE SUBDIVISION, FILING NO. 2. BEARS S87°54'07"W., MONUMENTED WITH A NO. 4 REBAR WITH YELLOW PLASTIC CAP, L.S. 12933

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PUBLIC SANITARY SEWER
EASEMENT AND RIGHT OF WAY

THIS EASEMENT, granted this 5th day of April, 2022, by Outlook Ridge Apartments, LLC, Grantor, to PUEBLO, a Municipal Corporation, Grantee:

WITNESSETH:

THAT IN CONSIDERATION of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Grantee, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement and right of way for the purpose of a public Sanitary Sewer, in, through, over, under and across Grantor's property situated in Pueblo County, Colorado, commonly known as Lot 2, Block 1, Outlook Ridge Subdivision, Filing No. 2 and described as follows: (the "Property")

See attached Exhibit "A"

TOGETHER WITH the right to enter upon the Property for the purposes of construction, replacement, maintenance, control, and repair, and the right to use so much of the adjoining property of Grantor for said purposes. Grantee shall have the right, without the necessity at any time of procuring the consent or permission of anyone, to remove any building, fence, tree, pavement 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 public Sanitary Sewer and to recover the costs thereof, plus an administrative charge of 15% from Grantor.

Grantor warrants to Grantee that Grantor (a) has good and sufficient right and title in and to the Property and full power to grant this easement and right-of-way, and (b) will defend Grantee's quiet and peaceful possession of the Property and easement and right-of-way against all persons who may lawfully claim title to the property.

"Grantee" shall include the plural and the feminine. This Easement And Right Of Way shall be binding upon, and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of the Grantor and Grantee.

SIGNED this 6th day of April, 2022.

GRANTOR:

By: _____
Jeffrey S. Robinson (Manager)

Denver
COUNTY OF ~~PUEBLO~~)
) ss.
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this 6th day of April, 2022, by Jeffrey S. Robinson as Manager of Outlook Ridge Apartments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 11/18/2023

(SEAL)

LINDSAY JORDAN GAULT DRAKOS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194043505
MY COMMISSION EXPIRES NOVEMBER 18, 2023

_____
Notary Public (or official title)

DPW 111
02/06/02

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Interim Director of Wastewater

SUBJECT: A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 3 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

SUMMARY:

Attached is a Resolution accepting an easement for public utilities from Outlook Ridge Apartments, LLC, a Colorado Limited Liability Company.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A public sanitary main through private property will be required to serve the next phase, Phase 3, of apartment buildings at the Outlook Ridge Apartment complex located at 5300 Outlook Boulevard, Lot 3 Block 1 of Outlook Ridge Subdivision, Filing No. 2.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will not allow the required public sanitary main to be constructed per the commercial plans.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Easement and Right of Way

RESOLUTION NO. 14862

A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC UTILITIES, INCLUDING BUT NOT LIMITED TO SANITARY SEWER UTILITIES FOR LOT 3 BLOCK 1 OF OUTLOOK RIDGE SUBDIVISION FROM OUTLOOK RIDGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY

WHEREAS, the owners of real property, Parcel 51213007, Lot 3 Block1 of Outlook Ridge Subdivision, Filing No. 2, have granted an Easement for Public Utilities, including but not limited to sanitary sewer utilities; and,

WHEREAS, such easement is necessary for the development of the subdivision; NOW, THEREFORE,

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

SECTION 1.

The Easement and Right of Way, copy which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and accepted.

SECTION 2.

The City Clerk is further directed to cause same to be recorded in the Office of the Pueblo
County Clerk and Recorder forthwith.

SECTION 3.

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 4.

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

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

EXHIBIT A

PUBLIC AND PRIVATE UTILITY AND ACCESS EASEMENT
LAND DESCRIPTION

An easement for Public and Private Utility and Access purposes located in a portion of Outlook Ridge Subdivision, Filing No. 2, in the County of Pueblo and State of Colorado and being more particularly described as follows:

Considering the northerly line of Lot 3, Block 1, Outlook Ridge Subdivision, Filing No. 2 to bear S. 87°54'07" W., monumented with a No. 4 rebar with yellow plastic cap, L.S. 12933 and all bearings contained herein being relative thereto.

Commencing from the Northeast Corner of Lot 3, Block 1, Outlook Ridge Subdivision, Filing No. 2 according to the recorded plat thereof as filed for record at Reception No. 2085830; thence S. 04°46'13" W., a distance of 119.15 feet to the Point of Beginning; thence S. 13°19'17" E., a distance of 124.06 feet; thence N. 76°40'43" E., a distance of 9.50 feet; thence S. 13°19'17" E., a distance of 10.00 feet; thence S. 76°40'43" E., a distance of 9.50 feet; thence S. 13°19'17" E., a distance of 588.36 feet; thence N. 76°40'43" E., a distance of 7.00 feet; thence S. 13°19'17" E., a distance of 10.00 feet; thence S. 76°40'43" W., a distance of 7.00 feet; thence S. 13°19'17" E., a distance of 125.13 feet; thence Southwesterly along the arc of a curve to the right whose radius is 115.09 feet, a distance of 127.03 feet; thence S. 50°35'20" W., a distance of 172.12 feet to a point on the northerly Right-of-Way line of Ridge Drive; thence N. 39°24'40" W., a distance of 30.00 feet along the northerly Right-of-Way of Ridge Drive; thence N. 50°35'20" E., a distance of 125.00 feet; thence N. 39°24'40" W., a distance of 27.88 feet; thence S. 50°10'37" W., a distance of 26.61 feet; thence N. 39°49'23" W., a distance of 10.00 feet; thence N. 50°10'37" E., a distance of 26.68 feet; thence N. 39°24'40" W., a distance of 120.62 feet; thence S. 50°35'20" W., a distance of 106.17 feet; thence N. 39°24'40" W., a distance of 24.00 feet; thence N. 50°35'20" E., a distance of 106.17 feet; thence N. 39°24'40" W., a distance of 9.30 feet; thence S. 50°10'37" W., a distance of 26.61 feet; thence N. 39°49'23" W., a distance of 10.00 feet; thence N. 50°10'37" E., a distance of 26.68 feet; thence N. 39°24'40" W., a distance of 119.20 feet to a point on the southeasterly property line of Lot 2, Outlook Ridge Subdivision, Filing No. 2; thence N. 50°25'20" E., a distance of 30.00 feet along said property line to the southeasterly property corner of Lot 2, Outlook Ridge Subdivision, Filing No.2; thence S. 39°24'40" E., a distance of 280.52 feet; thence N. 50°35'20" E., a distance of 35.00 feet; thence S. 39°24'40" E., a distance of 10.00 feet; thence S. 50°35'20" W., a distance of 35.00 feet; thence S. 39°24'40" E., a distance of 30.87 feet; thence N. 50°35'20" E., a distance of 17.12 feet; thence Northeasterly along the arc of a curve to the left whose radius is 85.00 feet, a distance of 94.81 feet; thence N. 13°19'17" W., a distance of 143.35 feet; thence S. 76°40'43" W., a distance of 9.21 feet; thence N. 13°19'17" W., a distance of 10.00 feet; thence N. 76°40'43" E., a distance of 9.21 feet; thence N. 13°19'17" W., a distance of 181.28 feet; thence S. 76°40'43" W., a distance of 36.57 feet; thence Southwesterly along the arc of a curve to the left whose radius is 185.00 feet, a distance of 65.38 feet; thence N. 29°47'16" W., a distance of 30.06 feet; thence Northeasterly along the arc of a curve to the right whose radius is 215.00 feet, a distance of 21.42 feet; thence N. 25°59'59" W., a distance of 30.56 feet; thence N. 64°00'01" E., a distance of 10.00 feet; thence S. 25°59'59" E., a distance of 30.56 feet; thence Northeasterly along the arc of a curve to the right whose radius is 215.00 feet, a distance of 42.58 feet; thence N. 76°40'43" E.,

a distance of 36.57 feet; thence N. 13°19'17" W., a distance of 275.08 feet; thence S. 76°40'43" W., a distance of 14.50 feet; thence N. 13°19'17" W., a distance of 10.00 feet; thence N. 76°40'43" E., a distance of 14.50 feet; thence N. 13°19'17" W., a distance of 177.84 feet; thence S. 76°40'43" W., a distance of 65.36 feet; thence Southwesterly along the arc of a curve to the left whose radius is 585.00 feet, a distance of 85.67 feet; thence Northwesterly along the arc of a curve to the left whose radius is 210.97 feet, a distance of 8.64 feet; thence N. 23°05'01" W., a distance of 21.39 feet; thence Northeasterly along the arc of a curve to the right whose radius is 612.43 feet, a distance of 24.05 feet; thence N. 18°54'13" W., a distance of 13.00 feet; thence Northeasterly along the arc of a curve to the right whose radius is 628.00 feet, a distance of 10.00 feet; thence S. 18°54'13" E., a distance of 13.00 feet; thence Northeasterly along the arc of a curve to the right whose radius is 615.00 feet, a distance of 53.52 feet; thence N. 76°40'43" E., a distance of 93.36 feet to the Point of Beginning.

I, Michael L. Cuppy, being a licensed Land Surveyor in the State of Colorado, do hereby state that this land description and exhibit, being made a part hereof, were prepared under my responsible charge and are accurate to the best of my knowledge, information and belief.



Michael L. Cuppy
Colorado P.L.S. 38485

NorthStar Engineering and Surveying, Inc.
March 15, 2022
JN 95 026 31

EXHIBIT "A"

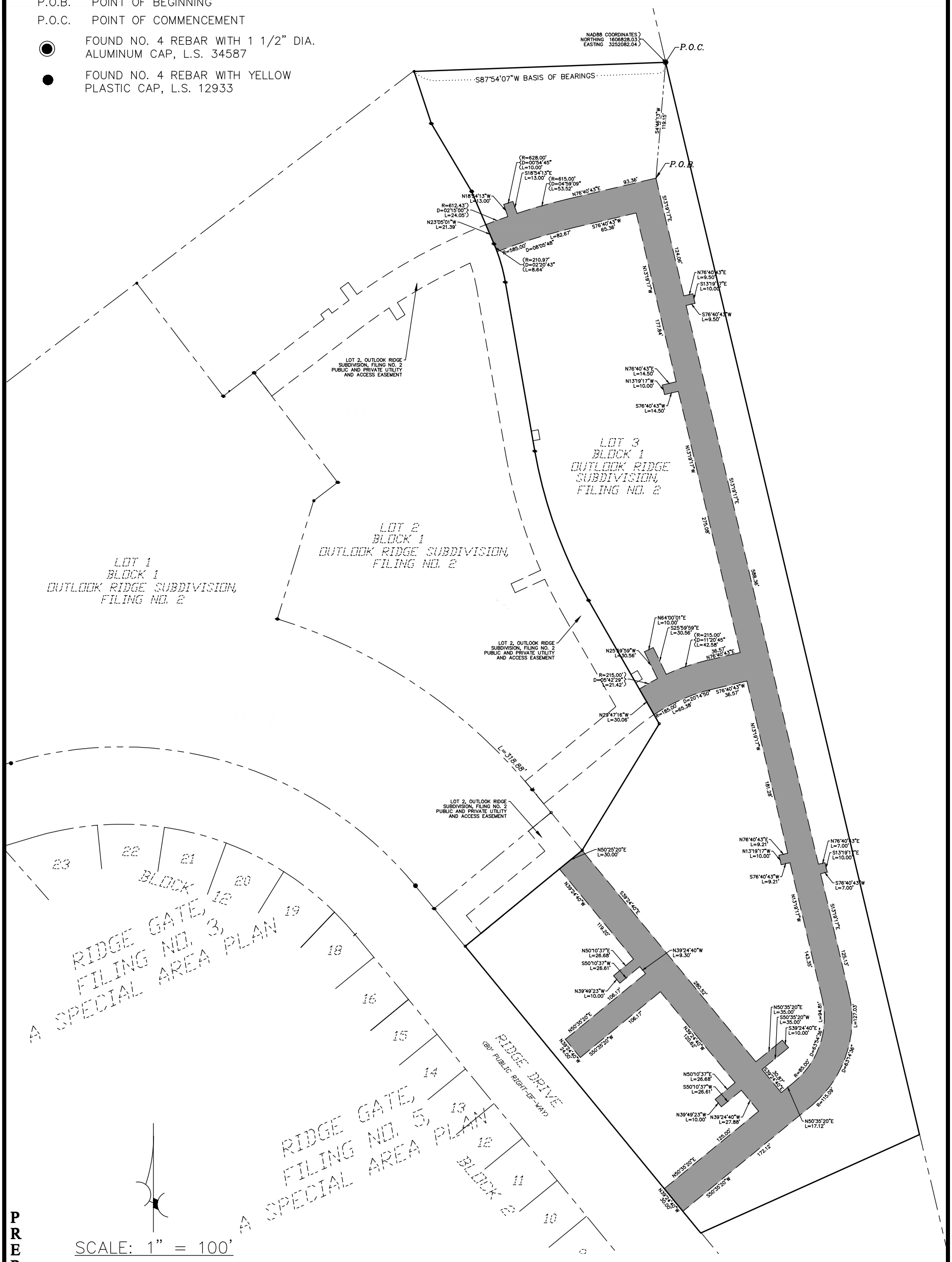
LEGEND

P.O.B. POINT OF BEGINNING

P.O.C. POINT OF COMMENCEMENT

FOUND NO. 4 REBAR WITH 1 1/2" DIA. ALUMINUM CAP, L.S. 34587

FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, L.S. 12933



SCALE: 1" = 100'

0 50' 100' 200'

NOTE:

THIS EXHIBIT WAS NOT PREPARED AS A MONUMENTED LAND SURVEY, AND WAS ONLY PREPARED TO DEPICT THE ATTACHED LAND DESCRIPTION.

BASIS OF BEARINGS:

THE NORTH LINE OF LOT 3, BLOCK 1, OUTLOOK RIDGE SUBDIVISION, FILING NO. 2. BEARS S87°54'07"W., MONUMENTED WITH A NO. 4 REBAR WITH YELLOW PLASTIC CAP, L.S. 12933

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PUBLIC SANITARY SEWER
EASEMENT AND RIGHT OF WAY

THIS EASEMENT, granted this 5th day of April, 2022, by Outlook Ridge 3, LLC, Grantor, to PUEBLO, a Municipal Corporation, Grantee:

WITNESSETH:

THAT IN CONSIDERATION of the sum of One Dollar ($1.00) and other good and valuable consideration paid by the Grantee, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement and right of way for the purpose of a public Sanitary Sewer, in, through, over, under and across Grantor's property situated in Pueblo County, Colorado, commonly known as Lot 3, Block 1, Outlook Ridge Subdivision, Filing No. 2 and described as follows: (the "Property")

See attached Exhibit "A"

TOGETHER WITH the right to enter upon the Property for the purposes of construction, replacement, maintenance, control, and repair, and the right to use so much of the adjoining property of Grantor for said purposes. Grantee shall have the right, without the necessity at any time of procuring the consent or permission of anyone, to remove any building, fence, tree, pavement 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 public Sanitary Sewer and to recover the costs thereof, plus an administrative charge of 15% from Grantor.

Grantor warrants to Grantee that Grantor (a) has good and sufficient right and title in and to the Property and full power to grant this easement and right-of-way, and (b) will defend Grantee's quiet and peaceful possession of the Property and easement and right-of-way against all persons who may lawfully claim title to the property.

"Grantee" shall include the plural and the feminine. This Easement And Right Of Way shall be binding upon, and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of the Grantor and Grantee.

SIGNED this 6th day of April, 2022.

GRANTOR:

By: _____
Jeffrey S. Robinson (Manager)

COUNTY OF PUEBLO)
) ss.
STATE OF COLORADO)

The foregoing instrument was acknowledged before me this 6th day of April, 2022, by Jeffrey S. Robinson as Manager of Outlook Ridge 3, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 11/18/2023

(SEAL)

LINDSAY JORDAN GAULT DRAKOS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194043505
MY COMMISSION EXPIRES NOVEMBER 18, 2023

_____
Notary Public (or official title)

DPW 111
02/06/02

BACKGROUND PAPER FOR PROPOSED RESOLUTION

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT: A RESOLUTION AMENDING A REVOCABLE PERMIT ISSUED TO EL CAMINO HOMEOWNERS ORGANIZATION, INC., A COLORADO NONPROFIT CORPORATION UNDER RESOLUTION 14585 FOR INSTALLATION OF ADDITIONAL IMPROVEMENTS IN BRIDLE TRAIL

SUMMARY:

This Resolution amends a revocable permit that was previously issued to El Camino Homeowners Organization ("ECHO") for the installation of a center island constructed on Bridle Trail. The amendment updates the permit to allow ECHO to install a neighborhood monument sign and landscape lighting at the entrance to the community. The sign and lighting will be fabricated, installed, and maintained at ECHO's expense.

PREVIOUS COUNCIL ACTION:

City Council approved the issuance of a revocable permit for installation of the center island and other improvements on Bridle Trail under Resolution No. 14585 on April 12, 2021.

BACKGROUND:

ECHO has requested an update to their revocable permit to allow for the installation of additional neighborhood beautification improvements in the center island constructed within the Bridle Trail right-of-way. Additional improvements include; new neighborhood monument sign and landscape lighting. All improvements installed under the permit will be maintained at ECHO's expense.

FINANCIAL IMPLICATIONS:

Not applicable to this resolution

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this resolution.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

ECHO will not be permitted to install the proposed improvements in the island without approval of this revocable permit amendment.

RECOMMENDATIONS:

Approval of the Resolution.

Attachments:
Proposed Resolution
Proposed Amendment to Revocable Permit

RESOLUTION NO. 14863

A RESOLUTION AMENDING A REVOCABLE PERMIT ISSUED TO EL CAMINO HOMEOWNERS ORGANIZATION, INC., A COLORADO NONPROFIT CORPORATION UNDER RESOLUTION 14585 FOR INSTALLATION OF ADDITIONAL IMPROVEMENTS IN BRIDLE TRAIL

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

SECTION 1.

The Revocable Permit issued to El Camino Homeowners Organization, Inc., A Colorado Nonprofit Corporation under Resolution 14585 is authorized to be amended in accordance with the attached Amendment to Revocable Permit for the installation of improvements in the center island within Bridle Trail between Alhambra Drive and La Vista Road.

SECTION 2.

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

SECTION 3.

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

SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

FIRST AMENDMENT TO REVOCABLE PERMIT AGREEMENT

THIS FIRST AMENDMENT TO REVOCABLE PERMIT AGREEMENT ("Amendment") is made and entered into as of April 25, 2022 (the "Effective Date") by and between the City of Pueblo, A Colorado Municipal Corporation (the "City") and the El Camino Homeowners Organization, Inc. a Colorado nonprofit corporation ("ECHO").

WHEREAS, City Council authorized the issuance of a Revocable Permit to ECHO on April 12, 2021, under Resolution No. 14585 ("Revocable Permit") for the purpose of installing a center median island and other improvements in the right-of-way along Bridle Trail between Alhambra Drive and La Vista Road; and

WHEREAS, ECHO has requested to amend the Revocable Permit Agreement to allow for the installation of additional improvements including a neighborhood memorial sign and landscape lighting ("Additional Improvements") as shown in Exhibit 1A, attached hereto;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and pursuant to authority set forth in Sec. 16-9 of the City Charter, City and ECHO agree as follows:

FIRST AMENDMENT TO REVOCABLE PERMIT AGREEMENT

1. City hereby amends the Revocable Permit solely for the purpose of allowing the Additional Improvements.

2. Section 1.2 is amended to read as follows:

   1.2. <u>Purpose of Revocable Permit</u>: Traffic safety, neighborhood beautification, and crime prevention.

3. Section 1.3 is amended to read as follows:

   1.3. <u>Authorized Improvements</u>: Installation of center median island, security camera, landscaping, lighting, and neighborhood monument sign as shown on Exhibit 1A.

4. Section 4 is amended to read as follows:

   4. ECHO shall pay for all costs associated with installation, traffic signage, pavement markings, maintenance of the Island, the security camera, and all installed improvements within the permitted area.

5. With respect to all provisions and sections of the Revocable Permit, the term “Improvement” shall include the center median island, security camera, landscaping, lighting, and neighborhood monument sign as shown on Exhibit 1A. The Additional Improvements shall be subject to all the terms and conditions of the Revocable Permit.

6. Exhibit 1 is deleted in its entirety and replaced with Exhibit 1A, attached hereto.

7. Nothing contained herein shall be relied upon or construed as restricting, waiving or otherwise limiting ECHO’s obligations, liabilities and limitations including termination set forth in the Revocable Permit, and ECHO acknowledges and agrees that the Revocable Permit, as herein amended, is and remains temporary and subject to revocation or termination by resolution of the City Council of Pueblo, in its sole discretion, for any reason or no reason, at any time, without liability to the City of Pueblo. ECHO hereby waives any and all right or claim to such notice or hearing, and hereby releases the City of Pueblo from any and all liability in connection therewith.

Executed at Pueblo, Colorado, effective the day and year first above written.

CITY OF PUEBLO, CO
A Colorado Municipal Corporation

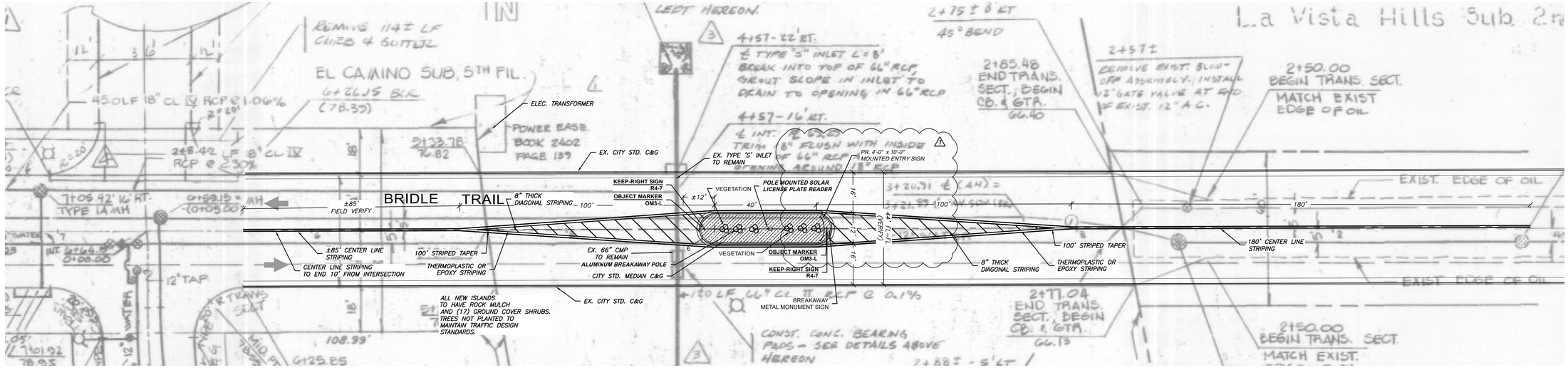
By: _____
Nicholas A. Gradisar, Mayor

ATTESTED BY: _____
CITY CLERK

EL CAMINO HOMEOWNERS ORGANIZATION, INC.
A Colorado Nonprofit Corporation

By:_____
Kurt Madic, Treasurer

EXHIBIT 1A



BRIDLE TRAIL PLAN VIEW

0 20 40

SCALE: 1"=20'

ECHO

A Covenant Protected Community

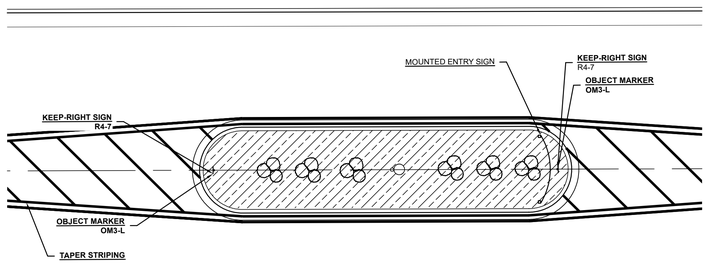
MOUNTED ENTRY SIGN



MUTCD OBJECT MARKERS



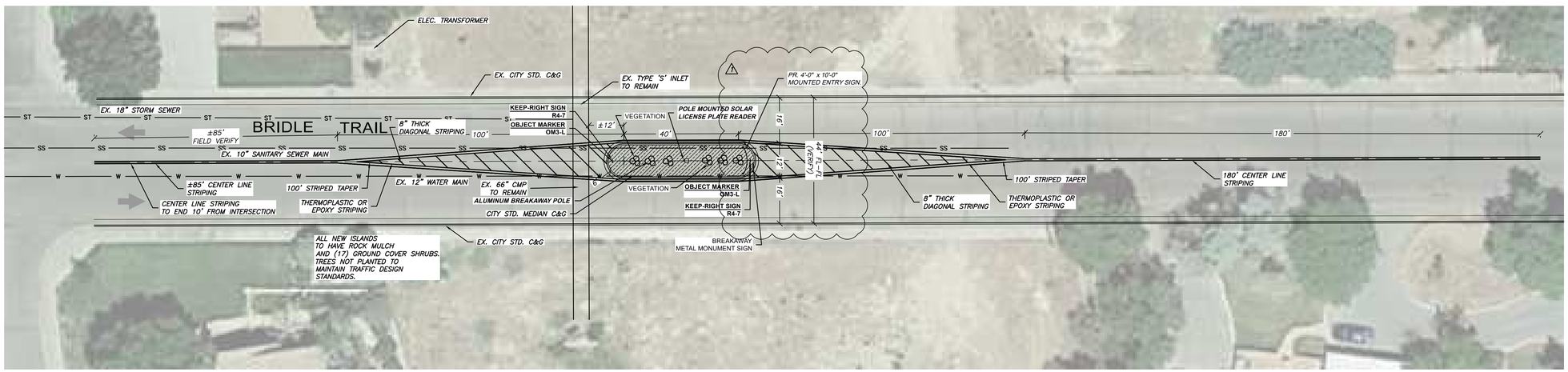
KEEP-RIGHT SIGN



HARDSCAPE PLAN

0 10 20

SCALE: 1"=10'



SITE PLAN

0 20 40

SCALE: 1"=20'

ATTENTION!
REPRODUCTION OF THIS DRAWING MAY HAVE CAUSED DISTORTION

#	Date	Comment
		REVISIONS
1	11/30/21	SIGN

REVOCABLE PERMIT

Gagliano Engineering, Inc. - (719) 547-7073
MAIL: P.O. Box 2520, Pueblo, CO 81004
SHIP: 1740 Eagleridge Blvd. Suite #150, Pueblo, CO 81008

EL CAMINO HOME OWNERS ASSOC.

BRIDLE TRAIL CAMERA MEDIAN

PUEBLO, CO 81005

PROJECT NO.: **2019-345**

DRAWN BY: jvg | CHECKED BY: jvg | SCALE: as shown

DRAWING NO.: TheGatesOfElCamico.dwg

DATE: 12/13/19 | SHEET NO.: **C1**

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, FOR THE USE OF THE PARKING LOT AND DRIVEWAY AT EL PUEBLO MUSEUM

SUMMARY:

The Pueblo Department of Public Health and Environment (PDPHE) is hosting an event at the El Pueblo Museum on April 30, 2022 and has requested the parking lot be closed for the event.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

PDPHE is hosting a "SOCOYOGO" event on April 30, 2022 that will take place at El Pueblo Museum. A portion of the event will be held in the parking lot and driveway on the south and east sides of the museum facility. While revocable permits are not normally issued for use of parking lots, this particular area is a public right-of-way. Under the terms of the proposed permit, the parking lot would be closed to vehicular traffic from 8:00 AM to 5:00 PM on the day of the event.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will preclude the PDPHE from hosting their community engagement event.

RECOMMENDATION:

Approval of the Resolution.

Attachments:

Revocable Permit

RESOLUTION NO. 14864

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, FOR THE USE OF THE PARKING LOT AND DRIVEWAY AT EL PUEBLO MUSEUM

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

SECTION 1.

The attached Revocable Permit is authorized to be issued to the Pueblo Department of Public Health and Environment, for the temporary closure of the parking lot and driveway right-of-way at the El Pueblo Museum.

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 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 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
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: Pueblo Department of Public Health and Environment 101 W. 9th St. Pueblo, CO 81003; 719-583-4996
2. Permitted Area: Right of ways at 301 N. Union Ave.
3. Purpose of Revocable Permit: Southern Colorado Youth Go Committee kickoff event
4. Authorized Improvements: N/A
5. Commencement Date: 04/30/2022 Time: 08:00 AM
6. Ending Date: 04/30/2022 Time: 05:00 PM

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.

(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 non-use 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; or (v) revocation or termination of this Permit by resolution of the City Council of City. 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.

Signed in Pueblo, Colorado this 19th day of April, 2022.

PERMITTEE:

Organization: Pueblo Department of Public Health & Environment

By: Akemi Moore

Title: Health Promotion Specialist

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me the 19th day of April, 2022 by Akemi Moore as PDPHE promotion specialist

My commission expires: November 20, 2023.

[S E A L]

Geraldine Jacqueline Roque
Notary Public

GERALDINE JACQUELINE ROQUE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194043857
MY COMMISSION EXPIRES 11/20/2023

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

By _____
Nicholas A. Gradisar, Mayor


Right-of-Way to be closed during event
N GRAND AVE
W CITY CENTER DR
COURT ST
CENTRAL PL
N VICTORIA AVE
N UNION AVE
S GRAND AVE
CENTRAL MAIN ST

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/15/2022

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 LIC #N/A 1-303-757-5475 CIRSA 3665 Cherry Creek North Drive Denver, CO 80209	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : CIRSA INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
INSURED Pueblo Department of Public Health and Environment 101 West 9th Street Pueblo, CO 81003	

COVERAGES **CERTIFICATE NUMBER:** 65134426 **REVISION NUMBER:**

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			LIAB 01-2022	01/01/22	01/01/23	EACH OCCURRENCE	$ 10,000,000
	X CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 10,000,000
	X $10m POL E&O Aggregate						MED EXP (Any one person)	$ 0
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 10,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE	$
	OTHER:						PRODUCTS - COMP/OP AGG	$ 10,000,000
								$
A	AUTOMOBILE LIABILITY			LIAB 01-2022	01/01/22	01/01/23	COMBINED SINGLE LIMIT (Ea accident)	$ 5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐	N / A					E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

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

Certificate Holder is Additional Insured on Liability Policies if required by contract.
As respects the SoCoYoGo Kick Off Event the PDPHE is hosting on City property, the El Pueblo Museum, on April 30th.
The liability policies contain a provision to allow the insured the right to waive subrogation prior to a loss.

CERTIFICATE HOLDER

City of Pueblo

P.O. Box 1427

Pueblo, CO 81002

USA

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

Jill Padberg

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City Clerk's Office Item # M- 10

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Nicholas A. Gradisar, Mayor

SUBJECT: A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT

SUMMARY:

The attached Resolution confirms the reappointment of Carla Sikes as Presiding Judge of the Municipal Court.

PREVIOUS COUNCIL ACTION:

On April 23, 2018, by Resolution No. 13955, City Council appointed Carla Sikes as Presiding Municipal Judge of the Municipal Court for the City of Pueblo for a two-year term beginning May 1, 2018 and expiring on April 30, 2020. On April 13, 2020, by Resolution No. 14392, City Council reappointed Carla Sikes as Presiding Municipal Judge for a two-year term beginning May 1, 2020 and expiring on April 30, 2022.

BACKGROUND:

This Resolution confirms the Mayor's reappointment of Carla Sikes as Presiding Municipal Judge of the Municipal Court for the City of Pueblo for a term of two years beginning May 1, 2022 and expiring on April 30, 2024.

FINANCIAL IMPLICATIONS:

The Presiding Judge of the Municipal Court receives a salary and related benefits as set forth in an annual budget approved by City Council.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

If the City Council does not confirm the reappointment of Carla Sikes as the Presiding Judge of the Municipal Court, the office of presiding judge shall be vacant.

RECOMMENDATION:

Approve the Resolution.

Attachments:
Proposed Resolution.

RESOLUTION NO. 14868

A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT

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

SECTION 1.

The Mayor's reappointment of Carla Sikes as the Presiding Municipal Judge of the Municipal Court for the City of Pueblo for a term of two years commencing May 1, 2022 and expiring on April 30, 2024 is hereby confirmed

SECTION 2.

This Resolution shall become effective upon passage and approval.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # M-11

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION APPOINTING JACQUELYN KEITH TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES

SUMMARY:

This Resolution is to ratify an appointment made by the committee that appoints Trustees to the Pueblo City-County Library District.

PREVIOUS COUNCIL ACTION:

Appointments to the Pueblo City-County Library District are made on an annual basis selecting individuals to serve five-year terms expiring on December 31st of each year.

BACKGROUND:

Due to the passing of Dr. Philip Mancha, there is one joint City-County appointment to complete a five-year term expiring December 31, 2024 on the Pueblo City-County Library District Board of Trustees.

The City of Pueblo led the recruitment efforts for this vacancy and received five (5) applications.

Pursuant to the December 12, 2002 Memo, Pueblo County Commissioner Eppie Griego, and City Council members Larry Atencio and Sarah Martinez met on April 6, 2022 to review the applications.

After discussion, the joint committee recommends the appointment of Jacquelyn Keith to serve on the Board of Trustees.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENT:
Proposed Resolution
Application

RESOLUTION NO. 14865

A RESOLUTION APPOINTING JACQUELYN KEITH TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES

WHEREAS, pursuant to §24-90-108(2)(e) C.R.S., the Committee which recommends appointments of Trustees to the Pueblo City-County Library District; and

WHEREAS, the Committee members reviewed the applications submitted for the Pueblo City County Library District Board of Trustees and have unanimously agreed to recommend Jacquelyn Keith to complete a five-year term expiring December 31, 2024; and

WHEREAS, it is now the desire of the Pueblo City Council to ratify this appointment; NOW, THEREFORE,

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

SECTION 1:

The following individual is hereby appointed to the Pueblo City-County Library District Board of Trustees to complete a five-year term expiring December 31, 2024:

Jacquelyn Keith

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 implement the policies and procedures described herein.

SECTION 3:

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

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Friday, March 25, 2022 12:17:53 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	3/25/2022
BOARD OR COMMISSION	Library District Board of Trustees
Contact Information	
FIRST NAME	Jacquelyn
LAST NAME	Keith
HOME ADDRESS	139 S. Stardust Circle
CITY	Pueblo West
STATE	CO
ZIP	81007
OFFICE ADDRESS	*Field not completed.*
CITY	*Field not completed.*
STATE	*Field not completed.*
ZIP	*Field not completed.*
DAYTIME PHONE	360-737-4848
E-MAIL ADDRESS	jacquelyn.keith@yahoo.com
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Youth Service Librarian

Questionnaire
Please complete the following general information.

1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.	Youth Service Librarian/Supervisor 1977-1999 Youth Service/Early Learning Coordinator 1999-2016 Prior to library employment I taught preschool and various teaching positions (grades 5-8) Membership on community committees involved in service to our youth. Active in national, state wide and regional Library associations (ALA , Pacific Northwest Library Association, Public Library Association, Wyoming Library Association, Idaho Library Association and Washington Library Association) Manage all aspects of grants including budgets Spokesperson for youth
2. Why are you interested in being appointed to this Board or Commission?	I have a great interest in libraries serving the public best way they can to promote life long learning and enjoyment of what the library has to offer. This includes electronic an d print material, programs, and outreach services. I feel libraries are an important asset to all communities and rural areas.
3. What Goals would you like to see this Board or Commission accomplish?	Outreach to all aspects of the service area Staying up to date with what the library can offer to the community served Many citizens are not aware of what the library has to offer and I would like to find and work towards accomplish the goal of awareness.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	As previously mentioned I have been involved in librarianship for 39 years and could bring my expertise in this field to the board. Having served on other boards (recreation and library related boards) would be beneficial, References for Jacquelyn Keith Liz Oakley Friend Tutor 407-529-6519 Evie White Friend Parkview Medical Center Volunteer 719-671-6487

	Deb Van De Grift Parkview Medical Center Volunteer Coordinator 719-250-4528 Christine Hanson Friend 562-544-3086
	(Section Break)
Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

City Clerk's Office Item # M-12

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF KEN JOHNSON TO COMPLETE A THREE-YEAR TERM EXPIRING SEPTEMBER 30, 2023 ON THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to complete a three-year term expiring September 30, 2023 on the Pueblo Memorial Airport Advisory Committee.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Pueblo Memorial Airport Advisory Committee selecting individuals to serve terms which expire during a calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

Due to the resignation of Alan Nelms, there is one appointment available to complete a three-year term on the Pueblo Memorial Airport Advisory Committee.

Two applications were reviewed by Mayor Gradisar who has appointed Ken Johnson to complete a three-year term expiring September 30, 2023.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:
Proposed Resolution
Application

RESOLUTION NO. 14866

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF KEN JOHNSON TO COMPLETE A THREE-YEAR TERM EXPIRING SEPTEMBER 30, 2023 ON THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Ken Johnson to serve on the Pueblo Memorial Airport Advisory Committee, NOW, THEREFORE,

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

SECTION 1.

The appointment by the Mayor of the following individual to the Pueblo Memorial Airport Advisory Committee to complete a three-year term expiring September 30, 2023 shall be and is hereby confirmed by the City Council:

Ken Johnson

SECTION 2.

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

SECTION 3.

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

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Thursday, March 17, 2022 9:44:12 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	3/18/2022
BOARD OR COMMISSION	Airport Advisory Committee
Contact Information	
FIRST NAME	Kenneth (Ken)
LAST NAME	Johnson
HOME ADDRESS	14 Cuesta Place
CITY	Pueblo
STATE	Colorado
ZIP	81001
OFFICE ADDRESS	Same - retired
CITY	*Field not completed.*
STATE	*Field not completed.*
ZIP	*Field not completed.*
DAYTIME PHONE	303-888-9934
E-MAIL ADDRESS	KLJ6790@AOL.COM
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Air Traffic Controller/Real Estate Broker

Questionnaire
Please complete the following general information.

1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.	For fifteen years I was an Air Traffic Controller at both Lowry Air Force Base and later as a civilian at Buckley Air National Guard Base (now Buckley Air Force Base). During one year when many of the employees (guardsmen) were called to active duty, I acted as Assistant Air Operations Supervisor scheduling air traffic controllers, dispatchers, and overseeing the office of aircraft safety. Later, as Director of Communications and Public Relations for the Denver Board of Realtors I worked closely with then Mayor of Denver, Federico Pena, to successfully influence the building of a new airport. That airport opened in the late '90s as Denver International Airport and has greatly influenced the enormous economic growth the Denver now enjoys.
2. Why are you interested in being appointed to this Board or Commission?	Pueblo has an excellent airport with an excellent manager, but it appears to enjoy only minimum use. It has an excellent refueling and maintenance stop with Flowers Aviation, a charming and clean restaurant with a great menu, and the highly rated Weisbrod Aircraft Museum to name only a few of the assets. With the encouragement and support of the city, Pueblo Memorial Airport has the capacity to be an economic boon. Its importance in this area should not be minimized.
3. What Goals would you like to see this Board or Commission accomplish?	I would like to see more effort made to encourage commercial "feeder" airlines that travel to Phoenix, Albuquerque, Salt Lake City, Las Vegas, etc., somewhere other than only Denver; to encourage use by cargo lines like UPS and FedEx that could service distribution centers like the Target warehouse. Anything encouraging economic growth for Pueblo would be a plus.o
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	I am currently a member and a volunteer docent at the Weisbrod Historic Aircraft Museum. I am also the current treasurer of the Pueblo County Historic Society and that Society's coordinator of the intern programs with both Pueblo Community College and Colorado State University Pueblo.

(Section Break)

Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

City Clerk's Office Item # M-13

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENTS BY THE MAYOR OF CHRISTINE MAESTAS AND STEVEN RODRIGUEZ TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS (CCHH)

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to complete a one-year term expiring on December 31, 2022 on the Community Commission on Housing and Homelessness (CCHH).

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Community Commission on Housing and Homelessness (CCHH) selecting individuals to serve terms which expire at the end of a particular calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

Due to the term expirations, there are two spots available to complete one-year terms on the Community Commission for Housing and Homelessness.

Two applications were received and reviewed by Mayor Gradisar.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:
Proposed Resolution
Applications

RESOLUTION NO. 14867

A RESOLUTION CONFIRMING THE APPOINTMENTS BY THE MAYOR OF CHRISTINE MAESTAS AND STEVEN RODRIGUEZ TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS (CCHH)

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Chrstine Maestas and Steven Rodriguez to serve on the Community Commission on Housing and Homelessness (CCHH); NOW, THEREFORE,

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

SECTION 1.

The appointment by the Mayor of the following individuals to the Community Commission on Housing and Homelessness to complete a one-year term expiring December 31, 2022 shall be and is hereby confirmed by the City Council:

Christine Maestas

Steven Rodriguez

SECTION 2.

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

SECTION 3.

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

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Wednesday, March 30, 2022 8:45:21 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	3/30/2022
BOARD OR COMMISSION	Community Commission on Housing and Homelessness
Contact Information	
FIRST NAME	Christina
LAST NAME	Maestas
HOME ADDRESS	1311 N. Will Rogers
CITY	Pueblo West
STATE	CO
ZIP	81007
OFFICE ADDRESS	1311 N. Will Rogers
CITY	Pueblo West
STATE	CO
ZIP	81007
DAYTIME PHONE	8083884860
E-MAIL ADDRESS	christina_maestas@icloud.com
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Naval Nuclear Operator/ Training Coordinator for pharmaceutical manufacturing plant
Questionnaire *Please complete the following general information.*	
1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.	I am a US Navy Veteran, so I understand mission and staying on it. I have the ability to return to task and maintain focus on long-term goals. I was an instructor as well, so I am able to present information comfortably and inform a room.
2. Why are you interested in being appointed to this Board or Commission?	I am concerned a great deal with housing and homelessness in Pueblo. I do not wish to live in a city that is complacent about homelessness and the needs of others. The housing crisis is something that our city can and should address and I would like to speak as a citizen that has deep passion for the needs of those that cannot provide for themselves. I would like to live in a city that helps its people rather than criminalizes and harasses the most vulnerable of its citizens, and I would like to ensure that is the city I am raising my children in so they too will wish to live here.
3. What Goals would you like to see this Board or Commission accomplish?	I would love to see zero homeless goals and major low income renovations of the historic downtown. These are achievable, evidence-based goals that I believe our city has the power to accomplish.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	I am an active volunteer with Habitat for Humanity where have I begun learning about the local state of housing.
(Section Break)	
Upload résumé, references and/or other pertinent information	Housing Board Bio.docx

Email not displaying correctly? View it in your browser.

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Monday, March 28, 2022 3:13:02 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	3/28/2022
BOARD OR COMMISSION	Community Commission on Housing and Homelessness
Contact Information	
FIRST NAME	Steven
LAST NAME	Rodriguez
HOME ADDRESS	26 Yorkshire Road, Apt. D
CITY	Pueblo
STATE	CO
ZIP	81001
OFFICE ADDRESS	*Field not completed.*
CITY	pueblo
STATE	CO
ZIP	81001
DAYTIME PHONE	7194152759
E-MAIL ADDRESS	steverod316@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Insurance Broker

Questionnaire

Please complete the following general information.

1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.	Vice Chair CSAC, Chairman Community Servies Block Grant Advisory Committee, Vice-Chair Pueblo County Community Corrections Board, Chairman Pueblo County Juvenile Community Review Board, 2020 Commission, Board of Elections, ADA Advisory Commission, Runyon Sports Complex Commission, Human Relations Commission, Pueblo Advisory Council On Aging,
2. Why are you interested in being appointed to this Board or Commission?	I am interested in working in a collaborative effort with all stakeholders to find commonsense solutions to this growing issue in our community.
3. What Goals would you like to see this Board or Commission accomplish?	I would like to see the issue of homelessness and lack of affordable housing in our community to receive commonsense solutions that benefit our community as a whole.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	Via my faith based outreach I have had the opportunity to help feed those who are homeless and assist those with substance abuse issues via counseling.

(Section Break)

Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

City Clerk's Office Item # N-1

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

CC: Mayor Nicholas A. Gradisar

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN THREE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) LICENSED DENTAL HYGIENE CARE, A COLORADO NONPROFIT CORPORATION; (2) YBARRA'S BOXING CLUB, A COLORADO NONPROFIT CORPORATION; AND (3) THE JUNETEENTH ORGANIZATION OF PUEBLO, INC., A COLORADO NONPROFIT CORPORATION; AS AUTHORIZED BY SECTION 603 (c)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED FORTY-ONE THOUSAND ONE HUNDRED TWENTY-SIX DOLLARS ($141,126) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign 3 Subrecipient Agreements with local entities to implement 3 local projects, as authorized by Section 603(c)(1)(A) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Funds for the 3 projects, in the amount of $141,126.00, will be paid out of Project No. CI2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The attached Ordinance awards ARPA funds for the following 3 local projects:

	Organization	Project	Amount of Award
1	Licensed Dental Hygiene Care	Diagnostic, Preventive and Restorative Dental Care	$ 114,116.00
2	Ybarra's Boxing Club	Boxing Ring	17,000.00
3	Juneteenth Organization of Pueblo, Inc.	College Scholarships	10,000.00
	Total		$ 141,126.00

FINANCIAL IMPLICATIONS:

Three local entities will receive $141,126.00 in ARPA funds from Project No.CI2113.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support or fund the 3 local projects.

RECOMMENDATION:

Approval of the Ordinance

Attachments:
Proposed Ordinance
3 Proposed Subrecipient Agreements.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN THREE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) LICENSED DENTAL HYGIENE CARE, A COLORADO NONPROFIT CORPORATION; (2) YBARRA'S BOXING CLUB, A COLORADO NONPROFIT CORPORATION; AND (3) THE JUNETEENTH ORGANIZATION OF PUEBLO, INC., A COLORADO NONPROFIT CORPORATION; AS AUTHORIZED BY SECTION 603 (c)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED FORTY-ONE THOUSAND ONE HUNDRED TWENTY-SIX DOLLARS ($141,126) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

RECITALS

The following recitals are incorporated in and made a part of this Ordinance.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under ARPA Section 603 (c)(1)(A) and the Final Rule 31 CFR 35.6 recipients may use Coronavirus Local Fiscal Recovery ("CLFR") Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, under ARPA Section 603 (c)(1)(A) and the Final Rule 31 CFR 35.6 the City may use CLFR Funds to the implement the 3 programs described in the 3 attached Subrecipient Agreements; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

The following 3 Subrecipient Agreements ("Agreements") between and the City of Pueblo, a Colorado municipal corporation and the following entities, dated May 9, 2022, attached hereto, having been approved as to form by the City Attorney, are hereby approved:

	Organization	Project	Amount of Award
1	Licensed Dental Hygiene Care	Diagnostic, Preventive and Restorative Dental Care	$ 114,116.00
2	Ybarra's Boxing Club	Boxing Ring	17,000.00
3	Juneteenth Organization of Pueblo, Inc.	College Scholarships	10,000.00
	Total		$ 141,126.00

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.

SECTION 3.

Funds in the amount of $141,126.00 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of funding the 3 projects described in the Agreements.

SECTION 4.

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 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

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 9th day of May, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Licensed Dental Hygiene Care, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "Dental." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to provide diagnostic, preventive and restorative dental care to low-income Pueblo residents who were disproportionately impacted by the COVID-19 pandemic and its resulting negative economic consequences (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Due to the unique characteristics of dental procedures in which a large number of droplets and aerosols are generated, many low-income people have been unable to receive dental care during the pandemic. This is especially concerning for those who are in a state of dental disease and neglect who do not have the private resources to afford dental insurance or dental care.

(b) There is also a large "Medicaid Gap" for low-income people many of whom are just above the required poverty level, yet cannot afford dental care or dental insurance.

(c) There is conclusive evidence regarding the role poor oral health plays on overall health. Addressing oral disease in the Pueblo community will ultimately help keep people healthier, and give the City's seniors, military veterans and low-income adults the opportunity to re-enter the work force or age in place with increased self-sufficiency. In addition, achieving good oral health will reduce the health care dollars spent on chronic disease management and emergency room visits.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement

detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed One Hundred Fourteen Thousand One Hundred Sixteen Dollars (U.S. $114,116.00). During the Term of this Agreement, Subrecipient shall be entitled to receive from the City, in arrears, monetary reimbursement for the dental services provided to the "target population." "Target population" means low-income persons of all ages who do not have insurance coverage for dental care either through Medicaid or through private insurance and who lack the financial resources to pay for dental treatment.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an

opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY AND INSURANCE.

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient shall require Dentists, Oral Surgeons or other professional subcontractors retained by Subrecipient to perform services to have Professional Liability Insurance with coverage for acts or omissions when providing services under this Agreement.

(c) Subrecipient shall maintain Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

LICENSED DENTAL HYGIENE CARE
A COLORADO NONPROFIT CORPORATION

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SUBRECIPIENT'S SCOPE OF SERVICES

B. Principal Tasks

1. Provide basic dental care to qualifying patients in the target population to relieve and treat pain, disease and neglect. These basic services shall include diagnostic (x-rays, exams), preventive (cleanings, periodontal therapy, fluoride), restorative (fillings & extractions) and dentures (partial and full dentures). Cosmetic or expensive procedures such as crowns, bridges, implants, root canals, shall not qualify for reimbursement under this Agreement.

2. Fees shall be billed and reimbursed at Medicaid rates.

3. There is a cap of $1,500.00 per patient per year.

4. Subrecipient shall submit periodic, but not more frequently than monthly, applications for payment, for actual professional services rendered and for reimbursable expenses incurred. Applications for payment shall identify the patient and date(s) of service and shall contain appropriate documentation that such services have been performed and such expenses incurred. Client shall pay Consultant for the amount of the application within 45 days of the date such application is received.

5. All services shall be delivered at Subrecipient's office located at 2320 N. Grand Avenue, Pueblo, CO 81003 or at the offices of Dentists, Oral Surgeons or other professional subcontractors retained by Subrecipient to perform services.

C. Budget

$114,116.00.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable federal and state statutes and regulations, including but not limited to the following,:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133; 2 CFR 200.310; 2 CFR 200.313 and 2 CFR 200.316 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 € (42 U.S.C. 300 (h)-303 €);

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 9th day of May, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Ybarra's Boxing Club, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "YBC." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to purchase a boxing ring for use by Subrecipient's club members (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Subrecipient Ybarra's Boxing Club, was formed as a Colorado nonprofit corporation on February 23, 2009. YBC received its 501(c)(3) designation from the Internal Revenue Service on June 27, 2009.

(b) Since its formation, YBC has been a positive influence in the lives of its young members, most of whom come from low-income households. Teaching boxing skills is secondary to its primary mission which is to foster good character and leadership, promote academic success and teach its participants to adopt healthy lifestyles. YBC's ultimate goal is to ensure that all Club members:

- Are on track to graduate from high school with a plan for their future;
- Demonstrate self-discipline and model strong character;
- Adopt a healthy diet, participate in daily physical fitness and practice healthy choices (saying no to substance use, sexual activity, and violence).

(c) Since its inception, YBC has met the social and emotional needs of its young members who are able to meet and learn in a safe and supportive environment. YBC has served as an alternative to, and has prevented, many of its members from joining local gangs.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be

conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Seventeen Thousand Dollars (U.S. $17,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from the Effective Date set forth above to December 31, 2022 unless sooner terminated as herein provided

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2022 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an

opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY

As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

YBARRA'S BOXING CLUB
A COLORADO NONPROFIT CORPORATION

By_____
(Signature)

Name: Luis Ybarra

Title: President, Board Member and Coach

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

YBC'S SCOPE OF SERVICES

B. Principal Tasks

The components of the Subrecipient's work plan under this Agreement shall be as follows:

Purchase a boxing ring for use by YBC's club members.

C. Budget

$17,000.00.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable federal and state statutes and regulations, including but not limited to the following,:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133; 2 CFR 200.310; 2 CFR 200.313 and 2 CFR 200.316 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 € (42 U.S.C. 300 (h)-303 €);

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 9th day of May, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Juneteenth Organization of Pueblo, Inc., a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "Organization." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to award post-secondary education scholarships to local students of color (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Subrecipient Juneteenth Organization of Pueblo, Inc., was formed as a Colorado nonprofit corporation on June 18, 1980 and shortly thereafter received its 501(c)(3) designation from the Internal Revenue Service.

(b) The Organization's mission "is to bring all Puebloans together to remember and celebrate the heritage of African-Americans and their freedom."

(c) Subrecipient has historically collaborated with Pueblo's two public institutions of higher education (Colorado State University–Pueblo and Pueblo Community College) to encourage and assist local students of color in pursuing post-secondary education. The Organization's main vehicle for raising scholarship funds is its annual Pageant/Dinner. Unfortunately, Subrecipient's annual fundraising event has recently been disrupted by the COVID-19 pandemic.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request

compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Ten Thousand Dollars (U.S. $10,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits,

progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY

As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

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(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any

repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

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The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

JUNETEENTH ORGANIZATION OF PUEBLO, INC
A COLORADO NONPROFIT CORPORATION

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SUBRECIPIENT'S SCOPE OF SERVICES

B. Principal Tasks

The components of the Subrecipient's work plan under this Agreement shall be as follows:

Award scholarships to local students of color to pursue post-secondary education.

C. Budget

$10,000.00.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable federal and state statutes and regulations, including but not limited to the following,:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133; 2 CFR 200.310; 2 CFR 200.313 and 2 CFR 200.316 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 € (42 U.S.C. 300 (h)-303 €);

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CO CREATE LLC, A COLORADO LIMITED LIABILITY COMPANY TO (1) DEVELOP A PRIVATE/PUBLIC SECTOR INVESTMENT STRATEGY AND AN ACTION PLAN FOR DELIVERY OF BROADBAND SERVICES TO QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO AND (2) PRESENT THE MAYOR AND CITY COUNCIL WITH PROJECTS/AGREEMENTS WITH CURRENT OR NEW INTERNET PROVIDERS IN CONNECTION THEREWITH AND FURTHER AUTHORIZING THE PAYMENT OF ONE HUNDRED THOUSAND DOLLARS ($100,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

The attached ordinance approves and authorizes the Mayor to sign a consulting agreement with Co Create LLC ("Co Create") to (1) prepare a public/private investment strategy and action plan for delivery of broadband services to Qualified Census Tracts ("QCT's") in the City, and (2) present the Mayor and City Council with projects/agreements in connection therewith. The proposed ordinance also authorizes payment of up to $100,000.00 to Co Create for its professional services from Project No. CI-2113 – American Rescue Plan Act ("ARPA").

PREVIOUS COUNCIL ACTION:

Not applicable to this ordinance.

BACKGROUND:

Broadband services in Pueblo are inadequate at best and in some locations are non-existent – especially in the City's low income neighborhoods. One of the four pillars of ARPA is to provide the necessary financial resources for the delivery of broadband services to unserved and underserved areas. Technical expertise is needed to develop broadband infrastructure in the City's QCT's. Co Create has the necessary expertise to develop and begin implementation of the City's broadband strategy to serve all City neighborhoods.

FINANCIAL IMPLICATIONS:

$100,000 in ARPA funds are being authorized for payment to Co Create.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this ordinance.

STAKEHOLDER PROCESS:

Not applicable to this ordinance.

ALTERNATIVES:

If City Council does not approve this Ordinance, Co Create will not be retained.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:

Proposed Ordinance
Proposed Agreement for Professional Services.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND CO CREATE LLC, A COLORADO LIMITED LIABILITY COMPANY TO (1) DEVELOP A PRIVATE/PUBLIC SECTOR INVESTMENT STRATEGY AND AN ACTION PLAN FOR DELIVERY OF BROADBAND SERVICES TO QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO AND (2) PRESENT THE MAYOR AND CITY COUNCIL WITH PROJECTS/AGREEMENTS WITH CURRENT OR NEW INTERNET PROVIDERS IN CONNECTION THEREWITH AND FURTHER AUTHORIZING THE PAYMENT OF ONE HUNDRED THOUSAND DOLLARS ($100,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

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

SECTION 1.

The Agreement for Professional Services ("Agreement") between the City of Pueblo, a Colorado municipal corporation and Co Create LLC, a Colorado limited liability company, dated May 9, 2022, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

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 3.

This Ordinance shall become effective immediately upon 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

AGREEMENT
FOR PROFESSIONAL SERVICES

THIS AGREEMENT ("Agreement") is made and entered this 9th day of May, 2022, by and between the City of Pueblo, a Colorado Municipal Corporation (hereinafter referred to as "Client") and Co Create LLC, a Colorado limited liability company (hereinafter referred to as "Consultant"). Client and Consultant are sometimes each referred to as a "Party" and collectively "Parties." Consultant shall render professional services for Client with respect to Project # CI-2113, Project Name: American Rescue Plan Act and related ancillary services, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES.

(a) Consultant shall satisfactorily perform the professional consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference (the "Basic Services"). Such services shall include all usual and customary professional consulting services in connection with its work on the Project.

(b) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

SECTION 2. CONSULTANT'S RESPONSIBILITIES.

(a) Consultant shall be responsible for the professional quality, technical accuracy and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors and including reports and other services, notwithstanding Client's initial acceptance of same.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; and Consultant hereby irrevocably waives and excuses Client and Client's attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute, whether now existing or hereafter enacted.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees.

(d) Consultant acknowledges that time is of the essence with respect to the completion of its services under this Agreement. Consultant represents that Schedule 3 attached hereto is the schedule by which Consultant proposes to accomplish its work, with time periods for which it will commence and complete each major work item. Except to the

extent the parties agree to time extensions for delays beyond the control of Consultant, Consultant shall adhere to this schedule and perform its work in a timely manner so as not to delay Client's timetable for achievement of interim tasks and final completion of Project work. Consultant further acknowledges that its schedule has accounted for all reasonably anticipated delays, including those inherent in the availability of labor and equipment required for the work, the availability of information which must be obtained from any third parties and all conditions to access to public and private facilities.

(e) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Scope of Work described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that Consultant believes the out-of- scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Consultant shall not proceed with any out-of-scope or additional work until authorized in writing by Client. 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 attached hereto.

SECTION 3. FEES FOR SERVICES; PAYMENT.

(a) Client 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, the maximum sum of U.S. $100,000.00, computed as set forth in Schedule 2.

(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 for reimbursable expenses incurred. Applications for payment shall be submitted based upon the hourly rates and expense reimbursement provisions set forth in Schedule 2 attached hereto and shall contain appropriate documentation that such services have been performed and such expenses incurred. Client shall pay Consultant for the amount of the application within 45 days of the date such application is received.

(c) No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2.

(d) No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(e) of this Agreement.

(f) In the event services under this Agreement are phased and to be performed in more than one fiscal year, the Parties agree payments under this Agreement are subject to annual appropriations. Consultant acknowledges that funds only in the amount of initial

appropriation of $100,000.00 are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

SECTION 4. CLIENT'S RESPONSIBILITIES.

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, data and previous reports accessible to Client which Consultant may reasonably require.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of $5,000.00 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant and render decisions pertaining thereto within a reasonable time. The Client's approval of any reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of 7 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of 30 days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

SECTION 5. TERM AND TERMINATION

(a) Term. The term of this Agreement begins on the Effective Date and ends on December 31, 2023, unless sooner terminated in accordance with this Agreement. City reserves the right to extend the term of this Agreement in one-year increments by written acceptance of both parties.

(b) Fund Appropriation. 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 after the current 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. The termination of this Agreement due to lack of funding shall be without penalty to the City.

(c) Client reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, 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.

(d) 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 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 Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(e) 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 work, or to pay its employees and consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

(f) Consultant's professional responsibility for its completed work and services shall survive any termination.

SECTION 6. USE OF DOCUMENTS.

Data, plans, reports and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client, subject to applicable federal grant requirements and Client shall be vested with all rights therein of whatever kind or nature and however created, whether by common law, statute or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, plans, reports and all other data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client’s sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

SECTION 7. INDEMNITY.

Consultant agrees to hold harmless, defend and indemnify Client from and against any

liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors and consultants.

SECTION 8. SUBCONTRACTS.

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client 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 Client, and Client shall be a third-party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client 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 Client prior to execution of this Agreement to induce Client to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to Client and receiving Client's written consent thereto. Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

SECTION 9. REQUIRED FEDERAL PROVISIONS.

(a) Consultant understands that Client shall be funding the Project with funds as authorized by Section 603(c)(1)(A) of the American Rescue Plan Act (“ARPA”) and U.S. Treasury Final Rule 31 CFR 35.6. Consultant agrees it is subject to and shall comply with all applicable provisions of ARPA under which the contract award has been made, and applicable regulations.

(b) Consultant shall comply with all applicable Federal, State, and local laws applicable to its activities.

(c) All records with respect to any matters covered by this Agreement shall be available for inspection by Client, at any time during normal business hours and as often as Client deems necessary, to audit, examine and make excerpts or transcripts of relevant information, and otherwise to perform its official functions or duties.

SECTION 10. MISCELLANEOUS.

(a) Notices. Any notice required or permitted to be given or delivered under this Agreement shall be in writing and shall be given by personal delivery, or by the United States Postal Service, by registered or certified mail, postage prepaid, or reputable national overnight courier service:

(a) If to Client, addressed to:

Mayor
City of Pueblo
1 City Hall Place, 2nd Floor
Pueblo, Colorado 81003

with a copy to: City Attorney
1 City Hall Place, 3rd Floor
Pueblo, Colorado 81003

(b) If to Consultant, addressed to:

Salvador J. Acuna
1519 Kickapoo Rd.
Pueblo, CO 81001

or to such other address or person as any party may from time to time specify in a writing delivered to the other party in the manner provided in this paragraph. Any notice shall be deemed delivered on the day on which personal delivery is effected or three (3) days after deposit in the mail in the case of registered or certified mail, and one (1) business day after deposit in the case of overnight courier.

(b) Entire Agreement. This instrument contains the entire Agreement between Consultant and Client respecting the Project, and any other written or oral Agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of Schedule 1 or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this

Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, gender identity, sexual orientation or age. Consultant shall endeavor to insure that its employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, gender identification, sexual orientation or age.

(g) Severability. If any provision of this Agreement, except for Section 2, 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. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

(h) Litigation, Venue and Waiver of Trial by Jury. In the event of any litigation arising under this Agreement, 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.

(i) PERA Liability. 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 questionnaire attached as Exhibit A and submit the completed form to Client as part of the signed Agreement.

(j) Counterparts. This Agreement 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.

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 CONSULTANT FIRM NAME

By_____
Mayor

Attest:_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

Consultant

CO CREATE LLC
a Colorado limited liability company

_____
(Signature)

_____
(Print name)

_____
(Print title)

Schedule 1

Scope of Services

A. Performance Monitoring:

The City will monitor the performance of the Consultant according to the Principal Tasks set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Consultant within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

B. Principal Tasks

1. Develop a private / public investment strategy and a detailed action plan to deliver high-speed broadband services to Qualified Census Tracts in the City of Pueblo.

2. Present the Mayor and City Council with projects/agreements with current or new internet providers for delivery of high-speed broadband services to Qualified Census Tracts in the City of Pueblo.

Schedule 2
Payments To Consultant

Consultant standard rate of $250.00 per hour shall be discounted to $175.00.

Service	Hourly @ Total Hours	Total
Public Private Model Design	$175.00 @ 229	$40,075.00
Develop Projects/Agreements with current or new internet providers to deliver high speed broadband services to the City's QCT's	$175.00 @ 285	$49,875.00
Travel		$10,500.00
Totals		$100,000.00

Schedule 3
Project Timeline & Deliverables

Project Task	Dates
Public / Private Model Design	05-09-22 to 09-30-22
Develop Projects/Agreements with current or new internet providers to deliver high speed broadband services to the City's QCT's	10-01-22 to 12-31-23

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___. *(Must sign below whether you answer "yes" or "no".)*

(b) If you answered "yes" to (a) above, please answer the following question: Are you 1) an individual, 2) sole proprietor or partnership, or 3) a business or company owned or operated by a PERA Retiree or an affiliated party? Yes ____, No____.
If you answered "yes" please state which of the above listed entities (1, 2, or 3) best describes your business:_____.

(c) If you answered "yes" to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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.

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

Signed _____, 20_____.

_____

By:_____

Name:_____

Title:_____

For purposes of responding to question (b) above, 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.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

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 2021 AND AMENDING THE BUDGET FOR THE YEAR 2021

SUMMARY:

Attached is an Ordinance amending the original 2021 budget Ordinance to incorporate changes made throughout the year.

PREVIOUS COUNCIL ACTION:

Ordinance 9817, passed and approved by the City Council on November 25, 2020, adopting the Budget for the fiscal year 2021.

BACKGROUND:

In November of 2020, the City Council adopted the annual budget for the year 2021. 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 2021. For the General Fund, the sum of the budget amendment for the year 2021 is $2,686,710. The preliminary unaudited Financial Statements for 2021 show the General Fund balance ending at a strong point, with a fund balance that is greater than was original projected in the 2021 Adopted Budget.

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.

Attachment:
Proposed Ordinance

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 2021 AND AMENDING THE BUDGET FOR THE YEAR 2021

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

SECTION 1.

The budget for the fiscal year 2021, 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 2021 is hereby amended as follows:

SOURCE	ORIGINAL	FINAL AMENDED
Taxes	73,914,339	73,914,339
Licenses & Permits	914,000	914,000
Intergovernmental	3,012,020	3,012,020
Charges for Service	4,465,120	4,465,120
Fines & Forfeits	1,762,100	1,762,100
Other Revenue	567,000	567,000
Transfers In	3,817,969	3,817,969
Fund Balance	7,131,358	9,818,068
General Fund Total	**95,583,906**	**98,270,616**

SECTION 3.

The General Fund Appropriation by Department for the Fiscal Year 2021is hereby amended as follows:

SOURCE	ORIGINAL	FINAL AMENDED
General Government	13,931,797	13,933,837
Police	30,493,969	30,423,969
Fire	19,827,196	19,827,196
Public Works	7,601,214	7,601,214
Parks	6,731,938	6,737,938
Non-Departmental	6,845,469	6,812,429
Transfers Out	10,152,323	12,934,033
General Fund Total	**95,583,906**	**98,270,616**

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 2020 are hereby amended as follows:

OTHER FUNDS	ORIGINAL	FINAL AMENDED
INTERGOVERNMENTAL	6,066,130	14,421,709
SPECIAL CHARGES	3,516,850	4,292,390
SPECIAL DISTRICT	671,730	671,730
OTHER SPECIAL REVENUE	393,572	393,572
HUD GRANTS	2,500,000	9,816,163
STIMULUS GRANTS	49,715	49,715
PUBLIC IMPROVEMENTS	1,511,900	47,418,120
DEBT SERVICE FUND	4,251,788	4,254,588
ECONOMIC DEVELOPMENT TAX	11,296,000	33,628,436
POLICE SAFETY TAX	3,375,000	4,457,927
ELMWOOD GOLF COURSE	1,336,000	1,401,000
WALKINGSTICK GOLF COURSE	1,257,000	1,507,808
HONOR FARM PROPERTIES	79,878	79,878
MEMORIAL HALL	1,174,033	1,178,651
MEMORIAL AIRPORT	2,064,170	6,264,825
PUEBLO TRANSIT	6,035,577	12,409,443
PARKING FACILITIES	955,871	1,074,444
WASTEWATER ENTERPRISE	27,621,693	50,639,620
STORMWATER UTILITY	7,151,640	18,084,579
STREET REPAIR UTILITY	3,078,000	3,268,818
INTERNAL SERVICE FUNDS	19,601,096	19,601,096

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts consistent with this of this Ordinance to implement the transactions 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 - 2021

FUND	ORIGINAL	ADJUSTED	DIFF
General Fund (101)	95,583,906	98,270,616	**2,686,710**
Ordinance #9890 - Regional Strategic Housing Market Assessment (CI2004)			27,000
Ordinance #9898 - Emergency Housing Rehabilitation Assistance Program (HS2101)			25,000
Ordinance #9947 - Fire Station Land Purchase (CI2114)			100,000
Ordinance #9976 - Transit CARES Act Grant Match			215,130
Ordinance #10009 - Future Transit A&M Facility (BC2101)			1,019,580
Ordinance #10067 - W 18th Street Extension (CI2121)			1,300,000
Total Adjustments:			**2,686,710**
Intergovernmental (210, 213, 216, 217)	6,066,130	14,421,709	**8,355,579**
Federal Forfeiture project carryforward			8,804
HUFT project carryforward			6,423,651
Lottery project carryforward			1,723,124
Ordinance #9870 - Federal Forfeiture Authorized Spending (FF2101)			180,000
Ordinance #9987 - Donation Richmond Funds Repair of 3 Streets (HUAN01)			20,000
Total Adjustments:			**8,355,579**
Special Charges (231, 232, 233, 234, 235)	3,516,850	4,292,390	**775,540**
YE Budget Adjustment - Fund Balance/Balance Expenses			748,710
E911 Project Carryforward			26,830
Total Adjustments:			**775,540**
Special Districts (290, 291, 292, 293)	671,730	671,730	-
Total Adjustments:			-
Other Special Revenue (220, 221, 223, 225)	393,572	393,572	-
Total Adjustments:			-
HUD Grants (240, 241, 250, 251, 252, 254)	2,500,000	9,816,163	**7,316,163**
CDBG Project Carryforward			1,033,028
HOME Project Carryforward			1,957,332
Ordinance #9951 - HUD CDBG 2020 Annual Action Plan			1,696,924
Ordinance #9951 - HUD HOME 2020 Annual Action Plan			839,422
Ordinance #9975 - 2021- 2022 CDBG Action Plan			1,504,131
Ordinance #9975 - 2021- 2022 HOME Action Plan			252,826
Ordinance #9913 - HUD Amendment 2021 Annual Action Plan (HO2001)			7,500
Ordinance #9898 - Emergency Housing Rehabilitation Assistance Program (HS2101)			25,000
Total Adjustments:			**7,316,163**
Stimulus Grants (240, 241)	49,715	49,715	-
Total Adjustments:			-
Public Improvements (260, 263, 264, 265, 401, 402)	1,511,900	47,418,120	**45,906,220**
Capital Improvement Project Carryforward			10,544,956
Planning Grant Project Carryforward			7,571,966

FUND		ORIGINAL	ADJUSTED	DIFF
	Public Safety Grant Project Carryforward			753,679
	Transportation Grants Project Carryforward			48,766
	Transportation Planning Grant Project Carryforward			126,823
	Ordinance #9735 -Additional Funds CATPA Grant (PS2008)			6,500
	Ordinance #9857 -PACOG 2020-2021 Consolidated Plan Additional Funding			463,628
	Ordinance #9858 - DOLA Additional Funds Defense Counsel First Appearance Grant (PS2017)			14,000
	Ordinance #9858 - DOLA Defense Counsel First Appearance Grant (PS2017)			14,000
	Ordinance #9871 - Derose Contribution Gateway to the Southwest (PL1801)			15,000
	Ordinance #9879 - PD POST Grant (PS2010)			3,022
	Ordinance #9888 - El Pomar Pueblo Food Project Grants			10,000
	Ordinance #9889 -CDOT Eagleride and Dillon Design (CI1819)			1,800,000
	Ordinance #9890 - Regional Strategic Housing Market Assessment (CI2004)			27,000
	Ordinance #9896 -State Hunger Relief Grant (CI2106)			175,000
	Ordinance #9897 - County 5 Star Certification Program (CI2105)			232,000
	Ordinance #9905 - CO State Forest Service Teaming Up for Trees (PL1903)			5,371
	Ordinance #9906 - State Gray & Black Market Marijuana Enforcement Grant (PS2101)			27,432
	Ordinance #9914 - EIAF RTA Aquatics Center Feasibility Study (CI2109)			50,000
	Ordinance #9923 -DOLA Additional Funds Peace Officers Mental Health Support Grant (PS2013)			9,280
	Ordinance #9931 - ARPA Funds (CI2113)			18,203,501
	Ordinance #9932 - Pueblo Conservancy District Arkansas River Levee (PL1703)			350,000
	Ordinance #9935 - CDOT Union and Grand Plaza(CI2111)			55,000
	Ordinance #9936 - Trailhead Pueblo Food Project Grant (CI2112)			10,450
	Ordinance #9947 - Fire Station Land Purchase (CI2114)			100,000
	Ordinance #9953 - CAPTA Grant Beat Auto Theft Grant (PS2103)			57,722
	Ordinance #9962 - Dept Homeland Security Thermal Imagers (PS2104)			44,067
	Ordinance #9968 - CDOT Prairie Avenue Improvements (CI2108)			1,300,000
	Ordinance #9969 - CDOT Tap Grant Minnequa to Lake Trail (CI2115)			388,000
	Ordinance #9970 - Cities for Financial Empowerment Grant (CI2110)			20,000
	Ordinance #9971 - Denver Foundation Pueblo Youth Food Council (CI2112)			9,550
	Ordinance #9972 - PD POST Grant (PS2102)			175,242
	Ordinance #9986 - Pueblo County Food Project Grant (CI2116)			250,000
	Ordinance #9988 - SRDA Amendment Sanitary Sewer Replacement (CI2117)			70,587
	Ordinance #9989 Triple Aim Community Outreach (PS2106)			13,196
	Ordinance #9990 - PD State POST Grant (PS2105)			5,000
	Ordinance #9991 - Internet Crimes Against Children Grant (PS2107)			6,795
	Ordinance #10002 - El Pomar Wildland Personal Protective Equipment (PS2108)			10,000
	Ordinance #10003 - 2022 Pueblo Rural Transportation Planning Project (TP2101)			7,400
	Ordinance #10010 -CDOT "Step Towards Reducing Traffic Fatalities" (PL2109)			75,000
	Ordinance #10034 - 2022-2023 Pueblo Urban Transportation Planning Project			679,094
	Ordinance #10052 - Additional Funds CDOT Union and Grant Plaza (CI2111)			62,743
	Ordinance #10054 - DOLA Arkansas River Levee (PL1703)			638,000
	Ordinance #10063 - Trailhead Institute Pueblo Food Project (CI2122)			100,000
	Ordinance #10064 - USDOJ Bulletproof Vest Partnership (PS2111)			87,888
	Ordinance #10066 - CDOT Lighting City Center Improvement Project (PL0804)			62,685
	Ordinance #10067 - W 18th Street Extension (CI2121)			1,300,000
	Ordinance #10075 - Donations Gateway to the Southwest (PL1801)			36,000
	Ordinance #10088 - 2021 JAG Grant (PS2112)			102,570
	Correct Black Hills Underground Utility Ordinances			(212,717)
	Public Safety JAG Interest Income			24
	Total Adjustments:			**45,906,220**
Debt Service (301, 302, 303)		4,251,788	4,254,588	**2,800**

FUND	ORIGINAL	ADJUSTED	DIFF
YE Budget Adjustment - Fund Balance/Balance Expenses (Trustee Fees)			2,800
Total Adjustments:			**2,800**
Economic Development Tax (413)	11,296,000	33,628,436	**22,332,436**
Project Carryforward			22,332,436
Total Adjustments:			**22,332,436**
Police Safety Tax (270)	3,375,000	4,457,927	**1,082,927**
Project Carryforward			1,082,927
Total Adjustments:			**1,082,927**
Elmwood Golf Course (501)	1,336,000	1,401,000	**65,000**
Project Carryforward			40,000
YE Budget Adjustment - Fund Balance/Balance Expenses			25,000
Total Adjustments:			**65,000**
Walkingstick Golf Course (502)	1,257,000	1,507,808	**250,808**
YE Budget Adjustment - Fund Balance/Balance Expenses			250,808
Total Adjustments:			**250,808**
Honor Farm (507)	79,878	79,878	-
Total Adjustments:			**-**
Memorial Hall (510)	1,174,033	1,178,651	**4,618**
YE Budget Adjustment - Fund Balance/Balance Expenses			4,618
Total Adjustments:			**4,618**
Memorial Airport (540, 541, 542, 543, 544)	2,064,170	6,264,825	**4,200,655**
Project Carryforward			1,000,972
Ordinance #9904 - Airport Coronavirus Relief Grant Program (AP2102)			1,004,155
Ordinance #9912 - Airport Coronavirus Relief Grant Porgram Concessions (AP2103)			2,619
Ordinance #9921 - CDOT Crack Sealing Machine (AP2104)			80,000
Ordinance #9960 - FAA Grant Taxiway E Reconstruction (AP2101)			1,052,631
Ordinance #10062 - FAA Grant Airport Rescue Grant (AP2105)			1,060,278
Total Adjustments:			**4,200,655**
Pueblo Transit (550, 551)	6,035,577	12,409,443	**6,373,866**
Project Carryforward			999,393
Ordinance #9976 - FTA Carryover funds			2,736,866
Ordinance #10009 - Future Transit A&M Facility (BC2101)			1,019,580
Ordinance #10061 - 2021 Operating Grant			1,618,027
Total Adjustments:			**6,373,866**
Parking Facilities (520)	955,871	1,074,444	**118,573**
Project Carryforward			118,573
Total Adjustments:			**118,573**
Wastewater Enterprise (525, 526, 527)	27,621,693	50,639,620	**23,017,927**
Project Carryforward			22,987,927
YE Budget Adjustment - Fund Balance/Balance Expenses			30,000
Total Adjustments:			**23,017,927**

FUND		ORIGINAL	ADJUSTED	DIFF
Stormwater Utility (535, 537)		7,151,640	18,084,579	**10,932,939**
Project Carryforward				4,628,981
Stormwater Bonds Carryforward				6,303,958
	Total Adjustments:			**10,932,939**
Street Repair (530)		3,078,000	3,268,818	**190,818**
Project Carryforward				190,818
	Total Adjustments:			**190,818**
Internal Service (601, 602, 603,604)		19,601,096	19,601,096	-

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Interim Wastewater Director

SUBJECT: AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED $54,042 BETWEEN THE CITY OF PUEBLO AND RAFTELIS FINANCIAL CONSULTANTS, INC. FOR THE 2022 FINANCIAL CAPACITY STUDY

SUMMARY:

This Ordinance accepts an agreement between the City and our Rate Consultant of Record, Raftelis Financial Consultants, Inc. for professional services associated with providing an update to the 2018 Financial Capacity Report

PREVIOUS COUNCIL ACTION:

Resolution No. 13214 awarded an agreement between the City of Pueblo and Raftelis Financial Consultants, Inc., and named Raftelis Financial Consultants, Inc. as the Rate Consultants of Record for the Pueblo Wastewater Department, on April 27, 2015.

BACKGROUND:

As part of the selenium and sulfate discharger specific variance conditions, the City of Pueblo must a complete an update to the financial capacity report that was submitted as part of the 2018 Regulation 32 Arkansas Basin hearing. The update will be used to determine if the economic conditions are the same in the City of Pueblo as in 2018 or if the City of Pueblo has the financial capacity changed since that time to install treatment for selenium and sulfate. The attached professional services agreement between the City and Raftelis Financial Consultants, Inc. provides for the required financial capacity update for the discharger specific variance.

FINANCIAL IMPLICATIONS:

Funding for the professional services related to the financial capacity study are available from the Sewer User Fund.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

The no-action alternative would be a violation of the variance and could be enforced on by the Colorado Department of Public Health and Environment.

RECOMMENDATION:

Approve

Attachments:
An agreement for Professional Services between the City of Pueblo and Raftelis Financial Consultants, Inc. with of the Scope of Work.

ORDINANCE NO. _____

AN ORDINANCE APPROVING A PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED $54,042 BETWEEN THE CITY OF PUEBLO AND RAFTELIS FINANCIAL CONSULTANTS, INC. FOR THE FINANCIAL CAPACITY REPORT

WHEREAS, the Pueblo Wastewater Department operates a Water Reclamation Facility providing municipal wastewater treatment; and

WHEREAS, the Water Quality Control Commission approved the Discharger Specific Variance, June 2018; and

WHEREAS, the City is obligated to comply with the requirements of the Discharger Specific Variance; and

WHEREAS, Raftelis Financial Consultants, Inc. is the rate consultants of record and completed the previous financial capacity evaluation for the City of Pueblo's discharger specific variance for selenium and sulfate, and the most qualified to perform the follow up evaluation of the financial capacity to serve the Pueblo Wastewater Department; NOW, THEREFORE,

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

SECTION 1.

The Agreement for Professional Services by and between Pueblo, a Municipal Corporation, and Raftelis Financial Consultants, Inc., a true copy of which is attached hereto and incorporated herein by reference (the "Agreement") having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Work performed under this Agreement includes review and update the financial capacity of the City of Pueblo used for the discharger specific variance in 2018.

SECTION 3.

Funds for payment for professional services under said Agreement shall be paid from appropriated funds budgeted in the City's 2022 Budget from the Sewer User Fund.

SECTION 4.

The Mayor is authorized to execute and deliver the Agreement on behalf of Pueblo, a municipal corporation, acting by and through its Wastewater Enterprise.

SECTION 5.

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 implement the policies and procedures 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 _____.

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

ATTESTED BY: _____
City Clerk

AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
CITY OF PUEBLO
AND
RAFTELIS FINANCIAL CONSULTANTS, INC.

THIS AGREEMENT is made and entered this ___ day of April, 2022, by and between Pueblo, a Municipal Corporation (hereinafter referred to as "Client") and Raftelis Financial Consultants, Inc., a North Carolina corporation authorized to do business in the State of Colorado (hereinafter referred to as "Consultant") for Consultant to render professional financial consulting and related ancillary services for Client with respect to Project 22a-017, 2022 Financial Plan Update and EPA Financial Assessment, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES

(a) Consultant shall satisfactorily perform the consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference (the "Scope of Services"). Such services shall include all usual and customary professional financial consulting services including any required reports, plans, assessments, etc.

(b) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

(c) To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

SECTION 2. CONSULTANT'S RESPONSIBILITIES

(a) Consultant shall be responsible for the professional quality, technical accuracy and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including reports and other services, irrespective of Client's approval of or acquiescence in same.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; except that Consultant hereby irrevocably waives and excuses Client and Client's attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute, whether now existing or hereafter enacted.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees.

(d) Consultant acknowledges that time is of the essence with respect to the completion of its services under this Agreement. Except to the extent the parties agree to time extensions for delays beyond the control of Consultant, Consultant shall complete all work prior to December 31, 2022 and perform work in a timely manner so as not to delay Client's timetable for achievement of interim tasks and final completion of Project work.

(e) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Scope of Work described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii)

the reasons that Consultant believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Consultant shall not proceed with any out of scope or additional work until authorized in writing by Client. 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 attached hereto.

SECTION 3. FEES FOR SERVICES; PAYMENT

(a) Client 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, the maximum sum of U.S. $54, 042.00, computed as set forth in Schedule 2.

(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 for reimbursable expenses incurred. Applications for payment shall be submitted based upon the hourly rates and expense reimbursement provisions set forth in Schedule 2 attached hereto and shall contain appropriate documentation that such services have been performed and such expenses incurred. Thereafter, Client shall pay Consultant for the amount of the application within 45 days of the date such application is received.

(c) No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2.

(d) No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(e).

(f) In the event services under this Agreement are extended beyond December 31, 2022 and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

SECTION 4. CLIENT'S RESPONSIBILITIES

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, surveys, data and previous reports accessible to Client which Consultant may reasonably require.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of $5000 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant and render decisions pertaining thereto within a reasonable time. The Client's approval of any drawings, specifications, reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of 46 days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

SECTION 5. TERMINATION

(a) Client reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client 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.

(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 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 Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(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 work, or to pay its employees and consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) 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 professional responsibility for its completed work and services shall survive any termination.

SECTION 6. SITE ACCESS

In the event the Project will require access to property not under the control of Client, Consultant and Consultant's employees and consultants shall obtain all additional necessary approval and clearances required for access to such property. Client shall assist Consultant in obtaining access to such property at reasonable times but makes no warranty or representation whatsoever regarding access to such property. Notwithstanding the foregoing, Consultant understands and agrees that entry to some property by Consultant may be subject to compliance by Consultant with the terms and conditions of an access agreement in accordance with section 1(c) of this Agreement.

SECTION 7. USE OF DOCUMENTS

(a) Plans, drawings, designs, specifications, reports and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client, subject to applicable federal grant requirements, and Client shall be vested with all rights therein of whatever kind and however created, whether by common law, statute or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

SECTION 8. INSURANCE AND INDEMNITY

(a) Consultant agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it 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 subparagraph (b).

(b) The minimum insurance coverage which Consultant shall obtain and keep in force is as follows:

(i) 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 Client.

(ii) Commercial General Liability Insurance. The Consultant shall secure and maintain during the period of this agreement/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 him and all his subcontractors under the agreement/ contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for 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, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Consultant under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than $1,000,000 in a form and with a deductible acceptable to owner.

(iv) Comprehensive Automobile Liability Insurance. The Consultant shall procure and maintain during the period of the agreement/contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. 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) Consultant agrees to hold harmless, defend and indemnify Client from and against any liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors and consultants.

SECTION 9. SUBCONTRACTS

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client 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 Client, and Client shall be a third-party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client 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 Client prior to execution of this Agreement to induce Client to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to Client and receiving Client's consent thereto. Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

SECTION 10. MISCELLANEOUS

(a) 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 Consultant or Client 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 Client, City of Pueblo Wastewater Department, Attention: Andra Ahrens, 1300 S. Queens Ave., Pueblo, CO 81001 or to Consultant, Raftelis Financial Consultants, Inc., 227 West Trade Street, Suite 1400, Charlotte, NC 28202. Either party may change his 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.

(b) Entire Agreement. This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of Schedule 1 or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, national origin, disability or age.

(g) Severability. If any provision of this Agreement, except for Section 2, 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. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Consultant shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without Authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Consultant will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

(b) Consultant shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Contract;

(ii) Enter into a contract with a subcontractor that fails to certify to Consultant that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Contract.

(c) The following state-imposed requirements apply to this Contract:

(i) The Consultant shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-Verify Program or Department Program.

(ii) The Consultant is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

(iii) If the Consultant obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Contract, the Consultant shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Consultant shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Consultant is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Consultant shall constitute a breach of contract and grounds for termination. In the event of such termination, the Consultant shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Consultant to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

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 attached hereto and submit the completed form to City as part of the signed Agreement.

(Signature section on following page.)

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

By_____
Naomi Hedden, Director of Purchasing

Attest:_____
City Clerk

[S E A L]

RAFTELIS FINANCIAL CONSULTANTS, INC.

By: _____

Name/Title:_____

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

Attachments: Schedule 1: Scope of Services
Schedule 2: Fee Schedule
Additional Information for Agreement

SCHEDULE 1

Scope of Services

Excerpt from Proposal to the City of Pueblo dated March 21, 2022, pages 1 - 3

2022 Financial Plan Update and EPA Financial Assessment

Basic Services

Raftelis will complete the following Basic Services to update the City's wastewater financial plan and complete the Environmental Protection Agency's (EPA) Financial Capability Assessment (FCA). This includes analysis of the relative affordability services excluding and including Selenium mitigation requirements required by the EPA and the Colorado Department of Public Health and Environment (CDPHE). Raftelis will use the City's existing financial planning model to complete the Basic Services. If requested, Raftelis will develop a separate financial planning model as an optional service.

Task 1 – Project Orientation

a. Data Request. Provide data request list detailing information needed to complete study.

b. Project Orientation Workshop. Meet with City representatives to review data request list status, discuss pertinent City policies, confirm study objectives and expectations, and finalize study schedule.

Task 2 – Financial Plan Update

a. Revenue under Existing Rates. Determine revenue from existing 2022 rates for the 11-year forecast period 2022 through 2032.

b. Revenue under Adopted Rates. Determine revenue under adopted 2022 – 2024 rates for the 11-year forecast period 2022 through 2032.

c. Revenue from Miscellaneous Charges. Determine revenue from plant investment fees and sanitary sewer collection fees, and other miscellaneous revenue sources during forecast period.

d. Operating Expense Projections. Project operation and maintenance expenses (O&M) based on:

- Line-item budget and cost trends
- Rates of growth
- Changes in personnel and salary requirements
- Changes in operations

e. Capital Improvement Program Funding. Identify sources of funds applicable to the capital improvement program (CIP) that result in lowest impact on utility rates. Separate CIP into collection system and treatment plant projects.

f. Revenue Requirements. Project revenue requirements including O&M, debt service, and routine and major capital improvements for each year of forecast period.

g. Financial Plan Scenarios. Prepare up to three (3) cash flow scenarios that vary the timing and amount of revenue adjustments needed to meet revenue requirements, maintain debt service coverage and adequate reserves, and fund the CIP.

h. Financial Plan Workshop. Facilitate one (1) meeting with City representatives to review findings of financial plan.

Task 3 – EPA Financial Capacity Assessment

a. Identify available census and City data to support analysis, previous City analysis on income and other available demographic information to support the wastewater bill affordability assessment.

b. Evaluate affordability of wastewater utility services using EPA guidelines documented in the *CSO Guidelines for Financial Capacity Assessment and Schedule Development* issued in 1997, updated in 2014, and augmented the *Proposed 2022 Clean Water Act Financial Capability Assessment Guidance*.

    a. Current residential bill as a percent of City-wide median household income (MHI)

    b. Forecasted residential bill as a percent of forecasted City-wide MHI that excludes Selenium mitigation capital improvements, debt service and O&M using forecasts future requirements and projected increases to rates over the 11-year forecast period developed in Task 2.

    c. Forecasted residential bill as a percent of forecasted City-wide MHI that includes Selenium mitigation capital improvements, debt service and O&M using forecasts future requirements and projected increases to rates over the 11-year forecast period developed in Task 2.

    d. Include other metrics as necessary such as the Financial Capability Indicator (FCI) and/or the Lowest Quintile Poverty Indicator (LQPI)

c. Evaluate secondary financial capacity indicators the current bill and forecasted bills excluding and including Selenium mitigation capital projects. Secondary factors will use an EPA rating criteria of Strong (3), Mid-Range (2) and Weak (1) for capacity areas as follows:

    a. City bond rating for revenue bonds (if recent issue is available) and General Obligation Bonds

    b. Overall net debt as a percent of full market property value

    c. Unemployment rate

    d. City MHI relative to the United States MHI

    e. Property tax as a percent of full market property value

    f. Property tax revenue collection rate

    g. Historical and projected population trends

    h. Household size, including household size with incomes in the Lowest Quintile

d. The results of the assessment will be document in a technical memorandum. Raftelis will issue one (1) draft technical memorandum and one (1) final technical memorandum incorporating City feedback and comments. It is anticipated that the final document will be incorporated as an appendix to the report completed in Task 4, but may also serve as a stand-alone document.

e. Financial Capacity Workshop. Facilitate one (1) meeting with City representatives to review Task 3 findings and draft technical memorandum.

Task 4 – Reports

a. Draft Report. Prepare one (1) version of draft report that documents study assumptions, procedures, findings and recommendations.

b. Final Report. Prepare final report to reflect comments received from City staff.

(Continue to next page.)

SCHEDULE 2

Fee Schedule

Excerpt from Proposal to the City of Pueblo dated March 21, 2022, pages 1 - 3

Fee Estimate

Raftelis will complete the Basic Services tasks for a not-to-exceed fee of $54,042. Our fee includes labor costs using on our standard hourly billing rates (Exhibit 3) and direct expenses, at cost. The following tabulation shows the fee and hours by task.

Task Description	Hours	Cost
1. Project Orientation	37	$8,125
2. Financial Plan	54	12,200
3. Financial Capacity Assessment	89	20,345
4. Reports	54	13,372
Total	**255**	**$54,042**

Hourly Fee Schedule

Position	Hourly Billing Rate
Executive Vice President	$350
Principal Consultant	$275
Senior Manager	$285
Manager	$250
Senior Consultant	$220
Consultant	$190
Associate	$160
Administration	$85
Technology/Communications Charge [(a)]	$10

(a) Applicable to each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Nicholas A. Gradisar, Mayor

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, BOYD'S BOOKKEEPING AND ADMINISTRATION SERVICES, LLC, AND THE SOUTHERN COLORADO ECONOMIC DEVELOPMENT DISTRICT NAVIGATOR PILOT PROGRAM TO PURCHASE AND SETUP SOFTWARE FOR STUDENTS IN THE PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM FOR $4,632

SUMMARY:

Attached is an Ordinance approving and accepting a Professional Services Agreement with Boyd's Bookkeeping and Administrative Services, LLC and the Southern Colorado Economic Development District Navigator Program, for the purpose of consulting and setting up QuickBooks accounts for the 12 students in the Pueblo Food Project's Entrepreneur Development Program. This Ordinance approves payment for the services in the amount of $4,632.00 from Project No. CO2102.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Pueblo Food Project had been gifted $20,000 from the Gerone-Nicksich Foundation for the purpose of supporting the Pueblo Food Project Entrepreneur Development Program. This Ordinance utilizes a portion of those grant funds for consulting services from Boyd's Bookkeeping and Administrative Services, LLC and the Southern Colorado Economic Development District Navigator Program to further the Entrepreneur Development Program. This Ordinance will approve a Professional Services Agreement in the amount of $4,632.00 from Project No. CO2102 to cover such services.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the proposed Ordinance is not approved, the Pueblo Food Project will not be able to provide services for the Entrepreneur Development Program.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Agreement for Professional Services

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND ACCEPTING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, BOYD'S BOOKKEEPING AND ADMINISTRATION SERVICES, LLC, AND THE SOUTHERN COLORADO ECONOMIC DEVELOPMENT DISTRICT NAVIGATOR PILOT PROGRAM TO PURCHASE AND SETUP SOFTWARE FOR STUDENTS IN THE PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM FOR $4,632

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

SECTION 1.

The Agreement for Professional Services ("Agreement") between the City of Pueblo, a Colorado Municipal Corporation, Boyd's Bookkeeping and Administrative Services, LLC, and the Southern Colorado Economic Development District Navigator Program, supporting efforts of the Pueblo Food Project's Entrepreneur Development Program for a total of $4,632.00, 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 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. The City Clerk shall affix the Seal of the City thereto and attest same, as appropriate.

SECTION 3.

Payments made pursuant to the Agreement shall be made from Project No. CO2102.

SECTION 4.

The officers and staff of the City are hereby authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement 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

Southern Colorado Economic Development District
121 W. City Center Drive, Suite 200, Room 200B
Pueblo, CO 81003 | (719) 545-8680

April 8, 2022

Megan Moore
Pueblo Food Project c/o City of Pueblo
1 City Hall Place
Pueblo, CO 81003

Dear Megan,

Our gratitude for the opportunity to provide this Statement of Work on behalf of the Community Navigator Pilot Program (CNPP), a consortium convened under a two-year grant awarded by the U.S. Small Business Administration to the Southern Colorado Economic Development District (SCEDD).

The Navigator Program has allocated a portion of its financial services budget – an approximate total cost of $4,800 for the cohort – through its Boyd's Bookkeeping & Administrative Services, LLC provider in collaboration with, and support of, the Pueblo Food Project Startup Entrepreneur Development Program (SEDP). This Navigator Program provider's scope of service includes a total of five hours per entrepreneur client. This allocation of hours also includes a QuickBooks group training session, related one-on-one counseling, and at least one hour each to set up each business's online QuickBooks account.

Specifically, Boyd's Bookkeeping & Administrative Services, LLC will use the payment from the City of Pueblo on behalf of PFP to acquire a one-year subscription to QuickBooks Plus at a discounted professional rate, which ultimately reduced total cost by $3,400 for the 12-month subscription period. Therefore, the total cost of this one-year subscription for the group – $4,632 – is the only expense the City of Pueblo will incur under this collaboration between the PFP SEDP and the Navigator Program.

Please feel free to reach out to me should you have any additional questions.

Regards,

Jacqueline Armendariz Unzueta
Community Navigator Program Co-Director, Grant Agreement No. SBAHQ22CNP0048
Southern Colorado Economic Development District
121 West City Center Drive, Suite 200, Room 200B
Pueblo, CO 81003 | Office 719-545-8680 | Cell 385-350-3880

AGREEMENT
FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered this ___ day of _____, 2022 ("Effective Date"), by and between the City of Pueblo, a Colorado Municipal Corporation, (hereinafter referred to as "Client") and Boyd's Bookkeeping and Administrative Services, LLC ("Boyd's) with the Southern Colorado Economic Development District Navigator Program ("SCED"), both jointly and severally liable under this Agreement, (both hereinafter referred to together as "Consultant") for Consultant to render professional services for Client with respect to the Pueblo Food Project Startup Entrepreneur Development Program and related ancillary services, hereinafter referred to as the "Project". In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES.

(a) Consultant shall satisfactorily perform the professional consulting services for the Project described in more detail in *Schedule 1* attached hereto and incorporated herein by reference, including but not limited to the purchase of one-year QuickBooks Plus subscriptions for twelve (12) Project participants. Such services shall include all usual and customary professional consulting services in connection with Consultant's work on the Project.

(b) Consultant shall maintain prudent and accurate records of all transactions. The Consultant shall track all project activities. Client will not reimburse or otherwise pay for any of Consultant's transactions, as such costs are part of Consultant's business.

(c) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

(d) To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

SECTION 2. CONSULTANT'S RESPONSIBILITIES.

(a) Consultant shall be responsible for the professional quality, technical accuracy, and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including reports and other services, notwithstanding Client's initial acceptance of same.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; and Consultant hereby irrevocably waives and excuses Client and Client's attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute, whether now existing or hereafter enacted.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees, if any.

(d) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Statement of Work described in *Schedule 1* or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that Consultant believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Consultant shall not proceed with any out of scope or additional work until authorized in writing by Client. The compensation for such authorized work shall be negotiated. Unauthorized work shall not be compensated.

SECTION 3. FEES FOR SERVICES; PAYMENT.

(a) Client 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, the sum of U.S.

$4,632.00. Said sum shall be paid only to Boyd's following execution of this Agreement and within forty-five (45) days of invoice by Boyd's.

(b) Consultant shall submit periodically, but not more frequently than monthly, records of time worked and services rendered. Records shall contain appropriate documentation, if available, evidencing that such services have been performed. Consultant must submit a written request and obtain signed approval prior to completing any work beyond the scope of this agreement.

(c) No separate or additional payment shall be made for profit, overhead, telephone expenses, travel, lodging, routine photocopying, computer time, secretarial or clerical time, or similar expenses.

(d) No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(d).

(f) In the event services under this Agreement are phased and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

SECTION 4. CLIENT'S RESPONSIBILITIES.

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, data, and previous reports accessible to Client which Consultant may reasonably require.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of $5,000.00 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant, and render decisions pertaining thereto within a reasonable time. The Client's approval of any reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of fourteen (14) days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of forty-five (45) days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

SECTION 5. TERM AND TERMINATION.

(a) Term. The term of this Agreement begins on the Effective Date and will continue until such time as the Basic Services are completed, unless otherwise sooner terminated in accordance with this Agreement. Client reserves the right to extend the term of this Agreement in one-year increments by written acceptance of both parties.

(b) Fund Appropriation. 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 Client which may arise under this agreement in any fiscal year after the current 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. The termination of this Agreement due to lack of funding shall be without penalty to the Client.

(c) Client reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, 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.

(d) Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid the monthly rate on a pro-rated basis for all services rendered and reasonable costs incurred to date of termination, together with any reasonable costs incurred within ten (10) days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(e) 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 work, or to pay its employees and consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of: (a) the reasonable value of completed work to Client, or (b) payment at the monthly rate on a pro-rated basis for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

(f) Consultant's professional responsibility for its completed work and services shall survive any termination.

SECTION 6. SITE ACCESS.

In the event the Project will require access to property not under the control of Client, Consultant and Consultant's employees and consultants shall obtain all additional necessary approval and clearances required for access to such property. Client shall assist Consultant in obtaining access to such property at reasonable times but makes no warranty or representation whatsoever regarding access to such property. Notwithstanding the foregoing, Consultant understands and agrees that entry to some property by Consultant may be subject to compliance by Consultant with the terms and conditions of an access agreement in accordance with section 1(d) of this Agreement.

SECTION 7. EQUIPMENT AND SOFTWARE.

Consultant will not be provided with Client owned equipment ("Equipment"), such as computers or software, for Consultant's work on the Project. All equipment must be provided by Consultant and Consultant shall make no claim to any Equipment or other Client property provided under this Agreement. Consultant shall cooperate in all instances with Client to ensure compliance with Client's policies, including its information technology policies, and the protection of Client's data and systems.

SECTION 8. USE OF DOCUMENTS.

Data, plans, reports, and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client, and Client shall be vested with all rights therein of whatever kind or nature and however created, whether by common law, statute, or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, plans, reports and all other data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion, and (ii) in full compliance with the requirements of this Agreement and applicable regulations.

SECTION 9. INSURANCE AND INDEMNITY.

(a) Consultant agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it 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, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and from claims for damages for professional liability.

(b) Consultant agrees to hold harmless, defend, and indemnify Client from and against any liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors, and consultants.

SECTION 10. REQUIRED GRANT PROVISIONS

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided through State and Federal grants, including but not limited to the American Rescue Plan Act ("ARPA"). Consultant agrees it is subject to and shall comply with all applicable provisions of said grants, the Act under which the contract award has been made, and applicable regulations.

(b) Consultant shall comply with all applicable Federal, State, and local laws applicable to its activities.

(c) All records with respect to any matters covered by this Agreement shall be available for inspection by Client and the grant providers at any time during normal business hours and as often as Client and the grant providers deem necessary, to audit, examine, and make excerpts or transcripts of relevant information, and otherwise to perform official functions or duties.

SECTION 11. SUBCONTRACTS.

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client 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 Client, and Client shall be a third-party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

SECTION 12. MISCELLANEOUS.

(a) 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 Consultant or Client 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 Client, Attention: Nicholas A. Gradisar, Mayor, 1 City Hall Place, Pueblo, Colorado 81003; or to Consultant, Attention: Shauna Boyd, Boyd's Bookkeeping and Administrative Services, LLC, 526 S. Cond Drive, Pueblo West, Colorado, 81007. Either party may change its 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.

(b) Entire Agreement. This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of *Schedule 1* or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, gender orientation or age. Consultant shall endeavor to ensure that its employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, gender orientation or age.

(g) Severability. If any provision of this Agreement, except for Section 2, is determined to be directly contrary to and prohibited by law, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law, then this entire Agreement shall be void.

SECTION 13. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK.

(a) At or prior to the time for execution of this Agreement, Consultant shall submit to the Purchasing Agent of the Client its certification that it does not knowingly employ or contract with a "worker without authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker without Authorization"), who will perform work under this Agreement and that the Consultant will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Consultant shall not:

(i) Knowingly employ or contract with a Worker without Authorization to perform work under this Contract;

(ii) Enter into a contract with a subcontractor that fails to certify to Consultant that the subcontractor shall not knowingly employ or contract with a Worker without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Consultant shall have 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.

(ii) The Consultant is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Consultant obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker without Authorization to perform work under this Agreement, the Consultant shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the Client within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with a Worker without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker without Authorization; except that the Consultant shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker without Authorization.

(iv) The Consultant is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Consultant shall constitute a breach of contract and grounds for termination. In the event of such termination, the Consultant shall be liable for Client's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Consultant to violate any terms of participation in the E-Verify Program.

SECTION 14. PERA LIABILITY.

Consultant shall reimburse the Client 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 Client under this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as the Effective Date.

CITY OF PUEBLO,

A MUNICIPAL CORPORATION

By: _____
Nicholas A. Gradisar, Mayor

Attest: _____
City Clerk

[S E A L]

BOYD'S BOOKKEEPING AND ADMINISTRATIVE SERVICES, LLC

By: _____

Title: _____

SOUTHERN COLORADO ECONOMIC DEVELOPMENT DISTRICT NAVIGATOR PROGRAM

By: _____

Attest: _____

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

SCHEDULE 1
STATEMENT OF WORK

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE VACATING PORTIONS OF PLATTED STREETS AND ALLEYS OF SOUTH BRADFORD STREET, KELLY AVENUE, AND RIVER STREET

SUMMARY:

The Colorado Department of Transportation (CDOT) is requesting to vacate portions of the following unimproved public rights-of-way within the reconfigured right-of-way of Interstate 25: South Bradford Steet and adjacent alley to the west, both public rights-of-way are located south of City Center Drive and east of Interstate-25; East River Street located west of South Bradford Street and east of Interstate-25; and the present Kelly Avenue (Freeway Change Agreement, 10-30-1957) south of City Center Drive and east of Interstate-25.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

CDOT is requesting to vacate portions of the following platted streets and alleys contained within the new City Center and I-25 interchange as follows:

- South Bradford Street located east of I-25 and south of City Center Drive. The area of South Bradford Street is approximately 332 feet long and 80 feet wide, located in Kramer's Subdivision.
- Kelly Avenue is divided into two parts by platted East River Street. The south half of Kelly Avenue is approximately 32 feet wide and 509 feet long. The north half of Kelly Avenue is approximately 32 feet wide and 123 feet long.
- River Street was platted to connect Hector Garcia Place (which was previously River St) and East River Street before I-25 was constructed. River Street is located within the Baxter's, Amin Santa Fe, and Kramer's Subdivisions and is approximately 81 feet wide and 537 feet long.
- The last platted access being vacated is an alley located between the Kramer's and Baxter's Subdivisions. The platted alley is approximately 16 feet wide and 356 feet long.

The purpose of this expansive vacation request is to clear up previously platted roadways which are now part of the CDOT right-of-way for I-25. All the above-mentioned roads and alleys were only platted and were never built. CDOT is requesting the vacation to eliminate platted roads within their current right-of-way, adjacent to I-25. According to CDOT, the interstate was originally constructed prior to the vacation of the platted rights-of-way and there is no utility work planned in the area, no future roadways, and existing fencing will not be removed. When the Ilex and City Center interchanges to I-25 were realigned, CDOT agreed to complete this vacation process to eliminate these platted roads and alleys that are now currently within CDOT's right-of-way. All utilities have already been relocated and any remaining utilities with in the CDOT right-of-way are permitted.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 9, 2022, Regular Meeting, voted 7 - 0 to recommend approval.

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.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, the unimproved platted roads and alleys that are currently within CDOT's right-of-way would remain.

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:
Proposed Ordinance
Minutes of the Planning and Zoning Commission March 9, 2022 Public Hearing
Memorandum from the Department of Public Works Dated April 6, 2022
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. _____

AN ORDINANCE VACATING PORTIONS OF PLATTED STREETS AND ALLEYS OF SOUTH BRADFORD STREET, KELLY AVENUE, AND RIVER STREET

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

SECTION 1.

The following described streets and alleys :

CERTAIN STREETS TO BE VACATED
WITHIN BLOCKS 15, 16 AND 17, PLAN OF PUEBLO, MADE FOR THE PROBATE JUDGE OF
PUEBLO COUNTY,DATED 1869 AND
BLOCKS 4 AND 6, KELLY ADDITION
LOCATED IN SECTION 31, T-20-S R-64-W, 6TH PM PUEBLO COUNTY,CO

DESCRIPTION:
ALL OF PLATTED RIVER STREET ADJACENT TO BLOCKS 15, 16 AND 17,PLAN OF PUEBLO,MADE FOR THE PROBATE JUDGE OF PUEBLO COUNTY, DATED 1869.

AND

ALL OF PLATTED BRADFORD STREET ADJACENT TO BLOCKS 15 AND 16, PLAN OF PUEBLO, MADE FOR THE PROBATE JUDGE OF PUEBLO COUNTY, DATED 1859.
AND
ALL OF THE PLATTED ALLEY, BLOCK 15,PLAN OF PUEBLO,MADE FOR THE PROBATE JUDGE OF PUEBLO COUNTY,DATED 1859.

AND

ALL OF UNVACATED PRESENT KELLY AVENUE LOCATED IN THE Wl/2 OF SECTION 31, T-20-S R-64-W, 6TH PM.

RESERVATIONS: ALL OF VACATED RIVER STREET,BRADFORD STREET, KELLY AVENUE AND ALLEY IS RESERVED FOR USE BY UTILITIES PRESENTLY EXISTING IN SAID VACATED AREA. RESERVATIONS WILL TERMINATE UPON REMOVAL OF ALL EXISTING FACILITIES.

are hereby vacated.

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 be approved but shall not become effective until the final vacation plat is recorded in the office of the Pueblo County Clerk and Recorder. If the vacation plat is not recorded within one (1) year after of this Ordinance, or within any extended period granted by Ordinance 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 applicant. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

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_____

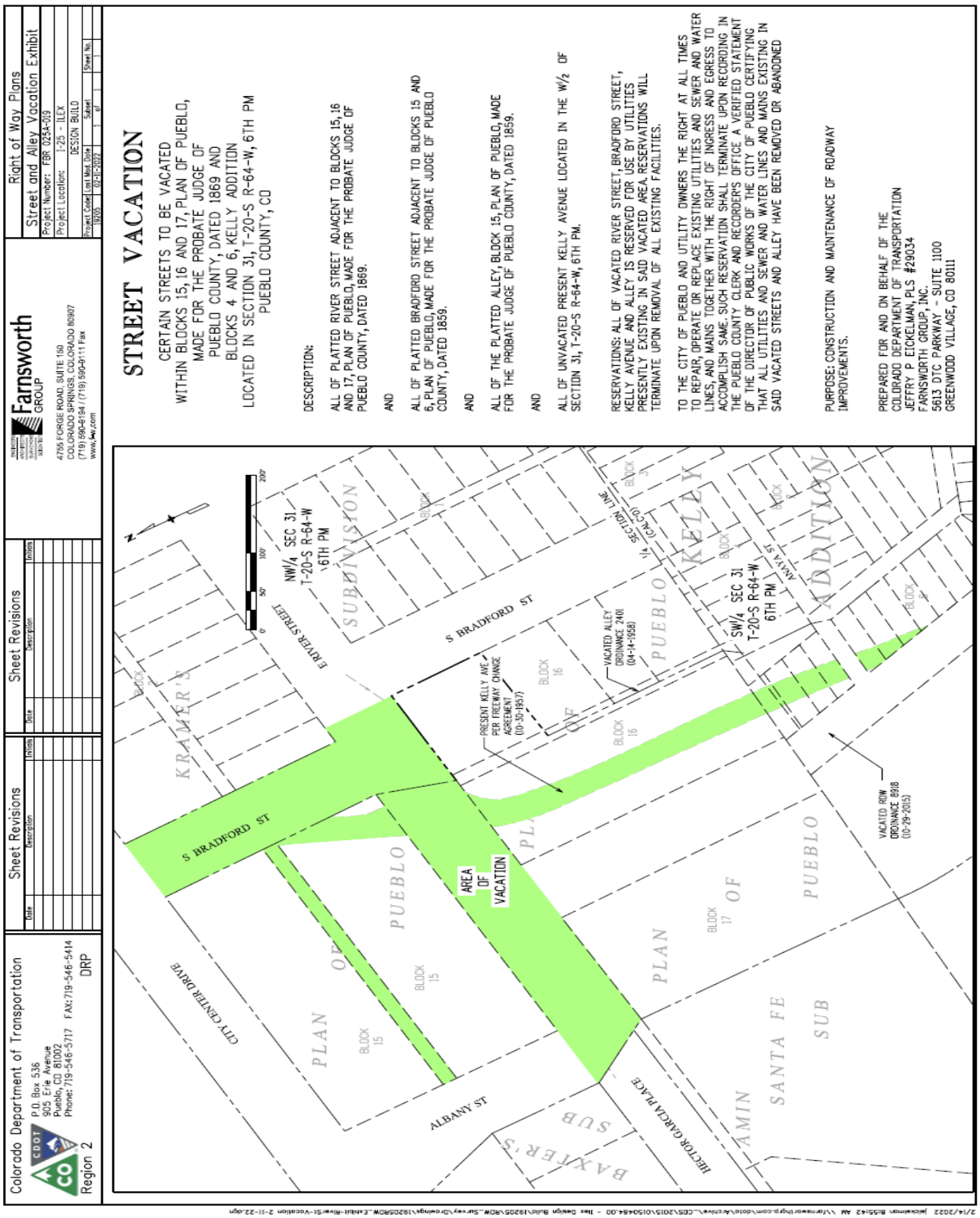
☐ Council action on _____failed to override the Mayor's veto.

_____
President of City Council

ATTESTED BY: _____

City Clerk

Vacation Plat



Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING
City of Pueblo, Colorado
Wednesday, March 9, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:38 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Alexandra Aznar, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: none

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner; Danielle Baxter, Planner; John Sakariason, Stormwater Coordinator; and Joe Martellaro, Associate Engineer II.

APPROVAL OF AGENDA

A Motion was made by Bailey to approve the agenda with changes to move V-21-03 & S-21-10 to April 13, 2022, hearing and move Z-21-16, V-21-04, and S-21-12 to March 23, 2022, hearing. Seconded by Aznar.

Motion passed 7-0.

1. **V-21-05: Street Vacation:** Vacate portions of the following unimproved public rights-of-way:

- S. Bradford Street and adjacent alley to the west, both public rights-of-way are located south of City Center Drive and east of Interstate-25
- E. River St, located west of S. Bradford Street and east of Interstate-25,
- The present Kelly Avenue (Freeway Change Agreement, 10-30-1957) south of City Center Drive and east of Interstate-25.

Staff report by Danielle Baxter.

Staff review and findings:

There are four areas of platted right of way being vacated in this request. The first street the applicant is requesting to be vacated is platted S. Bradford Street located east of I-25 and south of City Center Dr. The area of S. Bradford St is approximately 332 feet long and 80 feet wide, located in Kramer's Subdivision. The second street requesting to be vacated is platted Kelly Ave. Kelly Ave is noted in the freeway change agreement, 10-30-1957. The platted avenue is divided into two parts by platted E. River St, which is also being vacated. The south half of Kelly Ave is approximately 32 feet wide and 509 feet long. The north half of Kelly Ave is approximately 32 feet wide and 123 feet long. Separating Kelly Ave is the platted roadway of River St. River St. was platted to connect Hector Garcia Place (which was previously River St) and E. River Street, before I-25 was constructed. River St is located within the Baxter's, Amin Santa Fe, and Kramer's Subdivisions and is approximately 81 feet wide and 537 feet long. Finally, the last platted access being vacated is an alley located between the Kramer's and Baxter's Subdivisions. The platted alley is approximately 16 feet wide and 356 feet long.

The purpose of this expansive vacation request is to clear up previously platted roadways which are now part of the Colorado Department of Transportation right of way. All the above-mentioned roads and alleys were only platted and were never developed. CDOT is requesting the vacation to eliminate platted roads within their current right of way, adjacent to Interstate-25. Because this vacation is being requested after the development of the I-25 interchange there is no utility work planned in the area, no future roadways, and existing fencing will not be removed.

According to CDOT, the interstate was originally constructed over these platted roadways. When the Ilex and City Center interchanges to I-25 were realigned CDOT agreed to complete this vacation process to eliminate these platted roads that are now currently within CDOT's right of way. All utilities have already been relocated and any remaining utilities with in the CDOT right of way are permitted.

Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:
Staff recommends that the Vacation be APPROVED.

HEARING: Amber Billings (5615 Wills Blvd), CDOT, was sworn in via Zoom to speak on behalf of the application.

No one spoke in support of application.

Fred Barros (20004 Aspen Rose Dr, Weston, CO) was sworn in and spoke in opposition of the proposed vacation. Mr. Barros owns the property at 302 City Center Dr, which borders Bradford, and stated he was not aware of the vacation and wanted clarification from CDOT for the right of way. Mr. Barros is concerned if he is responsible for this new vacated property and continued utility access in the vacated roadways. No one else spoke in opposition to the application. Ms. Billings stated the project began in 2011 at the Ilex interchange and the City Center intersection was completed in 2018. Ms. Billings was working with the previous property owner at 302 City Center Dr around that time and the current fencing already shows the new property line for the adjacent property owner. The utilities within the proposed right of way are there via permits with the city and will not be moved. Ms. Odom confirmed that the vacated portion of the platted roadway is divided in half between property owners and suggested Mr. Barros contact Ms. Billings directly to work out the details.

MOTION: Motion to recommend approval of V-21-05 to City Council was made by Bailey, second by Aznar.

MOTION PASSED 7-0

city of PUEBLO colorado

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: V-21-05 Bradford Street Vacation

DATE: April 6, 2022

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

V-21-05

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Danielle Baxter, Planner
THROUGH:	Scott Hobson, Acting Planning and Community Development Director
DATE:	March 9, 2022
SUBJECT:	Vacate portions of platted S. Bradford St, adjacent platted River St, adjacent platted alley, and adjacent platted Kelly Ave.
APPLICANT:	Christina Thiebaut, CDOT
OWNER:	Colorado Department of Transportation
LOCATION:	Generally located south of E. City Center Dr.
CONCURRENT REQUESTS:	None

Request:
Vacate portions of the following unimproved public rights-of-way:

- S. Bradford Street and adjacent alley to the west, both public rights-of-way are located south of City Center Drive and east of Interstate-25
- E. River St, located west of S. Bradford Street and east of Interstate-25,
- The present Kelly Avenue (Freeway Change Agreement, 10-30-1957) south of City Center Drive and east of Interstate-25.

Staff review and findings:

There are four areas of platted right of way being vacated in this request. The first street the applicant is requesting to be vacated is platted S. Bradford Street located east of I-25 and south of City Center Dr. The area of S. Bradford St is approximately 332 feet long and 80 feet wide, located in Kramer's Subdivision. The second street requesting to be vacated is platted Kelly Ave. Kelly Ave is noted in the freeway change agreement, 10-30-1957. The platted avenue is divided into two parts by platted E. River St, which is also being vacated. The south half of Kelly Ave is approximately 32 feet wide and 509 feet long. The north half of Kelly Ave is approximately 32 feet wide and 123 feet long. Separating Kelly Ave is the platted roadway of River St. River St. was platted to connect Hector Garcia Place (which was previously River St) and E. River Street, before I-25 was constructed. River St is located within the Baxter's, Amin Santa Fe, and Kramer's Subdivisions and is approximately 81 feet wide and 537 feet long. Finally, the last platted access being vacated is an alley located between the Kramer's and Baxter's Subdivisions. The platted alley is approximately 16 feet wide and 356 feet long.

The purpose of this expansive vacation request is to clear up previously platted roadways which are now part of the Colorado Department of Transportation right of way. All the above-mentioned roads and alleys were only platted and were never developed. CDOT is requesting the vacation to eliminate platted roads within

their current right of way, adjacent to Interstate-25. Because this vacation is being requested after the development of the I-25 interchange there is no utility work planned in the area, no future roadways, and existing fencing will not be removed.

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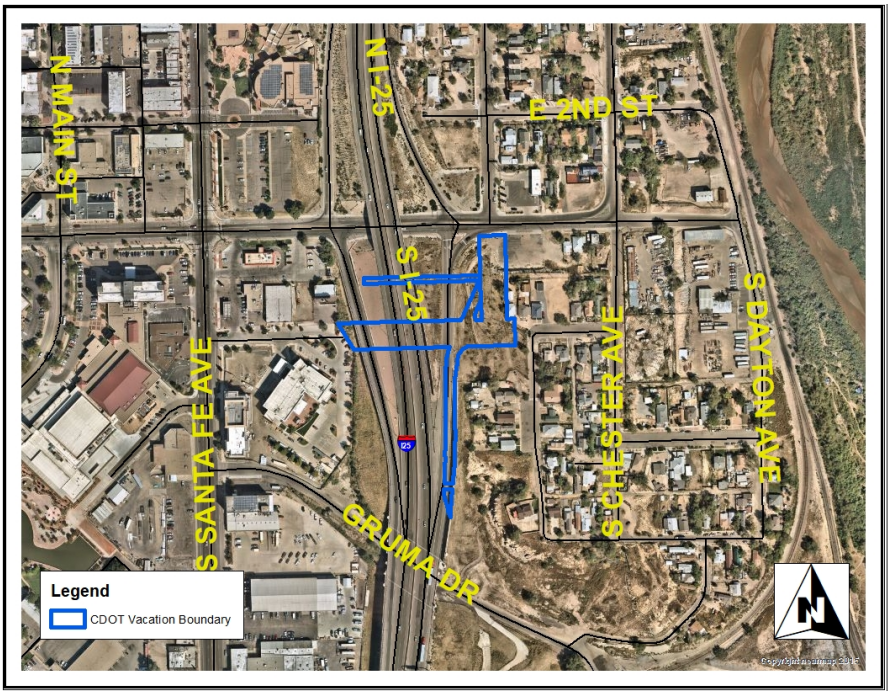
Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:
Staff recommends that the Vacation be APPROVED.

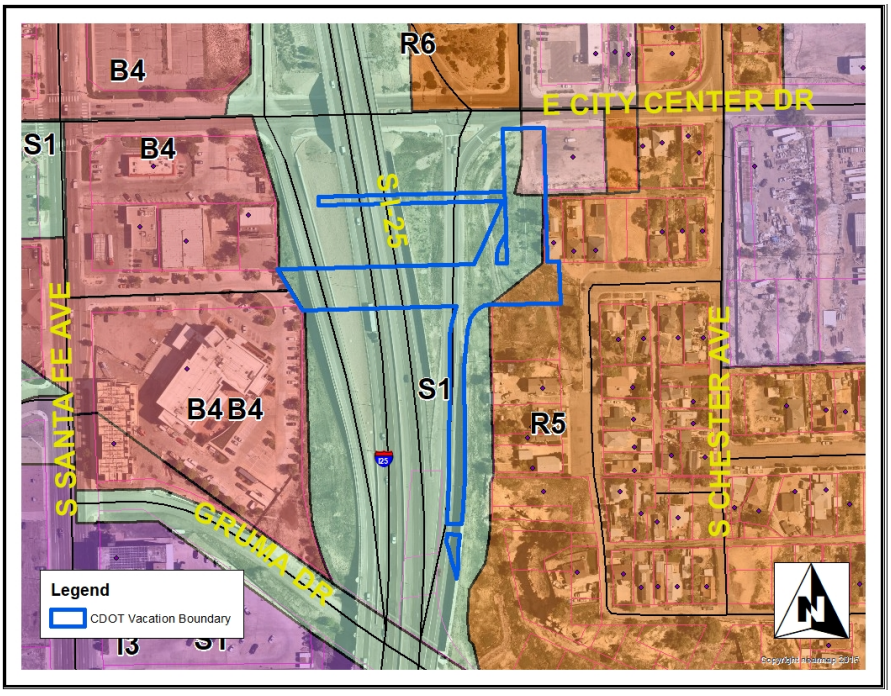
ATTACHMENTS:

A. Aerial Map
B. Zoning Map
C. Site Photographs
D. Vacation Plat
E. Vacation Application

ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map

Attachment C. Site Photos





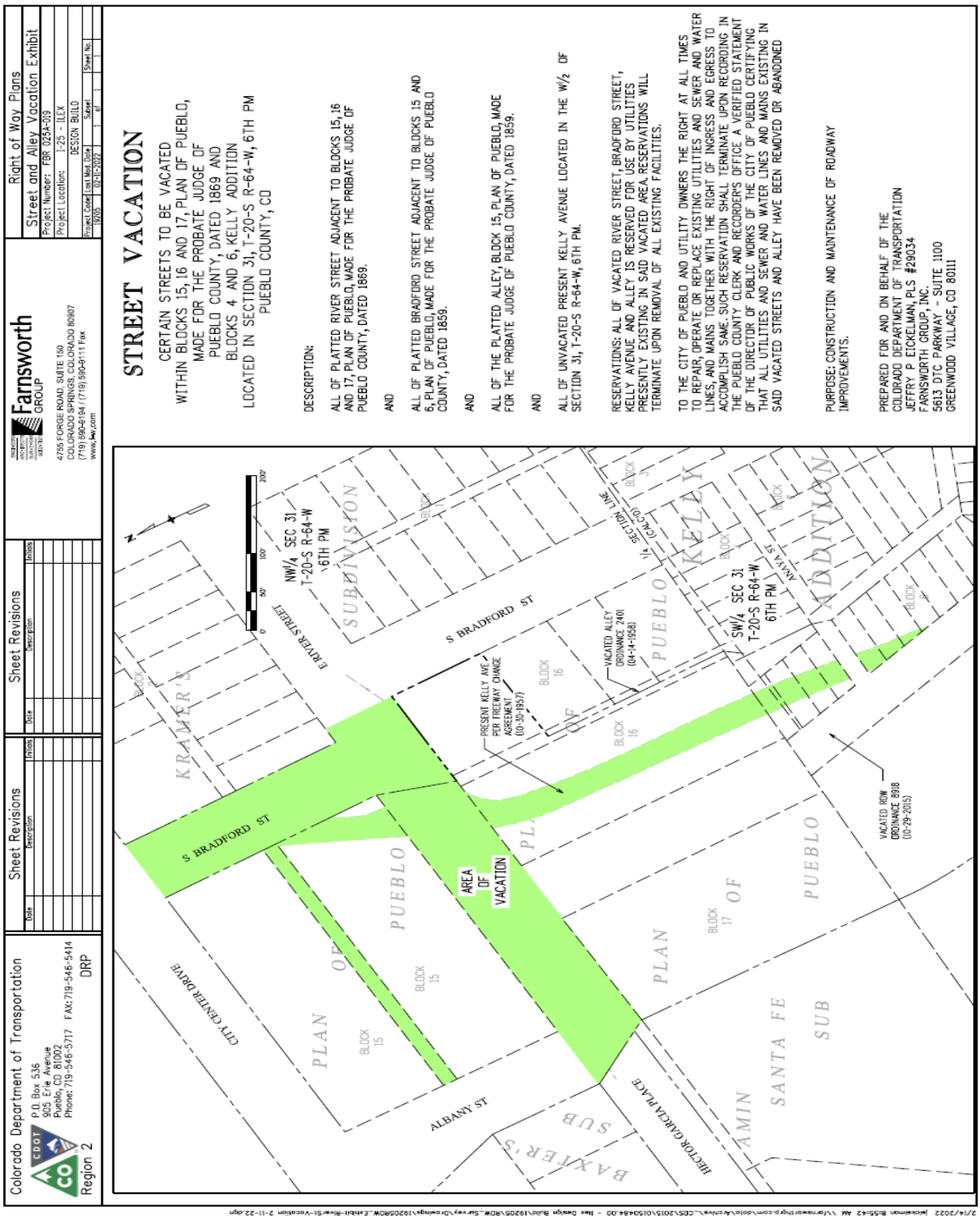






Public Notice Poster

Attachment D: Vacation Plat



Attachment E: Vacation Applications

city of **PUEBLO** colorado

Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Planning & Zoning Application

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Name:	Name:
Company CDOT	Company: CDOT
Address: 5615 Wills Blvd, Pueblo, Colorado Zip: 81008	Address: 5615 Wills Blvd. Pueblo, CO Zip: 81008
Phone: (719) 546-5412	Phone: 719 546-5412
Email: Christina.thiebaut@State.Co.us	Email: Christina.thiebaut@State.co.us
Name: Jennifer Sparks	Name: Jeffrey Eickelman
Company: CDOT	Company: Farnsworth (Group)
Address: 5615 Wills Blvd Pueblo, Colorado Zip: 81008	Address: 5775 Mark Dabling Blvd #190, Zip: 80919
Phone: (719) 546-5753	Phone: 719-510-9494 Colo. Colorado
Email: jennifer.sparks@State.co.us	Email: jeickelman@f-w.com

The applicant will be the primary contact unless otherwise noted.

Project Location: (address or general description) Bradford St. South of City Center Dr.

Parcel No(s): N/A

Existing Zone: N/A | Proposed Zone (if applicable):

PUD Name (if applicable):

Project Name: Bradford Street Vacation

- ☐ Rearrangement of Property Boundaries:
  - # of existing lots: _____ Total acres: _____
- ☐ Overall Development Plan
- ☐ Site Plan Review: Building area: _____ sf
  - ○ HARP ○ Development Plan ○ PUD ○ Student Housing
- ☐ Special Area Plan
- ☐ Street Name Change: Existing Name: _____ Proposed Name: _____
- ☐ Subdivision: # of lots: _____ Total acres: _____
- ☐ Text Amendment
- ☒ Vacation: ● Street ○ Alley ○ Easement ○ Other: _____
- ☐ Other: _____

(Continue Next Page)

(Continued from previous page)

Provide a brief description of the proposed request:
Street Vacation of S. Bradford St., adjacent platted River St., adjacent platted alley, and adjacent Kelly Ave.

What is the total acreage included in the project?

What is the proposed use of the property?

☐ Commercial ☐ Multi-family ☐ Residential ☐ Industrial ☒ Other

Are there any other pending or recently approved Land Use applications regarding this property? ☐ Yes ☒ No

If yes, please list:

The following list of attachments are required to accompany all applications:

- ☒ A. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted.
- ☐ B. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us)
- ☐ C. Additional information as required by the **P&Z Submittal Requirements Sheet.**

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.
2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.
5. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.

Print Name:	Colorado Department of Transportation	
Signature:		Date: 12/13/2021
Print Name:		
Signature:		Date:

Application checked for completeness by:	Date:	Fee Paid:

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Christina Thiebaut** for the approval of the following application(s):

V-21-05 South Bradford Street Vacation (South of E City Center Drive) Vacate platted S. Bradford St, adjacent platted River St, adjacent platted alley, and adjacent platted Kelly Ave.

The Planning and Zoning Commission meeting will be held on March 9, 2022, at 3:30 p.m., by Zoom: Meeting ID:927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston) or in-person at 1 City Hall Pl (3rd Floor City Council Chambers). 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 contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Danielle Baxter, Planner
(719) 553-2241

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Scott Hobson, Director
Planning & Community Development
Danielle Baxter, Planner
(719) 553-2241

CASE NUMBER V-21-05

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the Street Vacation: S. Bradford Avenue south of E. City Center Drive to be sent to the attached list of owners of the property lying within hundred (300) feet of the said property on which the vacation 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.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the S. Bradford Avenue south of E. City Center Drive, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Own	OwnerZip
RAIGOZA FERNANDO P	109 N CHESTER AVE	PUEBLO	CO	81003-3331
COLORADO CITY HOLDINGS LLC	11307 BELL CROSS CIR	PARKER	CO	80138-8766
GUEST SERVICE CORPORATION	115 E 8TH ST	PUEBLO	CO	81003-4101
GIANNETTO PHILLIP SAMUEL + GIANNETT	1232 LONGWOOD AVE	PUEBLO	CO	81004-1043
AMERICAN G I FORUM INC	125 HECTOR GARCIA PL	PUEBLO	CO	81003-4211
URENDA PETE + AKA URENDA ALBERT PE	15854 E 10TH PL	AURORA	CO	80011-7307
DIONESE TONY/DIONESE JOHN/GEONETT	1620 BUNKER HILL RD	PUEBLO	CO	81001-2008
HIGHLINE RENTALS INC	1660 CHAMBERS RD	AURORA	CO	80011-4624
KEN MCFARLAND PROPERTIES INC	175 S BRYANT ST	DENVER	CO	80219-2144
QUINTANILLA PENA LUIS MIGUEL	1890 SE 47TH AVE	DENVER	CO	80249
BAROS FRED	20004 ASPEN ROSE DR	WESTON	CO	81091-7709
PUEBLO COUNTY C/O BUDGET OFFICE	215 W 10TH ST STE 217	PUEBLO	CO	81003-2935
MEDINA TERESA INEZ/MEDINA ROBERT/	216 S CHESTER AVE	PUEBLO	CO	81003-3347
BACINO KATHRYN EDNA + BACINO TONY T	218 S BRADFORD AVE	PUEBLO	CO	81003-3328
MOSSBERGER TIMOTHY	218 S CHESTER AVE	PUEBLO	CO	81003-3334
CARLINO JESSICA LYNN	219 S BRADFORD AVE	PUEBLO	CO	81003-3327
LUEVANO SABAG DALAL	224 S BRADFORD AVE	PUEBLO	CO	81003-3328
GIANNETTO ANGIE	225 S BRADFORD AVE	PUEBLO	CO	81003-3327
BERNAL PATRICK A	2402 N GREENWOOD ST	PUEBLO	CO	81003-3648
HAYES MICHAEL J + GEONETTA ANGELA M	2705 COLUMBINE AVE	PUEBLO	CO	81004-3626
MERCADO MIGUEL	2834 LAKE AVE	PUEBLO	CO	81004-3831
C D B HOLDINGS #301 LLC	3005 DRAKESTONE DR	COLORADC	CO	80909-1356
GALLEGOS FRANK / MAEZ CINDY	302 E 2ND ST	PUEBLO	CO	81003-3305
MINI MART INC	302 W 3RD ST FL 3	CINCINNAT	OH	45202-3437
FARRAND PATRICK BRIAN	312 E 2ND ST	PUEBLO	CO	81003-3305
DI MARCO ROBERT J/DI MARCO MELISS	313 E RIVER ST	PUEBLO	CO	81003-3358
MATA PATRICIA COLLEEN	314 E 2ND ST	PUEBLO	CO	81003-3305
PHILIPPATOS CRITO	314 E RIVER ST	PUEBLO	CO	81003-3359
LOPEZ MARY ANN/LOPEZ PEDRO	315 S BRADFORD AVE	PUEBLO	CO	81003-3329
CATALANO ANTHONY LEE	316 E RIVER ST	PUEBLO	CO	81003-3359
MCDONALD ANA ELIZABETH	317 E RIVER ST	PUEBLO	CO	81003-3358
BLEAKNEY JUNE L	319 E BEECH ST	PUEBLO	CO	81003-3319
VIGIL RICHARD R	320 E 2ND ST	PUEBLO	CO	81003-3305
HED DONNA	329 E RIVER ST	PUEBLO	CO	81003-3358
GARCIA EMILIO ESQUIVEL	36170 E US HWY 50	PUEBLO	CO	81006-9411
BISHOP BRUCE L TR/BISHOP JENNIFER	368 S CAMINO DE LOS RANCHO	PUEBLO W	CO	81007-4048
MICELI GARY R/MICELI JENNY M	39 S GOLFVIEW DR	PUEBLO W	CO	81007-1809
COLORADO DEPARTMENT OF TRANSPORT/	4201 E ARKANSAS AVE	DENVER	CO	80222-3406
AVKE INC	4308 ST ANDREWS DR	PUEBLO	CO	81001-1165
BLAZER LEASING LLC	435 ARGYLE AVE	PUEBLO	CO	81004-1012
MODLIN WALTER DANIEL/MODLIN DIANE	46 DRAKE ST	PUEBLO	CO	81005-1602
GATTO MARIANNA	5060 LOS FELIZ BLVD	LOS ANGEL	CA	90027-1741
LATINO JOSEPH A/LATINO FRANK C	54 DUNDEE LN	PUEBLO	CO	81001-1728
GEONETTA SAM A/GEONETTA SAMUEL J	604 N VERBENA DR	PUEBLO W	CO	81007-6221
BORUNDA HENRY	7 BONNYMEDE RD APT 1	PUEBLO	CO	81001-1558
CARLINO JESSICA LYNN	8000 E GIRARD AVE APT 701	DENVER	CO	80231-4407

CRANK ANGELA C/CRANK KENNETH	92 MARIAN DR	PUEBLO	CO	81004-1047
KHAN ORION LLC	PO BOX 11160	PUEBLO	CO	81001-0160
CITY OF PUEBLO A MUNICIPAL CORPORAT	PO BOX 1427	PUEBLO	CO	81002-1427
HOPE REAL ESTATE ENTERPRISES LLC	PO BOX 21	LOUISVILLE	CO	80027-0021
M E J 4 C PRPOPERTIES LLC + JORDAN DAF	PO BOX 8477	PUEBLO	CO	81008-8477
E + W INVESTMENT LLC + C/O WALTER LIN	PO BOX 849	COLORADC	CO	80901-0849

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SOFTWARE AND CONSULTING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND RESOURCE EXPLORATION, INC., A DELAWARE CORPORATION, TO ADVISE THE CITY OF PUEBLO REGARDING PRIORITY BASED BUDGETING MATTERS

SUMMARY:

The attached ordinance approves and authorizes the Mayor to sign a software and consulting agreement with Resource Exploration, Inc. ("ResourceX") to implement a Priority Based Budgeting process in preparing the City's 2023 budget.

PREVIOUS COUNCIL ACTION:

Not applicable to this ordinance.

BACKGROUND:

Priority Based Budgeting helps local governments make data-driven decisions to ensure effective resource allocation that is aligned with the priorities of the community. The Mayor and City Council must continually juggle multiple issues of immediate importance, resource scarcity and organizational constraints. ResourceX will provide the software and advice necessary for the City to implement Program Centric Outcome Budgeting when preparing the 2023 City budget.

FINANCIAL IMPLICATIONS:

The attached agreement specifies that ResourceX's software and consulting services will be available to the City from 06/01/22 to 05/31/23. The annual program fee of $30,000 will be paid using American Rescue Plan Act funds. Thereafter, the agreement can be renewed annually for a reduced fee of $25,000 per year.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this ordinance.

STAKEHOLDER PROCESS:

Not applicable to this ordinance.

ALTERNATIVES:

If City Council does not approve this Ordinance, ResourceX will not be retained.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Proposed Software and Consulting Agreement

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A SOFTWARE AND CONSULTING AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND RESOURCE EXPLORATION, INC., A DELAWARE CORPORATION, TO ADVISE THE CITY OF PUEBLO REGARDING PRIORITY BASED BUDGETING MATTERS

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

SECTION 1.

The Software and Consulting Agreement ("Agreement") between the City of Pueblo, a Colorado municipal corporation and Resource Exploration, Inc., a Delaware corporation, dated May 9, 2022, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

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 3.

This Ordinance shall become effective immediately upon 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

Software and Consulting Agreement

Document Overview:

I. Agreement Summary and Contact Information
II. Scope of Work
III. Contract Terms, Setup, Renewal Period and Signatures
IV. Appendix A: End User License Agreement

I. Agreement Summary, Contact Information, and ResourceX Specialists

BASIC INFORMATION	
Organization name:	**City of Pueblo, CO**
Project Lead:	Laura Solano, Chief of Staff to the Mayor's Office
Telephone number/email:	lsolano@pueblo.us
Start Date:	June 2022
Year 1 Completion Date:	May 2023
Total Project Cost Year 1:	$ 30,000.00
Subsequent Annual Renewal Cost:	$ 25,000.00
Customer Success Representative:	Santina Reichow, sreichow@resourcex.net
ResourceX VP of Client Success:	Eric Keck, ekeck@resourcex.net

II. Scope of Work

CHOOSE FROM SEVERAL IMPLEMENTATION OPTIONS + BUNDLE YOUR SOFTWARE

WHICH PBB IMPLEMENTATION IS RIGHT FOR YOU?

	A. Project Preparation		Program Budgeting	Full PBB	PBB Budgeter
☑	Virtual Project Kick-off	Free w/ Project	X	X	X

	B. Support and Training		Program Budgeting	Full PBB	PBB Budgeter
☑	***30-hr Package of Training**** Project implementation meetings, user training webinars, and implementation support	$10K	X	X	X
	Additional Package of On-going Support Project implementation meetings, user training webinars, and implementation support	$	X	X	X
☑	***Access to Bi-Weekly Q&A Sessions & Help Center*** Open Q&A Sessions and On-Demand Help Center with overview and how-to reference videos	Free w/ Project	X	X	X

	C. Software Tools**		Program Budgeting	Full PBB	PBB Budgeter
	Online Program Budgeting + PBB Budgeter Module	$	X		X
☑	Online Priority Based Budgeting + PBB Budgeter Module	$ 15K		X	X
	Facilitated Insight Workshops	$	X	X	

	D. Additional Software Applications		Program Budgeting	Full PBB	PBB Budgeter
☑	ARPA Proposal Development + Prioritization Software Module	$ 5K			

	E. Optional Consulting Engagements		Program Budgeting	Full PBB	PBB Budgeter
	On-site Visit for Staff, Council, Citizens (per day)	$	X	X	X
	Advanced Consulting: Developing Insight Implementation Plans	TBD***	X	X	

* 30 hours of support is recommended for full PBB implementation. Additional support packages available.
** Ongoing annual software renewal rates are documented in Section III
*** Advanced consulting quotes may be developed for your organization upon request.

III. Contract Terms, Setup, Renewal Period and Signatures

COST SUMMARY	
Implementation Set-up Total – Breakdown described in section II	$ 30,000.00
Software Renewal Rate – Fixed for 3 renewals	$ 25,000.00
Subscription Period – Reoccurring annually	June 1st to May 31st
Initial Invoice Amount – Software + one-time set up.	$ 30,000.00
Initial Invoice Date – Due net 30 Days	June 1, 2022
Renewal Invoice Amount	$ 25,000.00
Renewal Invoice Dates – Due net 30 Days	May 1st 2023 May 1st 2024 May 1st 2025

Initial Setup & Ongoing Management: Initial implementation can be divided into two parts, the setup and ongoing management. Both efforts are detailed below.

ResourceX Obligations

As part of the setup, ResourceX will:

A. Discuss the project scope and overall plan;
B. Assist with the creation of the project charter;
C. Upload annual budget and personnel data to the online tools;
D. Provision users in the online tools;
E. Provide standardized community results and definitions (with opportunity to customize).

As part of ongoing management, ResourceX will provide training and software support in the development of the following deliverables:

A. Creating program inventories;
B. Allocating costs to programs;
C. Scoring programs against results and definitions;
D. Peer reviewing program scores;
E. Validating costs and scores;
F. Insight Workshops;
G. PBB Budgeter training and support
H. ARPA training and support

Implementation Steps

Launch Phase	Task	Description
Preparation	Planning Session	Discuss project scope and create a Project Charter
Preparation	Super User 101	Introduction to PBB and the online tools for Super Users
Preparation	Super User Tool Setup	Cost template creation and BPA/Result confirmation
Preparation	PBB 101	Introduction to PBB and the online tools for Department Users
Preparation	Peer Review Team Selection Discussion	Discuss the creation of Peer Review teams
Preparation	Insight or Budgeter Workshop Planning Session	Discuss the scope of the Insight or Budgeter Workshop
Data Creation	**Program Inventory**	**Introduction to Program Inventory**
Data Creation	**Program Cost Allocation**	**Introduction to Program Cost Allocation**
Data Creation	**Program Scoring & Peer Review**	**Introduction to Program Scoring**
Post Launch	**Next Steps**	**Learn easy ways to analyze the data**
Post Launch	**Insights Workshop**	**Create, Clarify and Confirm Program Insights**
Post Launch	**Budgeter Workshop**	**Create Budget Requests in Online PBB**
Post Launch	**Post-Implementation: Check-In**	**Meet with RX to discuss project retrospective (4Ls)**

Client Requirements

Client agrees to the following terms for delivery and review of materials.

A. Client shall complete the ResourceX Project Charter.
B. Client shall provide budget and personnel data for the implemented fiscal year.
C. Client shall provide a list of employees that will need access to the online tools.
D. Client shall commit to adhering to mutually agreed upon implementation schedule.

Communications

Client agrees the communication is to be via email. If the Client wishes to engage via Zoom meeting, the Client should send an email to ResourceX stating that you would like to schedule a Zoom meeting and ResourceX will work with the Client to arrange a time. ResourceX typically responds to email within 24 hours excluding weekends and standard public holidays.

Annual Renewal Terms: Annual renewal rate of $25,000.00 will be set for 3 years. Each year an invoice will be sent March 1st (first renewal invoice scheduled for 2023) for continued access to the Online Priority Based Budgeting tools. Either party may terminate this agreement, at any time, with a minimum of a written 30-day notice (with the ability to re-subscribe again at any time, subject to the current subscription rates at that time).

THIS AGREEMENT is made and effective as of **May 9*, 2022***, between ***City of Pueblo, Colorado and Resource Exploration, Inc.*** The parties agree as follows:

Resource Exploration, Inc.	**City of Pueblo, CO**
_____ Date: May 9, 2022	_____ Date: May 9, 2022
By: Chris Fabian Co-Founder	By: Nicholas A. Gradisar Mayor

*Note - Treasury released their final rules regarding eligible use of ARP funds late last year. This new guidance provides additional opportunities for local governments to use American Rescue Plan dollars on building the capacity to use data better and implement evidence-based strategies. Which includes, among other things, investing in Priority (Outcomes) Based Budgeting and/or ARPA support leveraging ARP dollars.

"These resources include but are not limited to data gathering, data cleaning, data analysis, data infrastructure, data management, data sharing, data transparency, performance management, *outcomes-based budgeting*, outcomes-based procurement, and other data needs." (p. 188)

Appendix A

End User License Agreement

IV. Appendix A: End User License Agreement

ONLINEPBB® LICENSE AND HOSTING AGREEMENT

IMPORTANT - BY UTILIZING ONLINEPBB SOFTWARE, YOU ARE ACCEPTING THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THE FOLLOWING CAREFULLY BEFORE PROCEEDING.

This Agreement is a legal agreement between you (City of Pueblo, Colorado) and Resource Exploration, Inc, the licensor of OnlinePBB software and associated on-line documentation that you access using this internet website (together referred in this Agreement as "OnlinePBB").

I. OnlinePBB License. Subject to the terms of this Agreement, Resource Exploration, Inc, grants you a non-exclusive, non-transferable license to access OnlinePBB remotely via browser on the server used by Resource Exploration, Inc, to operate this website (the "Server") solely for purposes of creating and maintaining on the Server any interactive website developed using this website and with respect to which all required fees payable under this Agreement have been paid by you (each, a "Website").

2. Restrictions. You may not download or otherwise copy all or any portion of OnlinePBB software. You may not sell, rent, license, lend, transfer or otherwise grant access to OnlinePBB to any other person or entity except as contemplated by the license granted to you above. You must comply with all applicable laws and regulations in your use of OnlinePBB. You may not modify, translate, reverse engineer, decompile disassemble or otherwise attempt to obtain or derive source code from all or any portion of OnlinePBB.

3. Proprietary Rights. Resource Exploration, Inc, and its supplier's reserve all rights to OnlinePBB not expressly granted in this Agreement. Resource Exploration, Inc and its suppliers own OnlinePBB and all associated patent, copyright, trade secrets and other proprietary rights in OnlinePBB. No title or ownership of OnlinePBB or any associated proprietary rights are transferred to you or any other person by this Agreement.

4. Disclosure and Ownership of Data. a.) All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by your organization or at its expense, will be kept confidential

by Resource Exploration, Inc and will not be disclosed to any other party without your organization's prior written consent. b.) The materials used by Resource Exploration, Inc for work performed under this Agreement are specific and unique methods of fiscal management and budget prioritization. As such, these materials are protected by copyright. You agree and understands that these materials and all methods, models and applications resulting from the use of said materials are the sole, complete and absolute property of Resource Exploration, Inc. As such, any use, future use or application or any publication (either oral or written) of these materials by your organization will be at the discretion of Resource Exploration, Inc and in any event will not occur without the express and prior written permission of Resource Exploration, Inc. All legal rights and protections afforded by copyright and Resource Exploration, Inc's ownership of all the underlying intellectual property associated with these fiscal management and budget prioritization materials are retained and reserved exclusively by Resource Exploration, Inc, reserving all legal rights and remedies incident to its ownership of these materials. It is understood that your organization may utilize these methods, models and applications for their own specific use but are not free to share these methods, models and applications with other individuals or entities. Nothing herein precludes disclosures required by law.

5. U.S. Government Restricted Rights. If OnlinePBB is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that (i) OnlinePBB and accompanying materials constitute "commercial computer software" or "commercial computer software documentation" for purposes of 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-3, as applicable, and (ii) the U.S. Government's rights relating to OnlinePBB and accompanying materials are limited to those specifically granted in this Agreement.

6. Data - Data Security. The OnlinePBB web-application provides data security via SSL encryption, and is accessed via https - this protects and secures the client's data from outside the organization, protecting the client and ResourceX. Additionally, data is protected within the client's organization by way of individual user accounts and user passwords, and varying levels of permission and access, to give the client control over data accessibility.

7. Data - Data Storage. The OnlinePBB web-application utilizes Amazon Web Services (AWS) for best-in-class data storage.

8. Data - Data Protection/backups. Resource Exploration performs complete back-ups of all OnlinePBB data at a frequency of once per night.

9. Service Availability - Disaster recovery/business continuity. To support the organization in the case of disaster, Resource Exploration performs complete back- ups of all OnlinePBB data at a frequency of once per night. The organization may also download their own data files on a more frequent basis, in order to perform complete data restoration - restoring from any point in time, from previously saved data, completely in control of the City. Data files are stored in DropBox, as well as Resource Exploration headquarters to provide additional redundancy.

10. Service Levels - System Availability / performance. The OnlinePBB web- application is provided and available 24 hours per day, 7 days per week. Resource Exploration reserves the right to perform regularly scheduled updates and maintenance, during which time the organization may experience brief periods of downtime for server restarts to make updates available. Scheduled updates take place after 6pm EST Monday-Friday, and the organization will be made aware ahead of schedule, to the greatest extent possible. It should be noted that Resource Exploration reserves the right to restart the web server at any time, but will provide the organization as much advanced awareness as possible. Resource Exploration uses all reasonable business means to ensure the application is available for the organization's use.

11. Insurance - Vendor insurance and liability. Resource Exploration agrees to procure and maintain in force during the term of this Agreement, at its own cost, cyber insurance coverage.

12. Mutual Indemnification - From third party claims. Each party will indemnify and hold harmless the other party from any and all claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by the other party's negligence, breach of warranty or contract or wrongful conduct.

13. Independent Contractors. The parties agree that Resource Exploration, Inc, is an independent contractor as that term is commonly used and Resource Exploration, Inc's employees are not and shall not be considered subcontractors or employees of the City and has no authority to bind the City in any manner. Contractor shall be solely responsible for the withholding and reporting of all federal, state, and local income and employment taxes. Contractor acknowledges that it is not insured in any manner through the City for any bodily injury, personal injury, or property loss whatsoever.

14. Limitation of Liability. Except for indemnification and those matters required

to be insured pursuant to this Addendum, neither party shall be liable to the other, or any of their respective agents, representatives, or employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise.

15. Liability Insurance. Resource Exploration, Inc, shall obtain and maintain in full force and effect during the entire term of this agreement a policy of comprehensive general liability insurance, including an acknowledgement of and coverage for the indemnity provision of this Addendum, with limits of liability of not less than $1 million and workers disability compensation insurance in compliance with Colorado's statutory limits, and shall provide a certificate of insurance to the City naming the City as a certificate holder, which certificate shall provide that the City shall receive at least 30 days prior written notice of cancellation or nonrenewal of such insurance. Said insurance shall cover any claims arising out of, occurring during, or accruing during the term of this agreement and shall survive the term and termination of this agreement and shall be primary without right of contribution against the City.

16. Non-Assignment. The parties agree that there shall be no authority on the part of Resource Exploration, Inc, to subcontract, assign, or otherwise dispose of any portion of the services to be performed herein without the prior written approval of the City. In the event that the City approves a subcontract, assignment, or disposition, Resource Exploration, Inc, solely shall be responsible for managing, directing, and paying the subcontractors or assignees, and the City shall have no obligations whatsoever toward said subcontractors or assignees. Consent to subcontract, assign, or otherwise dispose of any portion of this Agreement shall not be construed to relieve Contractor of any responsibility for the fulfillment of this Agreement.

17. Remedies. The Parties acknowledge that the Proprietary Information exchanged is valuable and unique and that disclosure in breach of this Agreement will result in irreparable injury to the adversely affected Party, for which monetary damages, on their own, would be inadequate. Accordingly, the Parties agree the adversely affected Party shall have the right to seek an immediate injunction enjoining any such breach or threatened breach of the Agreement.

18. Handling of Disputes. The Parties agree that any dispute regarding this Agreement, and any claim made by Client for return of monies paid to ResourceX, shall be handled in accordance with applicable State and Federal laws.

19. Severability. If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, the remaining provisions of this Agreement shall remain in full force and effect.

20. Interpretation and Enforcement. The parties understand and agree that the construction and interpretation of this Agreement is governed by the laws of the State of Colorado. In the event that either party must initiate legal action to enforce this Agreement, the Parties agree that the proper venue for such action shall be the courts of the State of Colorado.

21. Completeness of Agreement. This Agreement constitutes the entire agreement between your organization and Resource Exploration regarding OnlinePBB, the hosting of the Website and your use of the website. Resource Exploration will not be bound by any provision in any purchase order, receipt, acceptance, confirmation, correspondence or otherwise unless Resource Exploration specifically agrees in writing to such provision.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Michael Miller, Assistant City Attorney

SUBJECT: AN ORDINANCE AMENDING THE STANDARD FORM PARKLET USE AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR QUALIFYING BUSINESSES

SUMMARY:

Attached for consideration is the amended Parklet Use Agreement, which defines requirements for Qualifying Businesses and removes the "emergency" qualifications previously required for Parklet usage while further adding a fee structure. The definition of "Qualified Business" was also changed therein to include non-emergency applicants.

PREVIOUS COUNCIL ACTION:

City Council previously approved (an Emergency) Ordinance No. 9825 for purposes of local business compliance with Public Health measures related to COVID-19.

BACKGROUND:

The prior Ordinance required an Outdoor Liquor License and Revocable Permit as a condition of the Parklet Program and Use Agreement and further allowed for a waiver of costs for Parklet usage for Qualifying Businesses. The funds used to secure the Parklets were procured through the City's Corona Virus Relief Fund, CVRF – CI2010, the CARES ACT grant fund.

FINANCIAL IMPLICATIONS:

Approximately 20 Parklets remain available for use. Qualifying Businesses shall pay the City an annual parklet rental fee of $400.00 ($5.00 per square foot) of each parklet rented.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If the Ordinance is not passed, the City will need to remove and dispose of the Parklets currently in use.

RECOMMENDATION:

Staff recommends approval of this Ordinance.

Attachments:
Proposed Ordinance
Proposed Parklet Use Agreement

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE STANDARD FORM PARKLET USE AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR QUALIFYING BUSINESSES

WHEREAS, the City owns portable event patios ("Parklets") and during the COVID-19 pandemic emergency, created a program to make the Parklets available for the use and benefit of restaurants and bars located in the City; and

WHEREAS, the COVID-19 emergency declarations have since expired; and

WHEREAS Qualified Businesses using the Parklets have requested permission to continue to do so; NOW, THEREFORE,

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

SECTION 1.

The standard form Parklet Use Amendment ("Agreement"), a copy of which is attached hereto and having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute said Agreement by and between a Qualifying Business and the City and the City Clerk is authorized to affix the seal of the City thereto and attest the 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 _____.

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

PARKLET(S) USE AGREEMENT

This Parklet(s) Use Agreement ("Agreement") is made and entered into this _____ day of _____, 20__, by and between _____ (hereinafter referred to as "Permittee") and the City of Pueblo, a Municipal Corporation, (hereinafter referred to as "City"). Permittee and City are sometimes each referred to as a "Party" and collectively "Parties."

WHEREAS, City has obtained portable event patios ("Parklets") which are available for use in outdoor service areas of bars and restaurants located in the City; and

WHEREAS, Permittee has applied for use of the Parklets and would not otherwise have an outdoor service area if parklet(s) were not provided by City; and

WHEREAS, City is willing to provide the Parklets for use of the Permittee subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein, City and Permittee agree as follows:

1. Permittee may use and the City shall provide the following Parklet(s) for the purpose of Permittee operating an outdoor service area subject to all the terms and conditions of this Agreement:

_____.

2. The provision and use of the Parklet(s) will be conditioned upon Permittee obtaining and maintaining a sidewalk café permit and related revocable permit, if necessary, as well as any necessary liquor license modifications, from the City for an area approved by City ("Permitted Area").

3. Permittee shall keep Parklet(s) and Permitted Area in good, clean and safe condition and repair, free from graffiti, litter, waste and debris. Permittee shall comply at all times with all applicable codes, ordinances, rules and regulations of City and this Agreement. Permittee shall strictly comply with the following requirements:

(a) No amplified, excessive or unusually loud noise, or a noise which is unreasonable and objectionable because it is impulsive, continuous, rhythmic, periodic or shrill shall be allowed within the Permitted Area.

(b) No utility connections shall be installed on the Parklet(s) or Permitted Area. Utility connections shall not include string lights approved by City.

(c) Permittee shall not place or permit any hazardous materials in or about the Parklet(s) or Permitted Area.

4. Permittee shall be responsible for and liable to the City for any damage to the Parklet(s) during any period of time the Parklet(s) has been provided to Permittee. The City shall at all times have the right to enter the Permitted Area to inspect, improve, maintain, alter or utilize the Permitted Area in any manner authorized to the City. In the exercise of its rights pursuant to this Agreement, Permittee shall avoid any damage or interference with any City installations, structures, utilities, or improvements on, under, or adjacent to the Permitted Area.

5. Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Parklet(s) in amounts not less than $500,000.00 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.

6. 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 rights and obligations of Permittee under this Agreement or the conditions hereof, or the existence, installation or maintenance of the Parklet(s) in the Permitted Area, or the use of the Permitted Area or Parklet(s) by Permittee, its officers, agents, employees, invitees or general public.

7. Permittee acknowledges that its use hereunder is of the Parklet(s) in its present, as-is condition with all faults, whether patent or latent, and without warranties or covenants, express or implied.

8. The City is relying on and does not waive or intend to waive by any provision of this Agreement the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. §24-10-101 et seq., as from time to time amended, or otherwise available to the City, and its officers and employees.

9. The City may in its sole and absolute discretion and at any time terminate this Agreement. Upon termination, Permittee shall immediately deliver up to City the Parklet(s) in as good a condition as when Permittee took possession, excepting only ordinary wear and tear, and the City shall have the right to take immediate possession of and remove the Parklet(s).

10. 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:

(a) If to Permittee, at the following address

_____

(b) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Mayor with a copy to City Attorney at the same address.

11. Waiver by the City of any breach of any term of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term or provision thereof.

12. This Agreement is personal to the parties hereto. Permittee shall not transfer or assign any rights hereunder without the prior written approval of the City, which approval shall be at the City's sole option and discretion.

13. This Agreement is the entire agreement between the City and Permittee and may be amended only by written instrument subsequently executed by the City and Permittee. The undersigned signatory of Permittee represents that he or she has been duly authorized to execute this Agreement on behalf of Permittee and has full power and authority to bind Permittee to the terms and conditions hereof.

14. All of the terms and conditions of this Agreement concerning release, indemnification, termination, remedies and liability shall survive termination of this Agreement.

15. The Parties expressly agree 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. The Parties expressly intend that any person other than the Parties who receives services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

16. Upon execution of this Agreement, Permittee shall pay City, in advance, an annual parklet rental fee equal to $5.00 per square foot of each parklet rented. On the succeeding anniversary dates of this Agreement, Permittee shall pay City, in advance, an annual parklet rental fee equal to $5.00 per square foot of each parklet rented.

17. In the event of any litigation arising under this Agreement, 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.

18. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

19. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

20. In consideration of City entering into the Agreement, Permittee waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

21. This Agreement 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.

Executed at Pueblo, Colorado, the day and year first above written.

PERMITTEE

By_____

Name:_____

Title:_____

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By_____
Mayor

ATTEST:

_____
City Clerk

City Clerk's Office Item # Q-1

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: April 25, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

CC: Mayor Nicholas A. Gradisar

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT OF FUNDS IN THE AMOUNT OF SEVENTEEN THOUSAND DOLLARS ($17,000) TO THE FIRE DEPARTMENT OF THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, FOR THE FIRE FIT KIDS PROJECT, TO BE PAID FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, AS AUTHORIZED BY SECTION 603 (a) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution authorizes the payment of $17,000 in American Rescue Plan Act ("ARPA") funds to the Fire Fit Kids Project of the City's Fire Department.:

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

Under the U.S. Treasury's Final Rule pertaining to ARPA, recipients of may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency, including expenses related to childhood health and welfare, including physical fitness and wellness.

FINANCIAL IMPLICATIONS:

$17,000 in ARPA funds are being authorized for payment.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to support or fund the Fire Fit Kids project.

RECOMMENDATION:

Approval of the Resolution

Attachments:
Proposed Resolution

RESOLUTION NO. 14869

A RESOLUTION AUTHORIZING PAYMENT OF FUNDS IN THE AMOUNT OF SEVENTEEN THOUSAND DOLLARS ($17,000) TO THE FIRE DEPARTMENT OF THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, FOR THE FIRE FIT KIDS PROJECT, TO BE PAID FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, AS AUTHORIZED BY SECTION 603 (a) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

RECITALS

The following recitals are incorporated in and made a part of this Resolution:

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, under the U.S. Treasury's Final Rule pertaining to ARPA, recipients of may use CLFRF funds to support childhood health and welfare, including physical fitness and wellness; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

(a) Funds in the amount of Seventeen Thousand Dollars ($17,000) are hereby authorized for payment from Project No. CI-2113 – American Rescue Plan Act, to City of Pueblo's Fire Department (hereinafter "Subrecipient") for purposes of purchasing equipment, apparatuses and other items of personal property to be used by children participating in the Fire Fit Kids Project of the City's Fire Department.

(b) Subrecipient shall file with the City's Director of Finance written requests for payment, including invoices, identifying the specific equipment, apparatus and other item of personal property for which payment is sought.

(c) The term of the Project shall be from May 1, 2022 to December 31, 2022.

SECTION 2.

(a) The City will pay to Subrecipient an amount up to that specified in this Resolution as full compensation for all services and work to be performed or undertaken by Subrecipient under this Resolution. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has or will expend funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Resolution nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) Upon expiration of the term of the Project approved by this Resolution or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

SECTION 3.

(a) For Cause: This Project may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient.

(b) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City.

SECTION 4.

This Project shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

SECTION 5.

The Subrecipient certifies and warrants that neither it nor any of its officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Project, nor has an interest in any contract, subcontract with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

SECTION 6.

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Project, for making an audit or examination. Upon completion of the work and end of the term of this Project, the City may require copies of all Subrecipient's financial records relating to a Project to be turned over to City.

SECTION 7.

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of a Project are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

SECTION 8.

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Project, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of a Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

SECTION 9.

Upon expiration of the term of a Project, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

SECTION 10.

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 11.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # R-1

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

CC: Mayor Nicholas A. Gradisar

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN NINE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) FRIENDLY HARBOR, A COLORADO NONPROFIT CORPORATION; (2) THE PUEBLO CHILD ADVOCACY CENTER, INC., A COLORADO NONPROFIT CORPORATION; (3) THE PUEBLO RESCUE MISSION, A COLORADO NONPROFIT CORPORATION; (4) PUEBLO DIVERSIFIED INDUSTRIES, INC., A COLORADO NONPROFIT CORPORATION; (5) THE YWCA OF PUEBLO, A COLORADO NONPROFIT CORPORATION; (6) THE SOUTHEASTERN COLORADO AREA HEALTH EDUCATION CENTER FOR RURAL COLORADO'S HEALTH, INC., A COLORADO NONPROFIT CORPORATION; (7) THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, A COLORADO URBAN RENEWAL AUTHORITY; (8) PUEBLO COMMUNITY COLLEGE, A COLORADO COMMUNITY COLLEGE, FOR (A) THE INNOVATIVE AND INTERACTIVE ENTREPRENEURIAL EDUCATION OF PUEBLO, COLORADO'S YOUTH PROJECT THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER AND THE SOUTHERN COLORADO INNOVATIVE LINK; AND (B) THE FEMALE FOUNDER PROJECT, THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER, AS AUTHORIZED BY SECTION 603 (c)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED SEVENTY-FOUR THOUSAND SEVEN HUNDRED TWENTY-EIGHT DOLLARS ($674,728) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign nine Subrecipient Agreements with local entities to implement 9 local projects, as authorized by Section 603(c)(1)(A) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Funds for the 9 projects, in the amount of $674,728.00, will be paid out of Project No. CI2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The attached Ordinance awards ARPA funds for the following nine local projects:

	Organization	Project	Amount of Award
1	Friendly Harbor	Peer Support Specialists	$ 75,000.00
2	Pueblo Child Advocacy Center	Child Abuse Prevention Training	3,706.00
3	Pueblo Diversified Industries	Three 7-8 passenger vehicles	155,390.00
4	Pueblo Rescue Mission	Homeless Shelter	107,963.00
5	SE Colo Health Education Center	Pueblo Back on Track Health Program	66,669.00
6	Pueblo YWCA	Child Care Center	154,000.00
7	Pueblo Urban Renewal	Upgrades to Audio/Visual Equipment to Make the Convention Center COVID-19 Adaptable	38,000.00
8	Pueblo Community College	Youth Entrepreneur Education	49,000.00
9	Pueblo Community College	Female Founder Program	25,000.00
	Total		$ 674,728.00

FINANCIAL IMPLICATIONS:

Nine local entities will receive $674,728.00 in ARPA funds from Project No.CI2113.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support or fund the nine local projects.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Nine proposed Subrecipient Agreements

ORDINANCE NO. 10156

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN NINE SUBRECIPIENT AGREEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND (1) FRIENDLY HARBOR, A COLORADO NONPROFIT CORPORATION; (2) THE PUEBLO CHILD ADVOCACY CENTER, INC., A COLORADO NONPROFIT CORPORATION; (3) THE PUEBLO RESCUE MISSION, A COLORADO NONPROFIT CORPORATION; (4) PUEBLO DIVERSIFIED INDUSTRIES, INC., A COLORADO NONPROFIT CORPORATION; (5) THE YWCA OF PUEBLO, A COLORADO NONPROFIT CORPORATION; (6) THE SOUTHEASTERN COLORADO AREA HEALTH EDUCATION CENTER FOR RURAL COLORADO'S HEALTH, INC., A COLORADO NONPROFIT CORPORATION; (7) THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO, A COLORADO URBAN RENEWAL AUTHORITY; (8) PUEBLO COMMUNITY COLLEGE, A COLORADO COMMUNITY COLLEGE, FOR (A) THE INNOVATIVE AND INTERACTIVE ENTREPRENEURIAL EDUCATION OF PUEBLO, COLORADO'S YOUTH PROJECT THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER AND THE SOUTHERN COLORADO INNOVATIVE LINK; AND (B) THE FEMALE FOUNDER PROJECT, THROUGH THE SOUTHERN COLORADO SMALL BUSINESS DEVELOPMENT CENTER, AS AUTHORIZED BY SECTION 603 (c)(1)(A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF SIX HUNDRED SEVENTY-FOUR THOUSAND SEVEN HUNDRED TWENTY-EIGHT DOLLARS ($674,728) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

RECITALS

The following recitals are incorporated in and made a part of this Ordinance.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under ARPA Section 603 (c)(1)(A) and the Final Rule 31 CFR 35.6 recipients may use Coronavirus Local Fiscal Recovery ("CLFR") Funds to award grants to nonprofit organizations that are responding to the negative economic impacts of the COVID-19 public health emergency; and

WHEREAS, under ARPA Section 603 (c)(1)(A) and the Final Rule 31 CFR 35.6 the City may use CLFR Funds to the implement the nine programs described in the nine attached Subrecipient Agreements; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

The following nine Subrecipient Agreements ("Agreements") between and the City of Pueblo, a Colorado municipal corporation and the following entities, dated April 25, 2022, attached hereto, having been approved as to form by the City Attorney, are hereby approved:

	Organization	Project	Amount of Award
1	Friendly Harbor	Peer Support Specialists	$ 75,000.00
2	Pueblo Child Advocacy Center	Child Abuse Prevention Training	3,706.00
3	Pueblo Diversified Industries	Three 7-8 passenger vehicles	155,390.00
4	Pueblo Rescue Mission	Homeless Shelter	107,963.00
5	SE Colo Health Education Center	Pueblo Back on Track Health Program	66,669.00
6	Pueblo YWCA	Child Care Center	154,000.00
7	Pueblo Urban Renewal	Upgrades to Audio/Visual Equipment to Make Convention Center COVID-19 Adaptable	38,000.00
8	Pueblo Community College	Youth Entrepreneur Education	49,000.00
9	Pueblo Community College	Female Founder Program	$ 25,000.00
	Total		$ 674,728.00

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.

SECTION 3.

Funds in the amount of $674,728.00 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of funding the nine projects described in the Agreements.

SECTION 4.

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 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Friendly Harbor, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "Friendly Harbor." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to hire two new Peer Support Specialists and move two current part-time Peer Support Specialists to full- time status (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Mental health issues and Substance Use Disorders have accelerated sharply during the pandemic. An initial report (mental-health-substance-use-effects-covid-pandemic-srb.pdf) issued in May, 2021 by the Substance Abuse and Mental Health Services Administration (SAMHSA) a division of the U.S. Department of Health and Human Services, estimated issues ranging from stress, anxiety, and depression to serious substance abuse and suicidal ideation had increased by as much as 28%. That was in May, 2021. Current data show these trends now in the high 30% ranges or more. Nationwide, efforts to create access points for resources to combat this pandemic-related issue are ramping up. Peer Support is among those efforts and is having an impact locally.

(b) Friendly Harbor is seeking support funds to increase staffing at its Peer Support Specialist level. Specifically, Subrecipient is looking to engage more significantly with Veterans Court, Behavioral Health Treatment Court and Parkview Health Systems. Subrecipient currently engages with and receives many referrals but is not always able to connect with those who are referred as productively as it would like. Increased staffing would give Subrecipient the means to do this. In addition, Subrecipient aims to step-up its outreach efforts and host additional group support sessions. There are a multitude of opportunities for support groups with assisted living facilities and group homes, along with CMHIP via the Colorado Office of Behavioral Health.

(c) Outreach opportunities are abundant through community events and direct engagement with other organizations and access points. Subrecipient simply needs to increase its staffing – both by hiring new staff and moving current staff to full time positions.

(d) Friendly Harbor Community Center opened its doors in 1996 in Pueblo, offering a place for adults recovering from a mental illness and substance use disorders to congregate, feel safe, and connect with others who struggle with similar life experiences. Subrecipient continues this service today. Friendly Harbor has also become a valued asset to the Pueblo community, providing support groups and opportunities for those it serves to engage in healthy social activities and foster strong connections with professional providers and community agencies. Subrecipient is the only organization in Pueblo County that employs Peer Specialists who provide support services independent of a treatment facility.

(e) Friendly Harbor was one of the very first peer-run support organizations in Colorado and has been recognized state-wide for its specifically trained Peer Specialists. Peer Specialists have been shown to significantly improve the outcomes of those working on recovery from a mental illness or substance use conditions. Peer Specialists are individuals in recovery from mental illness or substance use disorder (i.e. have “lived experience”) who have been specially trained to help others in their recovery. Extensive research has resulted in both the Substance Abuse and Mental Health Services Agency (SAMSHA) and the Centers for Medicaid and Medicare Services (CMS) designating peer support services to be an evidence-based model of care.

(f) Using trained Peer Specialists has demonstrated significant benefits for City residents with mental illness and substance use disorders along with their families. There are greater symptom improvements, decreased hospitalizations, decreased use of emergency rooms, increased employment and improved quality of life. Pueblo DHS Mentor2Success Program with Dependency and Neglect Shelter Court, Safe Baby Court, Veterans Court, Mental Health Advocacy with NAMI, Pueblo Rescue Mission, Pueblo Community Health Center, Probation Department, and Colorado Mental Health Institute – Pueblo are among organizations to which Subrecipient offers its services

(g) In September of 2016, Subrecipient purchased 2713 North Grand Avenue in the Northside neighborhood of the City. This property is on the Colorado Historic Registry as the Lincoln Home, an orphanage created for children of color who were not welcome in Pueblo's other orphanages. Later this building served as the Martin Luther King Jr. Museum from 1993 – 2015. Continuing the tradition of using this building for disadvantaged and underserved populations, Subrecipient reopened the doors on November 14, 2016 to serve those with a mental illness and substance use disorders along with their families. This new property doubled Subrecipient's interior space and upgraded Subrecipient's location from a run-down rental in an area where night-time police calls were routine, to a beautiful, airy, historic house in a very pleasant neighborhood. The new facility has also tripled Subrecipient's outdoor space, providing the opportunity to develop a community garden and outdoor classrooms.

(h) Unlike other agencies that work with the mentally ill, Friendly Harbor receives no ongoing state or federal funding which means that funds from grants, donations and in-kind help from volunteers will determine Friendly Harbor's future.

(i) Pueblo faces the perfect storm of mental illness and substance use challenges and COVID has amplified these issues. In Pueblo the adult mental health hospitalizations rate is 50% higher than for the state of Colorado as a whole. Hospitalizations for adult suicide attempts is 89% higher in Pueblo than for the rest of the state. An ARPA grant will allow Friendly Harbor to expand services to address more of this population, particularly now that COVID has increased needs so dramatically.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Seventy-Five Thousand Dollars (U.S. $75,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient

further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

FRIENDLY HARBOR
A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

FRIENDLY HARBOR'S SCOPE OF SERVICES

B. Principal Tasks

The components of Friendly Harbor's work plan under this Agreement shall be as follows:

1. During the term of the Project, Subrecipient's Peer Support Specialists, with assistance from Subrecipient's administrative staff, shall work with clients to help manage their finances, provide transportation options, participate in community projects and access resources and treatment options. Subrecipient shall provide outreach to encourage clients to attend support groups. Subrecipient shall also provide education to families and other supporters to help them better understand and support the Subrecipient's clients.

2. Peer Specialists shall offer assistance to clients in finding employment or returning to school or connecting with other community services. In addition, Peer Specialists shall provide emotional and practical support to those who visit Subrecipient's center. During the term of the Project, Subrecipient shall welcome all adults with mental health or substance use conditions, their supporters, their family and community organizations to its facility.

3. Subrecipient's performance shall be evaluated by using an outcome-based approach. Client outcomes will be measured via Subrecipient's Data Collection Questionnaire completed at baseline and annually thereafter and anecdotal reports by clients and partner organizations to Subrecipient's Peer Specialist staff. Subrecipient has created its own in-house data collection questionnaire. Subrecipient shall track mental and physical wellness defined by: self-reported increase in quality of life (0-5 scale), employment, school attendance, registration with a behavioral health treatment provider, registration with a physical health provider, adherence to prescribed medication and development of a healthy, sober support system through attendance and participation frequency at the Subrecipient's facility and a decrease in self-harm ideation and actions, emergency room visits, and use of illegal substances. During the term of the Project, Subrecipient shall also continue using the Quality of Life scale that is widely used in the nursing field. This evaluative mechanism looks at E.R. usage, hospitalization, adherence to medication, employment, school, and illegal substance and alcohol use. In addition, Subrecipient shall track

the increase in client registrations and outcomes when new staffing is implemented under this Agreement.

C. Budget

The Project budget is straightforward. Friendly Harbor is awarded $75,000 to hire two new Peer Support Specialists and move two current part-time Peer Support Specialists to full- time status. The average annual salary for a full-time Peer Support Specialist is approximately $25,000. Subrecipient currently has one volunteer Peer Support Specialist who is certified and will become a full-time, paid employee. Subrecipient estimates that the second position could be filled within 60 days based on its current candidate pool. Subrecipient currently has two part-time Peer Support Specialists who are interested in becoming full-time. This could be accomplished at a cost of $25,000 over the course of a year. During the Project term, Subrecipient shall withhold and pay all required employer payroll taxes and fees including workers compensation and unemployment insurance.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A genera

l ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Pueblo Child Advocacy Center, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "PCAC." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds in connection with child abuse prevention training (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) The COVID-19 pandemic turned many Puebloans' lives and businesses upside down. Many children suffered at home when their caregivers were under extreme

stress when they were outside the view of watchful eyes and ears at school, at church, and other places where people are trained to identify signs of abuse.

(b) Children who experience abuse and/or neglect are more likely to have developmental delays and impaired language or cognitive skills; to be identified as "problem" children (with attention difficulties or challenging behaviors); to be arrested for delinquency, adult criminality, and violent criminal behavior; experience depression, anxiety, or other mental health problems as adults; engage in more health-risk behaviors as adults and have poorer health outcomes as adults.

(c) Due in large part to the pandemic, child abuse increased dramatically in Pueblo County during the last 18 months – more than 30%. The severity of child abuse has also increased to the extent that emergency departments, not teachers, are now the primary source of referrals. Concurrently, aunts and uncles are seeing more bruises and burns that are unmistakable evidence that something is wrong. Neighbors, now spending more time at home, are observing patterns of neglect or hearing evidence of domestic violence and know children are witnessing it - but they are unsure how and when to report their suspicions. In all these cases, there has clearly already been a history of abuse and third-party involvement is, simply, too late.

(d) ARPA funding for Subrecipient's Child Abuse and Prevention and Treatment Project will provide the necessary financial resources for carrying out the program authorized under section 106 of the Child Abuse Prevention and Treatment Act ("CAPTA") (42 U.S.C. 5106a). CAPTA's purpose is to provide a multitude of services and supports to provide comprehensive support for parents and children and to prevent and treat child abuse and neglect.

(e) Aligned with the purpose of CAPTA, the Pueblo Child Advocacy Center has a single focus for preventing and responding to child abuse and neglect. Subrecipient's mission: "to provide prevention education and a safe environment for the investigation of child abuse." PCAC provides vital support to families, including coordination and connection with mental health, substance use, and domestic violence services, among others.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Three Thousand Seven Hundred Six Dollars (U.S. $3,706.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient

further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

PUEBLO CHILD ADVOCACY CENTER
A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____
Signature

Name_____

Title_____

By Jennifer Chavez
Signature

Name Jennifer Chavez

Title Executive Director

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

PCAC'S SCOPE OF SERVICES

B. Principal Tasks

The components of PCAC's work plan under this Agreement shall be as follows:

1. Subrecipient shall provide outreach and training services, using in-person, virtual or hybrid formats, to educate the public about child abuse recognition and prevention. Participants in PCAC's training sessions will learn:

- prevalence and consequences of child sexual abuse;
- situations that create the risk for abuse;
- behaviors and grooming techniques practiced by perpetrators;
- practical strategies for protecting children from sexual abuse;
- recognizing the signs of sexual abuse in children;
- how to intervene and react responsibly if warning signs appear or abuse is disclosed

2. Outreach and training will be delivered through trauma-sensitive approaches and programs by promoting trauma-informed care individually and collectively. A variety of audiences will be targeted for training/presentations:

- Business leaders, so that they can recognize that supporting families and children will lead to economic growth.
- Policymakers, so that they can reduce the hurdles faced by families who need support and resources.
- Faith communities, so that they can open up their spaces for parent and youth activities.
- Educators, so that they can be more attuned to noticing if something seems wrong with a student and follow-up appropriately.
- Community members, so that they can pay closer attention to relatives, friends and neighbors and help with the social isolation some parents may experience.
- Small stipends in the form of grocery or gas gift cards will be given to the community members who participate. Data supports that this is a proven method of increasing the participation of those that need it the most.

3. PCAC staff (already immersed in child abuse prevention and treatment education) will

repurpose some of their time (approximately 0.05 FTE between them) to creating a master slide deck in several categories. Staff will work with multidisciplinary professionals in social work, mental health and the legal system to create meaningful presentation materials for a variety of audiences.

4. PCAC staff (part of the 0.05 FTE dedicated to outreach and training) will contact prospective participants for scheduling.

- Every staff member will be trained to make presentations so that each module has the benefit of interaction/Q&A.
- The Board of Directors will play a role in scheduling presentations with businesses and their worship centers.
- Subrecipient shall schedule presentations in collaboration with Pueblo City School District 60 and Pueblo Rural School District 70 with relevant trainings for mandatory reporters.

5. Subrecipient shall use best reasonable efforts to schedule not less than 370 (unduplicated) Pueblo County community members to receive one or more of these trainings during the Project term.

6. Subrecipient's performance shall be assessed according to the following criteria:

a. Outputs:
   - Increased number of reports to law enforcement by people other than mandatory reporters.

b. Immediate outcomes:
   - Participants will learn how and when to report child abuse.
   - Abused children will get immediate remediation.

c. Intermediate outcomes:
   - Parents will learn behaviors that help prevent child abuse and neglect and improve their ability to cope with stress.
   - Child abuse incidents will be reduced.

d. Long-term outcomes:
   - Positive childhood experiences in nurturing environments provide fertile ground for physical and mental health, learning and social skills to flourish.
   - Child abuse in Pueblo County will be put on a path toward eradication.

7. All education/training will be provided at no cost to participants.

C. Budget

During the term of the Project, Subrecipient shall be guided by the following budget:

Description	Amount
Printing/Other Media of presentation materials and pre-/post-tests	$ 500.00
Mileage (100 miles at $0.56)	56.00
Staffing (0.05 FTE for development/delivery)	2,150.00
Stipends to community member participants (direct to 50 community members @$20ea)	1,000.00
Total	$ 3,706.00

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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 ✓.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed April 5, 2022.

By: Jennifer Chavez
Name: Jennifer Chavez
Title: Executive Director

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Pueblo Rescue Mission, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "PRM." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to provide assistance and services to the City's homeless population (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Subrecipient Pueblo Rescue Mission ("PRM") is the only agency in Pueblo County providing shelter services for unaccompanied adult men and women over the age of 18, who are experiencing homelessness. PRM has demonstrated its ability to deliver services to Pueblo's adult population experiencing homelessness. From December 15, 2018 through April 30, 2019, PRM entered into a contract with the City of Pueblo to operate an emergency warming shelter which provided 10,235 shelter nights to 578 unduplicated individuals. During this same time, 31 clients of PRM moved into some form of an independent living environment (suitable housing).

(b) Following the acquisition of a $1.3M renovation grant from the Colorado Department of Local Affairs, PRM opened its permanent home at 728 W. 4th Street on January 30, 2020. In addition to providing food and shelter to residents in its facility, PRM offers outreach to an average of 42 homeless individuals living in camps and on the streets of Pueblo. PRM also provides a weekly clothing bank that serves 60 individuals per week.

(c) Before COVID-19's arrival in the City of Pueblo in March, 2020, PRM operated only during overnight hours, opening in the evening, serving a meal, and then closing early morning the following day. Subrecipient's mission was to provide overnight sheltering. Daytime hours of operation were limited and were used for case management and clients utilizing PRM's counseling services.

(d) Since Mid-March, 2020, PRM has adjusted its services to accommodate a 24/7 format; housing sheltered and unsheltered homeless men and women all day and all night, keeping them inside the shelter and safe, serving 3 meals each day to the homeless, in addition to serving a separate evening community meal, all the while maintaining the CDC's rules of social distancing

(e) Since March, 2020, Subrecipient has experienced a tremendous strain on its budget brought about by the additional staffing costs required to implement stay-at-home, safer-at-home orders and extended hours, escalated costs associated with serving more people and additional expenses related to the implementation of required public health mandates.

(f) Subrecipient's services have minimized the risks to public health and safety in the midst of a pandemic by giving people experiencing homelessness a safe place to stay, as well as proving a central location to provide information, COVID testing and services to meet basic needs.

(g) Funding for PRM's operating Transitional Homeless Shelter will assist the Subrecipient to meet its most pressing and critical financial needs to pay for staffing and other escalating costs associated with serving more people over extended hours during a prolonged pandemic.

(h) Success stories of Subrecipient during 2020-2021:

- 17 men and 2 women found employment.

- 10 found stable living accommodations.
- 2 men went to treatment of sober living.
- 21 of the seniors have enrolled in services with Innovage.
- 1 male was referred to Hospice care.
- HMIS has been completed on all enrollments in the shelter.
- Case management intake and assessment have been completed for 54 people.
- VSPDAT applications have been completed for 16 people to access the CES program list (housing).
- 4 individuals have received vouchers for housing.
- 88 individuals have gained access to a pro bono attorney to assist with Social Security claims.
- 40 individuals have received assistance to apply for SNAP and Medicaid assistance.
- 10 individuals have assisted in the kitchen and other various operations at the PRM facility.
- Weekly transports have been made for medical, medication pick-up and other appointments.
- 14 people have maintained contact with their therapist and case manager.
- 22 people are attending the DBT class sponsored by Friendly Harbor (2 x wk)
- Approximately 33 people attend Celebrate Recovery classes both on site and off site of the PRM facility.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to

Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed One Hundred Seven Thousand Nine Hundred Sixty-Three Dollars (U.S. $107,963.00). City shall make payments to Subrecipient according to the following schedule:

Date	Description	Amount
05-15-22	Initial payment	$ 32,963.00
10-15-22	Second payment (contingent on receipt of quarterly reports covering 05/01/22 to 09/30/22)	25,000.00
01-15-23	Third payment (contingent on receipt of quarterly report for the preceding quarter)	25,000.00
04-15-23	Final payment (contingent on receipt of quarterly report for the preceding quarter)	25,000.00
Total		$ 107,963.00

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient

further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

CITY OF PUEBLO
A COLORADO MUNICIPAL CORPORATION

_____ By_____
City Clerk Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

PUEBLO RESCUE MISSION
A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____ By_____
Signature Signature

Name_____ Name_____

Title_____ Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

PRM'S SCOPE OF SERVICES

B. Principal Tasks

The components of PRM's work plan under this Agreement shall be as follows:

1. During the term of the Project, Subrecipient shall provide meals, shelter and counseling to the City of Pueblo's needy and people experiencing chronic homelessness. PRM shall provide food, shelter and operate a case management system which provides counseling services to assist participants to gain independence through sustainable housing.

2. The components of PRM's services to the unhoused shall include, but not be limited to, the following:

a. Transitional Homeless Shelter: Shelter services for up to 25 women and 75 men to include a bed, showers and recreation.

b. Daily Meals Program: PRM shall provide breakfast, lunch and dinner to shelter residents 7 days per week. In addition, PRM shall provide an evening meal 7 days per week to anyone in the community in need of a meal (includes persons not residing in PRM's shelter and homeless individuals from the streets/camps: men, women, children).

c. Resource Navigation Community Center: The Subrecipient shall assist all homeless individuals, including persons not residing at PRM's shelter, to consider specific solutions to the current obstacles they face by teaching individuals the skills and supporting the individuals toward making positive changes in their lives.

3. Subrecipient's performance under this Agreement shall be assessed according to the following criteria:

- the numbers of individuals served;
- the number of individuals who obtain supportive or assisted housing;
- number of individuals who obtain employment.

4. Goals for the first year of the Project Term:
   - 490 (unduplicated) persons served;
   - 1,747 (duplicated) persons served;
   - 24,000 shelter bed nights.

5. All services will be provided at no cost to the homeless.

C. Budget

The aggregate of all payments made pursuant to this Agreement shall not exceed One Hundred Seven Thousand Nine Hundred Sixty-Three Dollars (U.S. $107,963.00).

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____
Name: _____
Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Pueblo Diversified Industries, Inc., a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "PDI." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to purchase three (3) seven to eight (7-8) passenger vehicles for use by Subrecipient's clients (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Last year Subrecipient Pueblo Diversified Industries ("PDI") lost $514,017 in revenue due to the impact of the COVID-19 pandemic. The two programs which were hit the hardest are the ones that have the most impact in our community: Day Support Services for People with Intellectual and Developmental Disabilities and Employment for People with and without Developmental Disabilities.

(b) The state of Colorado is expecting more community integration within the services provided by PDI and is directing PDI to create non-site-based programming. By purchasing the vehicles PDI will be able to be responsive to the directives of state government.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed One Hundred Fifty-Five Thousand Three Hundred Ninety Dollars (U.S. $155,390.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2022 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2022 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements

transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation

arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

PUEBLO DIVERSIFIED INDUSTRIES, INC.
A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

PDI'S SCOPE OF SERVICES

B. Principal Tasks

The components of the Subrecipient's work plan under this Agreement shall be as follows:

Purchase three (3) seven to eight (7-8) passenger vehicles for use by PDI's clients.

C. Budget

$155,390.00.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable federal and state statutes and regulations, including but not limited to the following,:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133; 2 CFR 200.310; 2 CFR 200.313 and 2 CFR 200.316 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Young Womens Christian Association of Pueblo a/k/a the Pueblo Young Womens Association, a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "YWCA" City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to open and staff a Daycare Center on its campus located at 801 N. Santa Fe Ave., Pueblo, CO 81003 (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) The unprecedented COVID-19 pandemic has brought the importance of access to quality, affordable childcare not only for the workforce but for people who has been historically underserved such as victims of domestic violence and their children. Childcare capacity in Colorado, even before the pandemic, was declining and has only worsened over the past 2 years with the arrival of COVID-19 in Pueblo County. Many employers and organizations have expressed interest in taking action to address this critical problem.

(b) The YWCA of Pueblo is collaborating with the Colorado Department of Human Services (CDHS), who has in turn, is cooperating with "Executives Partnering to Invest in Children (EPIC)" to create a 5-month Design Lab which will help the Subrecipient prepare, plan, and create an on-site or near-site childcare program.

(c) Subrecipient has applied for the Childcare Design Lab project to expand programs at the YWCA by opening a daycare center. Subrecipient plans to meet the Level 4 standard of the Colorado Shines Quality Rating and Improvement System. The YWCA plans to serve children in Pueblo County. Subrecipient's childcare staff will represent and reflect the linguistic and cultural diversity of the families living or working in our community. The YWCA has also consulted with Ms. Angie Shehorn, director of the Pueblo Community College Children First program about childcare licensing protocols and will consult with her to obtain the necessary licensing approvals.

(d) The opening of a childcare center at the YWCA will provide much needed high quality, affordable daycare services to the YWCA employees, the domestic violence families the YWCA serves and to the general public. For employees and victims of crime such as domestic violence, providing daycare services will allow a parent to seek employment or return to school, knowing that their children are in a safe, secure, and nurturing space to learn and grow.

(e) The YWCA plans to hire a Program Manager for the childcare center and the manager will hire and train the daycare staff. The request for ARPA funding is to hire and retain staff to meet the additional demands imposed by the pandemic by providing daycare services to employees and domestic violence victims in our community. Additional sources of funding will come from general operating grants from both federal state programs and private foundations. The YWCA domestic violence victims will have a safe and secure childcare center for their children, allowing them the flexibility and opportunity to prepare for and secure employment. While there is no one formula for ensuring the quality of center-based childcare, the Subrecipient is aware that it encompasses a number of easily quantifiable elements including the provision of nutritious food, the child-caregiver ratio, the salary and education level of caregivers, continuing education for caregivers and benchmarks for the safety and security of the children.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably

necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed One Hundred Fifty-Four Thousand Dollars (U.S. $154,000.00). City shall make payments to Subrecipient according to the following schedule:

Date	Description	Amount
05-15-22	Initial payment	$ 14,000.00
10-15-22	Second payment (contingent on receipt of quarterly reports covering 05/01/22 to 09/30/22)	35,000.00

01-15-23	Third payment (contingent on receipt of quarterly report for the preceding quarter)	35,000.00
04-15-23	Fourth payment (contingent on receipt of quarterly report for the preceding quarter)	35,000.00
07-15-23	Final payment (contingent on receipt of quarterly report for the preceding quarter)	35 ,000.00
Total		$ 154,000.00

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all

acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this

Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be

invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

YOUNG WOMENS CHRISTIAN ASSOCIATION OF PUEBLO a/k/a

PUEBLO YOUNG WOMENS CHRISTIAN ASSOCIATION

A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

YWCA'S SCOPE OF SERVICES

B. Principal Tasks

The components of the YWCA's work plan under this Agreement shall, to the extent reasonably possible, abide by the following timeline:

- Month 1: Post and hire the childcare director.
- Month 2- 4: Work on licensing requirements. The licensing process can take up to 90 days.
- Months 3-6: Hire additional staff when the childcare director believes it is appropriate.
- Month 6: Open the childcare center.

C. Budget

The aggregate of all payments made pursuant to this Agreement shall not exceed One Hundred Fifty-Four Thousand Dollars (U.S. $154,000.00).

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Southeastern Colorado Area Health Education Center for Rural Colorado's Health, Inc., a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "SECAHEC." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to support Subrecipient's Pueblo Back on Track Health Program (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Pueblo, like other cities and towns, instituted health and safety protocols to slow the spread of COVID-19 which disrupted access to many non-emergency, routine health care services for months. Due to the impact of COVID-19 protocols and closures, clinicians are seeing a reported rise in patients showing signs of more advanced preventable chronic diseases because they were not managed or controlled at earlier stages. People put off seeking healthcare check-ups and care management information due to their fears of contracting COVID-19 at a healthcare facility. Thus, those with diabetes and other chronic health problems did not get health information or care needed for the prevention of healthcare issues due to chronic disease complications. Further, a Centers for Disease Control and Prevention study released last September, 2021, found 32% of U.S. adults by reporting they avoided routine medical care due to concerns over COVID-19, while 12% of adults delayed seeking urgent or emergency care. Although Pueblo community members were offered the use of telehealth services, many people hesitated to use online technology, especially seniors, to seek health education or medical advice for their chronic health issues.

(b) Subrecipient is a 501(c)(3), independent nonprofit, with over 40 years of experience in providing programs to rural and underserved communities. The organization is viewed as a neutral convener and connector. SECAHEC empowers communities to provide health equity through education and resources. Subrecipient provides health self-management programs, an AcuDetox acupuncture protocol and dental health education for children.

(c) SECAHEC also provides evidence-based Diabetes Self-Management Program (DSMP), Chronic Disease Self- Management (CDSMP) and Pain Self-Management Program (PSMP) classes. With the arrival of the COVID-19 pandemic in Pueblo in March, 2020, SECAHEC was required to convert its in-person classes to video conferencing. However, community members, mostly seniors, were unable to adapt or were hesitant to use the necessary technology.

(d) SECAHEC proposes to provide diabetes, chronic disease, and AcuDetox acupuncture protocol programs to Pueblo community members only. These programs will fulfill the need for Pueblo community members to get back on track with their health management, thus avoid further disease complications which can be life threatening. In addition, Subrecipient will provide the tools for people to help manage their conditions. Based on the Pueblo population's social determinants of health, SECAHEC will target the underserved communities in Pueblo, specifically seniors, those who are in poverty and at-risk community members with chronic disease conditions and those who are fighting substance abuse.

(e) Subrecipient's self- management programs foster the following beneficial outcomes:

- Economic Self-Sufficiency: The outcome of the individual that completes the DSMP, CDSMP or CPSMP education is self- sufficiency in managing their diabetes for optimal health and living. In addition, diabetes management reduces health care costs and emergency room visits and hospital admissions. SECAHEC's classes will enable those who were unable to stabilize or prevent chronic disease conditions to receive the education and support that were held

back during COVID-19 restrictions which overwhelmed healthcare facilities.

- Health Equity: Low and no-cost health services are vital to building and maintaining healthcare accessibility and affordability for underrepresented and low income Pueblo areas.
- Family and Community Connections: DSMP, CDSMP, and CPSMP education engages the client and his or her family. Not only does the client adopt a healthier lifestyle, he or she develops a sense of emotional and physical health control, lifestyle satisfaction and family cohesiveness.
- Health and Rehabilitation: Due to the self-ownership of the person's own health maintenance, there will be an increase of self-confidence to engage the whole family for healthy living and eating.
- Independent Living: The increase in diabetes self-management knowledge will provide independence and a healthy environment, resulting in a continuum of good health for the client and his or her family.
- Safety: The safety outcomes of a self-regulated regimen from the DSMP, CDSMP and CPSMP education include safe environment practices such as falls preventions, foot and skin care, maintaining safe glucose levels, and exercise.
- AcuDetox will help those with anxiety, pain, addiction, and other stresses to cope with and manage their mental health while watching and managing their chronic conditions.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be

conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Sixty-Six Thousand Six Hundred Sixty-Nine Dollars (U.S. $66,669.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an

opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____

City Clerk
(Seal)

By_____

Nicholas A Gradisar, Mayor

Subrecipient:

Southeastern Colorado Area Health
Education Center for Colorado's Rural Health, Inc.

A COLORADO NONPROFIT CORPORATION

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SECAHEC'S SCOPE OF SERVICES

B. Principal Tasks

During the term of the Project, the components of the Subrecipient's work plan under this Agreement shall be as follows:

1. SECAHEC will provide in-person and/or virtual DSMP, CDSMP, CPSMP and AcuDetox acupuncture education to Pueblo County residents.

2. SECAHEC shall promote its diabetes self-management and AcuDetox programs through social media, local newspapers, provider offices, clubs and organizations, senior networks and health fairs or other community events.

3. A self-management instructor will provide completion certificates to clients who complete the self-management classes.

4. SECAHEC shall provide ongoing support and information to clients through in-person office visits or by telephone.

5. SECAHEC shall send participants its bi-monthly Diabetes Education Newsletter.

6. Subrecipient's performance under this Agreement shall be evaluated according to the following criteria:

- A pre- and post-survey will be given to each participant in the proposal programs. The surveys will inform SECAHEC of the outcomes and success of the Project.
- At least 500 people will be informed at health fairs or other community events regarding the Pueblo Back on Track Program.
- At least 60 community members will participate in the self-management and AcuDetox programs.
- As measured by pre-and post- program tests from each participant, there shall be a 50% knowledge increase for the DSMP, CDSMP or CPSMP participants and a 60% knowledge increase for AcuDetox participants.

C. Budget

During the term of the Project, Subrecipient shall be guided by the following budget:

Description	Amount
Personnel salaries	$ 45,000.00
Personnel benefits (22% of salaries)	9,900.00
Mileage (300 miles @ $.50 per mile)	150.00
National Hispanic Nurses Assn. AcuDetox Provider (15 sessions @ $100 per session)	1,500.00
Supplies • diabetic socks, pill organizers, exercise stretch bands, recipe books, food measuring cups/spoons, foot mirrors, medical record organizers, cotton, face masks • crock pots (SECAHEC provides an easy crock pot meal during class and clients are encouraged to use crock meals for easy healthy cooking) • copies of the self-management class book "Living a Healthy Life with Chronic Conditions" • AcuDetox items include acupuncture needles or seeds, medical gloves, alcohol pads, etc.	10,119.00
Total	$ 66,669.00

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Pueblo Urban Renewal Authority, a Colorado urban renewal authority, hereinafter referred to as the "Subrecipient" or "PURA." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to enable Subrecipient to respond to the COVID-19 pandemic by making audio/visual upgrades to the Pueblo Convention Center, to permit conventions or meetings to take place virtually, as well as in-person, or through a hybrid approach, using both formats (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) The Pueblo Convention Center is owned by the Subrecipient who has entered into a contract with Spectra to manage and operate the facility.

(b) Over the last 2 years, the COVID-19 pandemic has placed significant financial stress on the Pueblo Convention Center, causing dozens of cancellations and more than $1.5m in lost revenue. These cancellations include nearly all the scheduled events between March, 2020 and February, 2021. To date, the convention center has received at least 150 event cancelations, not including events that had cancelled but were never formally under contract. Because of this financial stress, PURA has had to embrace austerity and postpone a variety of needed upgrades, enhancements, and repairs to the building.

(c) The events business is highly competitive. To remain competitive with venues throughout Colorado's front range and in mountain resort destinations, PURA must periodically improve and enhance its facility. At the very minimum, the Pueblo Convention Center must provide an extremely high-quality event experience to attract groups to Pueblo instead of destinations like Denver, Colorado Springs or other attractive Colorado destinations.

(d) The COVID crisis is ongoing. New variations of the virus (e.g. delta, omicron, delta/omicron) are being discovered and are spreading around the world. It is unknown whether it will be necessary in the future to return to the lockdowns and quarantines which took place in 2020. As a result of this uncertainty, planners of conventions and events require venues which can accommodate virtual attendance as well as in-person participation.

(e) The Pueblo Convention Center requires upgrades to its audio/visual system to allow convention presenters and attendees to participate virtually as well as in-person. The Pueblo Convention Center's competitors along Colorado's front range and mountain resorts already have this "hybrid" technology. Pueblo must follow suit if it wishes to remain competitive.

(f) Allowing virtual attendance will also pay a public health dividend should circumstances require limited in-person attendance at events or conventions in the future.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR

Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Thirty-Eight Thousand Dollars (U.S. $38,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:
- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2022 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2022 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal

regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property,

including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City does not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

(Seal)

Subrecipient:

PUEBLO URBAN RENEWAL AUTHORITY
A COLORADO URBAN RENEWAL AUTHORITY

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

PURA'S SCOPE OF SERVICES

B. Principal Tasks

The components of the Subrecipient's work plan under this Agreement shall be as follows:

Purchase 3 wide format screens, three new audio mixers, microphones, LED up-lights, and 4 laptops and other audio/visual equipment necessary to permit virtual or hybrid attendance at conventions and meetings held at the Pueblo Convention Center.

C. Budget

The aggregate of all payments made pursuant to this Agreement shall not exceed Thirty-Eight Thousand Dollars (U.S. $38,000.00).

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Pueblo Community College, a Colorado community college, hereinafter referred to as the "Subrecipient." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds in connection with the Innovative and Interactive Entrepreneurial Education of Pueblo, Colorado's Youth Project through Subrecipient's Southern Colorado Small Business Development Center and Subrecipient's Southern Colorado Innovative Link Program (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) The Covid-19 pandemic has changed many City residents' ways of thinking about employment and now more than ever people are looking at starting their own businesses, rather than return to or enter the traditional work force. With the forced shutdowns during the pandemic many individuals had time to stop and think about new business ideas, new career paths, and spend more time on social media. Anyone who logs on to TikTok or Instagram knows that there are many posts regarding new business ideas which has changed the way people think about their future. This has now led to new pathways for them to earn income and many are now wanting to become entrepreneurs and start their own businesses.

(b) Many of these individuals are teenagers that are looking for ways to make money that is not a traditional 9 to 5 job. However, such persons need education to help develop their ideas and to help them with the innovation and business process.

(c) Subrecipient's Southern Colorado Small Business Development Center (SBDC) and Subrecipient's Southern Colorado Innovation link (SCIL) have collaborated on previous projects and are now looking to start a program titled: Innovative and Interactive Entrepreneurial Education of Pueblo Colorado's Youth (as noted above "the Project").

(d) The Project will help inspire youth to become the next generation of entrepreneurs by offering the following assistance: entrepreneurial and small business education, product development, prototype development, assistance with funding, business plan development, and one-on-one idea consulting and mentorship.

(e) The Project will encourage the entrepreneurial/small business spirit to help with future economic growth and job opportunities in the region.

(f) The Project will help to solve an existing problem which has become more acute with the on-set of COVID-19 pandemic, i.e. the lack of a defined talent pipeline strategy for pairing education, non-curricular job learning and on the job training/internships with companies in the region. This is exactly what the Project proposes to do.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Forty-Nine Thousand Dollars (U.S. $49,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient

further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City and the Subrecipient do not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____

City Clerk

By_____
Nicholas A Gradisar, Mayor

[S E A L]

ATTEST:

Subrecipient:
PUEBLO COMMUNITY COLLEGE

By_____
Signature

Name_____

Title_____

By_____
Patricia A. Erjavec, Ph.D., President

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SBDC'S AND SCIL'S SCOPE OF SERVICES

B. Principal Tasks

The components of the SBDC's and SCIL's work plan under this Agreement shall be as follows:

1. SCIL and SBDC shall be the primary integrators, collaborators, and developers of programs which will bring the entrepreneurial and small business educational criteria to classrooms for individuals ages 13 -21 at the local schools and colleges.

2. SCIL and SBDC will work to schedule classroom presentations and different club participation with local high schools and colleges during the term of the Project. Presentations will outline services and support that both programs provide and help students understand what entrepreneurship is and then work to schedule other times to work with students individually or in small groups to develop ideas and to encourage their entrepreneurial spirit.

3. SCIL's responsibility is to identify a specific number of internships, job shadowing, apprenticeships and special projects which would be filled by the participants in the startup companies.

4. SBDC's responsibility is to integrate its existing programs, consulting and other services so that they are accessible for the high school and college student participants.

5. SCIL and SBDC shall collaborate with Pueblo's two public school districts, Pueblo School District No. 60 and Pueblo School District No. 70 and Pueblo Community College and CSU Pueblo to schedule delivery of materials and program information which will help educate the next generation of entrepreneurs.

6. SCIL and SBDC shall work with student counselors, advisors and teachers to set-up times for presentations, time to work with students on ideas and to arrange support for school clubs and individual student support.

7. Both SCIL and SBDC shall strive to inspire youth to become the next generation of entrepreneurs by offering the following assistance: entrepreneurial and small business

education, product development, prototype development, assistance with funding, business plan development and one-on-one idea consulting and mentorship

8. Many high school students between the ages of 13-19 already have a general idea of a career they are interested in and participate in related pathways; (e.g. business interest would be FBLA/DECA programs). Therefore, SCIL and SBDC shall target potential participants in the interest areas which are relevant to startup/small business employers, including entrepreneurship, digital marketing/content creation, computer science and engineering.

9. Many college students between the ages of 19 to 21 are already enrolled in a course of study. SCIL and SBDC shall work with professors, advisors, deans and department chairs to help arrange the appropriate participation in the Project by such students.

10. Both SCIL and SBDC shall inform both high school and college students that there are services already available to help with product and small business development. SCIL and SBDC shall help with idea development, patent registration, prototype development, business plan development, marketing, business education, financial resource connections and business idea support.

11. During the Project term, Project success shall be measured by:
- Number of presentations at schools: 24 per year;
- Participation in clubs/organizations: 3 per quarter;
- Working with teams/individuals to develop ideas/projects;
- Effectiveness as measured by surveys at the conclusion of presentations;
- Documentation shall be maintained to track progress of students which SCIL and SBDC are working with on an individual basis.

C. Budget

During the term of the Project, Subrecipient's use of ARPA funds shall be guided by the following budget:

Category	Amount
Marketing and outreach	$ 10,000.00
Individual consulting and idea development	10,000.00
Salaries and benefits	15,000.00
Travel and product development	14,000.00
Total	$ 49,000.00

During the term of the Project, Subrecipient shall, at a minimum, provide the following matching contributions to assist in the payment of consulting costs:
- SCIL (EDA grant): $5,000.00
- SBDC: $5,000.00:

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.
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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____
Name: _____
Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 25th day of April, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and Pueblo Community College, a Colorado community college, hereinafter referred to as the "Subrecipient." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds in connection with the Female Founder Program through the Subrecipient's Southern Colorado Small Business Development Center (hereinafter "Project"); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Many of the City's local businesses rely strictly on foot traffic for their revenue. With the onset of the Covid pandemic and the various shutdowns, many businesses lost significant revenue in 2020 and 2021.

(b) Studies have shown that many female business owners were hit harder during the COVID pandemic due to the fact that women tend to sell their products and services for less than their male counterparts. This is attributed to the fact that many female owners tend to value the nurturing of relationships, rather than the value of the dollar. They want their clients/customers to feel cared for which leads them to generally accept an average of 20% less for their products and services than male business owners.

(c) Subrecipient's Small Business Development Center ("SBDC") has a record of successfully working with many local businesses. SBDC is currently in the process of pivoting to adapt to the new ways of doing business since the onset of the pandemic.

(d) Studies have demonstrated that woman-owned businesses are not recovering from Covid-19 as fast as their male-owned counterparts.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

(a) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for

eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.

(c) The aggregate of all payments made hereunder shall not exceed Twenty-Five Thousand Dollars (U.S. $25,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.

(d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:

- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

(e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

(a) The term of the Project shall be from May 1, 2022 to December 31, 2023 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2023 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be

held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

(b) For Convenience: This Agreement may be terminated by City for convenience upon ten (10) days written notice to Subrecipient, which decision shall not be subject to appeal.

(c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. The Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipients shall fully cooperate with City in relation to such monitoring and evaluation.

11 SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby. Subrecipient further agrees to indemnify and save harmless the City, its officers, agents and employees, from and against all claims, liabilities, costs, expenses, penalties and attorney fees arising from such injuries to persons or damages to property or based upon or arising out of the performance or nonperformance of this Agreement by Subrecipient or out of any violation by Subrecipient of any statue, ordinance, rule or regulation.

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from 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 subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

(a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

(b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient 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 Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. The City and the Subrecipient do not waive or intend to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. 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 and nothing contained in this Agreement 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 Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, 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.

21. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement 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 Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement 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.

26. SIGNATURES

The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____

City Clerk
(Seal)

By_____

Nicholas A Gradisar, Mayor

ATTEST:

Subrecipient:

PUEBLO COMMUNITY COLLEGE

By_____
Signature

By_____
Patricia A. Erjavec, Ph.D., President

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SBDC'S SCOPE OF SERVICES

B. Principal Tasks

The components of the SBDC's work plan under this Agreement shall be as follows:

1. SBDC shall create and administer a Female Founder Program which supports women business owners specifically (but all genders shall be welcome). SBDC shall implement a training series which focuses on discussion, education and creating a local female-owned business community. The goal shall be to help businesses in our community re-think how they currently do business and pivot, which will help them adapt to the new ways business is conducted.

2. SBDC shall develop and implement a seven-week education series which focuses on the following areas:

Week 1: Discussion Panel/Connection Session: Speaker will lead discussion of issues for women in business. Outside factors which affect your business; Has being a woman made a difference in your business?

- Can you be the boss?
- Understanding power
- Own your position
- Masculine vs Feminine (varying perspectives)
- Celebrating your wins and your business no matter the circumstances
- Female Skills
- Agents of creation
- Body/mind/spirit
- Emotions and understanding them
- Build a network, share contacts, and group chat
- Elevator pitch Introduction

Week 2: Business Model Canvas: This is an entrepreneurial tool that enables business owners to visualize, design and reinvent their business model. It makes the individual stop and address key issues and focus on what is important.

Week 3: Business Plan Check-In: Participants will be taking a look at their current business plan and use information from the class to help update as necessary.

- Elevator Pitch
- Business Plan in a Day
- Value with managing
- Your Why, Your Dream, Your Vision
- Understanding your Money Mindset

Week 4: Selling/Marketing Like a Boss: Your business is about more than your products, let's make sure you're selling with confidence and heart.

- Elevator Pitch
- Marketing class layered with ideas on how to sell with confidence
- How to say 'I'm not doing this for free' politely.
- What is the biggest barrier in selling/marketing?
- Have you lost income by giving away product/services?
- Titles discussion
- Leadership
- Define and Read Your Audience
- Power vs Force - Presentation of the Message (Tone)
- Strategies for Effective Resolution (Flow)
- Discuss marketing plans and what changed might need to be made

Week 5: Design Class:

- Different communication avenues including MailChimp/Constant Contact, Canva
- Making your business truly yours
- Branding your perfect business
- Design flyer

Week 6: Financing, Funding, and Forecasting: This will be a community lender panel that can answer questions and help make connections to funding opportunities available.

Week 7: Presentation, Discussion, and Feedback: This will be the final class which will have a presentation from each participant.

4. SBDC shall offer each participant a $1,000.00 grant for the development of marketing/branding materials, with one of the City's local marketing professionals. SBDC shall also engage a local life coach who would agree to give participants 4 consulting sessions at a discounted rate. The life coach support is needed to help participants continue along the path that the class has started. In addition, the assistance from the marketing consultant will help each participant's business grow. During the term of the Project, SBDC also agrees to provide continuing education and free one-on-one consulting.

5. SBDC shall offer 2 series of the Female Founders program with each session being limited to 15 participants. Each session shall be offered at no cost to participants.

6. Success of the Project will be measured in the following ways:

   a. 15 Participants signed up and complete the series. The minimum number per series will be 8 to be considered successful. SBDC will help a minimum of 16 small business with this program with a goal of 30 small businesses.

   b. SBDC shall hold discussions at the close of each 7-week session to hear what individuals are learning and what changes to the course are needed, if any.

   c. Participants shall also complete surveys: Pre-Survey to outline expectations, Mid-Survey to see if expectations are being met and a Post-Survey for general information after each series has concluded.

7. All consultants shall be required to keep a file on each participant/client being assisted. The consultants shall also be required to check in periodically on community impact after the session:

- Did the Project help with sales increases?
- Did participants obtain any loans?
- Were participants able to develop their e-commerce platform and not just rely on foot traffic?
- Were participants able to hire any new staff?

C. Budget

During the term of the Project, Subrecipient's use of ARPA funds shall be guided by the following budget:

Category	Amount
Grant Awards to participants for marketing consultant and life coach @ 30 participants	$ 30,000.00
Presenter costs	2,000.00
Marketing costs	1,200.00
Course development	4,000.00
Consulting fees – 5 sessions	7,000.00
Subtotal	44,200.00
PCC/SBDC Minority Business Office contribution	(7,000.00)
CHAFA contribution	(12,200.00)
Amount of ARPA grant	$ 25,000.00

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
    a) recipient
    b) brief description of purchase
    c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the contract date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C
CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with:

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any 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 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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___.

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? 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), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary 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.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Benjamin Valdez, Director of Transit

SUBJECT: AN ORDINANCE CREATING PROJECT PT2201 SHOP TRUCK REPLACEMENT, ACCEPTING BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF $18,250 INTO PROJECT PT2201

SUMMARY:

This Ordinance budgets and appropriates insurance proceeds in the amount of $18,250.00 for the replacement of a Pueblo Transit Maintenance Vehicle that was damaged beyond repair in a vehicle accident

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In 2021, unit 19 sustained major damage in a vehicle accident rendering the vehicle inoperable for use. Resolution of the City's insurance claim provides for payment by the insurance company for replacement costs.

FINANCIAL IMPLICATIONS:

Pueblo Transit will be responsible for the replacement to Unit 19. Insurance proceeds in the amount of $18,250.00 have already been received by Pueblo Transit.

BOARD/COMMISSION RECOMMENDATION:

Pueblo Transit Board recommends approval.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Should this Ordinance not pass, Pueblo Transit would have to make up the $18,250.00 received through the insurance settlement

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10157

AN ORDINANCE CREATING PROJECT PT2201 SHOP TRUCK REPLACEMENT, BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF $18,250 INTO PROJECT PT2201

WHEREAS, in 2021, Unit 19 sustained major damage in a vehicle accident rendering the vehicle inoperable for use.

WHEREAS, the City has received proceeds from the insurance company for the costs to replace the vehicle; NOW, THEREFORE,

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

SECTION 1.

Project No. PT2201 Shop Truck Replacement is hereby established

SECTION 2.

Insurance proceeds in the amount of $18,250.00 shall be budgeted and appropriated into Pueblo Transit Project PT2201 Shop Truck Replacement and will be used to replace the vehicle.

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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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 Clerk's Office Item # R-3

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director of Aviation

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT AP2203 – AIRPORT TERMINAL REMODEL DESIGN AND CONSTRUCTION, TRANSFERRING $362,288.40 TO PROJECT AP2203 FROM THE AIRPORT FUND, AND AWARDING A DESIGN CONTRACT TO CSHQA, INC. FOR PROJECT NO. 21-090 RFP – PUEBLO MEMORIAL AIRPORT TERMINAL REMODEL

SUMMARY:

This Ordinance establishes Project AP2203, approves a transfer of funds from the Airport Fund, and awards a design contract to CSHQA, INC. for Project No. 21-090 RFP – Pueblo Memorial Airport Terminal Remodel.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The terminal at Pueblo Memorial Airport is in need of renovation and upgrades, to include an expansion of the holding room with restroom facilities beyond the TSA screening checkpoint. The recent allocation of Federal funds from the Bipartisan Infrastructure Legislation (BIL), has provided opportunities for airports to submit projects to be considered for funding. This design project will allow Pueblo Memorial Airport to have a shovel ready construction plan and better compete for those Federal funds.

FINANCIAL IMPLICATIONS:

Funds in the amount of $362,288.40 are being transferred from the Airport Fund to Project AP2203 from payroll savings due to previously awarded ARPA and CARES Act grants.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the City will not have a project ready to apply for Federal funds from the Bipartisan Infrastructure Legislation (BIL).

RECOMMENDATION:

Approve the Ordinance.

Attachments:
Proposed Ordinance
Design Contract

ORDINANCE NO. 10158

AN ORDINANCE ESTABLISHING PROJECT AP2203 – AIRPORT TERMINAL REMODEL DESIGN AND CONSTRUCTION, TRANSFERRING $362,288.40 TO PROJECT AP2203 FROM THE AIRPORT FUND, AND AWARDING A DESIGN CONTRACT TO CSHQA, INC. FOR PROJECT NO. 21-090 RFP – PUEBLO MEMORIAL AIRPORT TERMINAL REMODEL

WHEREAS, competitive bids for Project No. 21-090 RFP – Pueblo Memorial Airport Terminal Remodel have been received and examined; and

WHEREAS, the proposal of CSHQA, INC., a California Corporation authorized to do business in the State of Colorado, was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 21-090 to be performed; NOW, THEREFORE,

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

SECTION 1.

Project AP2203 is hereby established.

SECTION 2.

Funds in the amount of $362,288.40 are hereby transferred from the Airport Fund to Project AP2203.

SECTION 3.

City Council authorizes Project No. 21-090 RFP – Pueblo Memorial Airport Terminal Remodel to be performed, and the contract for said project is hereby awarded to CSHQA, INC., in the amount of $362,288.40. The Agreement for Professional Architectural Services between the City of Pueblo, a Municipal Corporation, and CSHQA, INC., a California Corporation authorized to do business in the State of Colorado, (“Agreement”) regarding remodel of the Pueblo Municipal Airport, 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.

SECTION 4.

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 5.

Funds for Project No. 21-090 shall be paid from Project AP2203.

SECTION 6.

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 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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

DocuSign Envelope ID: F628C8C9-16FD-4D3C-BE21-2962CE6F3062

AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES BY AND BETWEEN CITY OF PUEBLO AND CSHQA, INC.

THIS AGREEMENT ("Agreement") made and entered this _____ day of April, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "Owner" or "City") and CSHQA, INC., a California Corporation authorized to do business in the State of Colorado, (hereinafter referred to as "Architect") a professional architectural firm, for Architect to render certain professional planning, design, architectural, and related services for Owner in connection with Bid 21-090 RFP – Pueblo Memorial Airport Terminal Remodel, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Architect shall satisfactorily perform professional architectural services for the following items:

[ ] - Study and Report Phase

[X] - Preliminary Design Phase

[X] - Final Design Phase

[ ] - Construction Documents for Bidding Phase

[ ] - Construction Phase

Upon completion of any phase, Architect shall not proceed with work on the next phase, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include all usual and customary professional architectural services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical, engineering, design, environmental, and planning services. Architect shall also provide any landscape, surveying, and geotechnical services incidental to its work on the Project.

1.2 In performing the professional services, Architect shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Architect is to render professional services.

1.3 Professional architectural services (whether furnished directly or through a professional subcontractor) shall be performed under the direction and supervision of a registered architect 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 Owner and which shall be signed by and bear the seal of such registered architect.

1.4 Surveying work included within or reasonably contemplated by 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.

1.5 Any engineering services provided under this Agreement shall be performed under the direction and supervision of a registered professional engineer.

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SECTION 2. ARCHITECTURAL SERVICES

2.1 Study and Report Phase. If Architect is to provide professional services with respect to the Project during the Study and Report Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine the requirements for the Project and review available data.

(b) Advise Owner as to the necessity of providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Architect's findings and recommendations with opinions of probable costs.

(g) Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design Phase. If Architect is to provide professional services with respect to the Project during the Preliminary Design Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study or report on the Project.

(b) Prepare and submit to Owner 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 Owner 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 Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner 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) Architect shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase. If Architect is to provide professional services with respect to the Project during the Final Design Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

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(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner 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. **Architect 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 reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Architect's best professional judgment, prepare and submit to Owner 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) Architect shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Architect is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Architect shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner 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, Architect shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, 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 or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors, or bidders, and, if requested by Owner, 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 Architect in writing to all plan holders.

(e) Consult with and make recommendations to Owner 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 Owner may reasonably request Architect's advice.

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2.5 Construction Phase. If Architect is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Architect shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Architect 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 Owner 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 Architect's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any 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 Owner, 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, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner 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 Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Architect's representation to Owner that it has inspected the Project and that to the best of its knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner'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 Owner 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 Architect 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 Owner or Contractor, the Architect 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 Architect shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Architect's interpretation or decision, file its written objections thereto with the Architect and Contractor.

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2.6 Additional Responsibilities. This paragraph applies to all phases of Architect's work.

(a) Architect shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Architect's work, including that performed by Architect's consultants and subcontractors, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence to same. Architect shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its work.

(b) Architect shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Architect's negligent act or omission; except that Architect hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Architect's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Architect shall be completely responsible for the safety of Architect'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 Owner from any and all claims, suits, loss, or injury to Architect's employees.

(e) Architect acknowledges that, due to the nature of architectural, design, and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Architect assigns principal responsibility for services performed under this Agreement. Consequently, Architect represents that Architect has selected and intends to employ or assign the key personnel and consultants identified in Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner 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 Architect will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Architect shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within five (5) days of execution of this Agreement, Architect shall designate in writing a Project representative who shall have complete authority to bind Architect, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Architect shall submit to Owner for approval a schedule showing the order in which Architect 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 Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Architect will not be responsible for delays beyond its control. The Schedule shall not be materially different than the Project Schedule attached hereto and labelled Schedule 3.

(g) Before undertaking any work which Architect considers beyond or in addition to the scope of work and services which Architect has contractually agreed to perform under the terms of this Agreement, Architect shall advise Owner in writing (i) that Architect considers the work beyond the scope of this Agreement, (ii) the reasons the Architect believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Architect shall not proceed with such out of scope or additional work until authorized in writing by Owner. 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 Architect shall be compensated for its direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

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SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Architect shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Architect of Owner'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 Architect with available information pertinent to the Project including any previous reports, studies, or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Architect to have access to enter private and public property as required for Architect to perform its services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Architect, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the Architect of responsibility for the professional adequacy of its work. The Owner'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 Architect, obtain required approvals and permits for the Project. The Architect shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Architect whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Architect's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner'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 Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Architect'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 – “Scope of Services” and Section 2 of this Agreement.

SECTION 5. PAYMENT

5.1 Owner will pay to Architect as full compensation for all services required to be performed by Architect under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed $362,288.40 in the aggregate as set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In addition, the maximum amount of compensation for any phase shall not exceed the amount specified in Schedule 2 for such phase.

5.2 Architect shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been

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performed and expenses incurred. Thereafter, Owner shall pay Architect for the amount of the application within 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Architect's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Architect submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time, or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5 No compensation shall be paid to Architect for services required and expenditures incurred in correcting Architect's mistakes or negligence.

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Section 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Architect's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Architect and its subcontractors shall cease all work and stop incurring expenses and shall promptly deliver to Owner all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Architect may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Architect, Architect 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 Architect or Owner. In no event shall payment to Architect upon termination exceed the maximum compensation provided for complete performance in Section 5.1.

6.3 In the event termination of this Agreement or Architect's services is for breach of this Agreement by Architect, or for other fault of Architect including but not limited to any failure to timely proceed with work, or to pay its employees and Architects, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Owner's Project Representative, then in that event, Architect's entire right to compensation shall be limited to the lesser of: (a) the reasonable value of completed work to Owner, or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Architect's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 (a) Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments procured or produced by the Architect in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Architect agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Architect, Owner shall hold harmless Architect from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

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(b) Advertising. Unless specifically approved in advance in writing by Owner, Architect shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Architect's employees. If Architect 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 Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 Insurance and Indemnity.

(a) Architect agrees that it has procured and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of bodily injury including personal 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 subparagraph 7.2(b) below.

(b) The minimum insurance coverage which Architect shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed.

(ii) Commercial General Liability Insurance. The Architect shall secure and maintain during the period of this agreement 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 Architect with respect to all work performed by it and all its subcontractors under the agreement, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for 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, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Architect under the provisions of the agreement, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than $1,000,000 and in a form and with a deductible acceptable to Owner.

(iv) Comprehensive Automobile Liability Insurance. The Architect shall procure and maintain during the period of the agreement and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Architect 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 Architect.

(c) Architect agrees to hold harmless, defend, and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Architect, its employees, subcontractors, and consultants.

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7.3 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 Owner or the Architect 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 Owner at City of Pueblo, Pueblo Memorial Airport, Attn: Greg Pedroza, Director of Aviation, 31201 Bryan Circle, Pueblo, CO 81001, or to the Architect at CSHQA, Inc., Attn: Martin Hahle, Principal-in-Charge, 2696 South Colorado Blvd., Suite 525, Denver, CO 80222. Either party may change their business 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.

7.4 Entire Agreement. This instrument contains the entire agreement between the Owner and the Architect respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Architect in relation thereto not expressly set forth in this instrument are null and void. Notwithstanding the foregoing, the terms of RFP 21-090 – Pueblo Memorial Airport Terminal Remodel are hereby incorporated herein, and Architect 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 this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 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 Architect may be assigned by it without the written consent of the Owner. 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.

7.6 Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representative of both Architect and Owner.

7.7 Choice of Law and Venue. This Agreement shall be governed and interpreted in accordance with 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.

7.8 Equal Employment Opportunity. In connection with the performance of this Agreement, Architect shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, or age. Architect 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.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, 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. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if work is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Architect shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

7.11 Additional Requirements on Federally or State Funded Contracts. If any of the work to be performed by Architect under this Agreement is funded in whole or in part with federal or state funds, then this Agreement shall be construed to include all applicable terms required by the federal or state assistance agreement and

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integrated federal or state regulations. By executing this Agreement, Architect agrees to be bound by all such mandatory federal or state requirements, irrespective of Architect's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Architect acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Architect and Architect's employees and consultants shall, at Architect's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Architect in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Architect understands and agrees that entry to properties not under Owner's control may require Architect to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Architect and Owner arising from or relating to this Agreement or Architect's services or right to payment hereunder shall be determined and decided by the Owner's Director of Aviation whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Architect shall proceed diligently with performance of its work under this Agreement.

SECTION 9. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

Schedule 1 - "Scope of Services" consisting of 7 pages.
Schedule 2 - "Fee Schedule" consisting of 2 pages.
Schedule 3 - "Project Schedule" consisting of 1 page.
Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 7 pages.

SECTION 10. 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 Architect therefore, will use its best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances, and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Architect shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without Authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Architect will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Architect shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement;

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(ii) Enter into a contract with a subcontractor that fails to certify to Architect that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Architect shall have 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.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Architect obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Agreement, the Architect shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Architect has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Architect shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Architect is required to comply with any reasonable request by the CDLE made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Architect shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Architect shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Architect to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

The Architect 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 Architect shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Agreement.

(Signature section on following page.)

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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

By_____
Naomi Hedden, Director of Purchasing

CSHQA, INC.

By DocuSigned by: 05B1F6864ACE428...
John Maulin, Executive Vice President

Attest_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

Attachments:

Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule
Schedule 3 - Project Schedule
Schedule 4 - Identification of Personnel, Subcontractors, and Task Responsibility
Additional Information for Agreement

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SCHEDULE 1

Scope of Service
Excerpt from letter dated March 16, 2022 regarding Project Understanding/Revised Scope of Work proposed by CSHQA and accepted by City

PROJECT UNDERSTANDING

The following project understanding is based on the RFP referenced above. Our team understands that PUB would like to expand and modernize the terminal building passenger holdroom area, add holdroom area restrooms, modernize interior finishes in the passenger screening checkpoint and ticket lobby, modernize the passenger curb front façade, including a canopy for added shelter from the elements and other improvements within the public spaces of the terminal. The goal of these improvements is to increase capacity and improve safety, security, accessibility and the passenger experience. This design services proposal breaks the project into defined areas of work including a Base Scope of Work and an Add Alternate Scope of Work. The Base Scope of Work is included in the design fee. The Add Alternate Scopes of Work are only included in the design fee for Task 01 - Preliminary Design *(30% Design)*. Add Alternate Scopes of Work will not move to Task 02 - Final Design *(100% Construction Documents)* unless funding is available and the Owner adds the add alternate design services to Task 02.

- **Base Scope of Work:** Expansion and remodel of the terminal building passenger holdroom area including the addition of male and female single-user restrooms accessed from the holdroom area. The scope will require some remodel work and modernization of interior finished in adjacent areas including the passenger screening checkpoint, passenger queuing area outside the entrance to the passenger screening checkpoint and exterior yard and apron area. This scope of work does not include relocation or reconfiguration of Transportation Security Administration (*TSA*) passenger screening equipment other than minor adjustments to the divesting and composure area at the entry and exit of the passenger screening lane. Refer to attached Exhibit A for a diagram defining the boundaries of the Base Scope of Work.
- **Add Alternate Scope of Work No. 1:** Modernize the existing public restrooms to current Americans with Disabilities Act *(ADA)* accessibility compliance with new fixtures, finishes and lighting.
- **Add Alternate Scope of Work No. 2:** Modernize the passenger curb front façade including a canopy for added shelter from the elements. Replace the curb front sidewalk pavement and make areas accessible and in compliance with the ADA.
- **Add Alternate Scope of Work No. 3:** Modernize adjacent areas of the public lobby, outside the boundaries of the ticket lobby and passenger screening checkpoint, to make design of the visible public lobby space unified and cohesive with the rest of the improved space. Improve passenger experience, safety, security and accessibility from the front door of the building to the passenger boarding gate doorway.

[+]During the preliminary design phase, we will determine if fire sprinkler and fire alarm systems are required in the design of this project. If not required, fire sprinkler and fire alarm system design will be removed from the scope of services.

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SCOPE OF SERVICES

Our services shall be provided in two Tasks: Task 01 – Preliminary Design *(30% Design)* and Task 02 – Final Design *(100% Construction Documents)*. More specifically, our services shall include the following:

Task 01 – Preliminary Design *(30% Design)*

- Provide project management, coordination and administration services.
- Coordinate with the Owner to obtain all available record drawings for the existing terminal building and surrounding site that is in the area of design impact. Request PDF and AutoCAD files, if available.
- Prepare a land survey for the area of work defined by the civil engineer *(upon Owner approval)*.
- Prepare a geotechnical soils report for the area of work including building foundations, floor slabs and new pavement *(upon Owner approval)*.
- Prepare preliminary existing condition floor and site plans *(based on Owner-provided record drawings)* including the following:
  - site plan,
  - floor plan,
  - ceiling plan,
  - roof plan,
  - preliminary code plan with relevant code data, and
  - color code Base Scope of Work and Add Alternate Scope of Work areas on the floor plan and site plan.
- Work with the Owner to identify the following project stakeholders:
  - Pueblo Memorial Airport *(management, operations and maintenance)*,
  - City of Pueblo,
  - airlines *(United Express)*,
  - TSA *(Federal Security Director (FSD) and other local TSA as identified by PUB)*,
  - police,
  - fire, and
  - others.
- Attend one *(1)* kick-off meeting on site with representation from each design discipline. Service shall include the following:
  - Meet with the City of Pueblo and PUB stakeholders *(Owner to provide an invitation list)*.
  - Review and confirm project construction budget and funding sources. It is understood that the Owner intends to apply for a Federal Infrastructure Grant in the range of $3 to $10 million construction cost for the project. For the purposes of this proposal, the Task 01 design fee is based on a $5 million construction cost for the project.
  - Review and document detailed program requirements for each scope of work area as required to prepare a detailed basis of design programming document.
  - Confirm design goals and objectives.
    - theming and imagery *(define the PUB design aesthetic)*
    - define interior and exterior finish material options

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- Review constructability and phasing strategies to maintain airport operations and identify issues and concerns.
- Prioritize each Add Alternate Scope of Work relative to the other Add Alternate Scopes of Work.
- Review and confirm the project schedule.
- Schedule separate breakout meetings with the TSA and airlines.
    - Review TSA passenger screening checkpoint equipment configuration and queuing configuration.
    - Confirm ticket counter layout, equipment, millwork counter design, signage and corporate identification.
    - Confirm telecommunications *(telephone, data, access control, video surveillance and public address)*.

- Perform one *(1)* building survey *(to be conducted while on-site for the kick-off meeting)*.
- Update the existing conditions drawings.
- Prepare a basis of design programming document and submit to the Owner for review-approval.
- Prepare the following Preliminary Design documents based on the Owner-approved basis of design document. Drawings shall be prepared using Revit *(BIM software)*.

    - title sheet,
    - three-dimensional *(3-D)* renderings of the following areas:
        - passenger holdroom *(two interior and two exterior views; four views total)*,
        - ticket lobby *(one interior view)*,
        - queuing area and passenger screening checkpoint *(one interior view)*, and
        - terminal curb front *(two exterior views)*,
    - code data sheet,
    - color coded Scope of Work plans identifying the Base and Add Alternate Scopes of Work,
    - preliminary construction phasing plans,
    - site plan,
    - civil plan and narrative,
    - demolition floor plan,
    - floor plan,
    - enlarged plans,
    - roof plan,
    - demolition ceiling plan,
    - ceiling plan,
    - structural plan including basic framing plans for building addition,
    - fire sprinkler and fire alarm plan diagrams and narrative,
    - plumbing plan diagrams and narrative,
    - HVAC plan diagrams and narrative,
    - power plan diagrams and narrative,
    - lighting plan diagrams and narrative,
    - telecommunications plan diagrams and narrative, and
    - outline specifications.

- Attend one *(1)* meeting with the Owner to review the Preliminary Design package and obtain comments.
- Review Preliminary Design documents and building code requirements with the City of Pueblo building and fire departments to confirm code compliance. *NOTE: Based on a conversation with the*

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City of Pueblo building chief, there is no official requirement for this meeting; however, we recommend the meeting to confirm code compliance and reduce risk.

- Update the Preliminary Design documents based on Owner and building department comments.
- Prepare the Opinion of Probable Construction Cost *(OPCC; break out costs for Base and Add Alternate Scopes of Work).*
- Review the OPCC with the Owner.
- Obtain Owner approval to commence with Final Design *(100% Construction Documents)* services. The Owner shall align the approved list of Add Alternate Scopes of Work with the OPCC and available funding.

We propose to provide Preliminary Design *(30% Design)* services on a Fixed Fee basis of One Hundred Seventy-two Thousand Five Hundred Eighty-nine and 60/100 Dollars ($172,589.60) plus Reimbursable Expenses. Refer to the attached fee schedule for a fee breakdown.

Task 02 – Final Design *(100% Construction Documents)*

Architect requires authorization to proceed with Task 02 services in the form of a written Notice to Proceed (NTP) signed by the Owner. The NTP shall identify each Add Alternate Scope of Work included in the authorization to proceed. The Task 02 scope of services and fee shall be based on the base and Owner-approved Add Alternate Scopes of Work listed in the NTP (and as broken out in the fee schedule). If necessary, the fee schedule shall be adjusted to align with the approved scope of services and budget.

- Provide project management, coordination and administration services.
- Attend one *(1)* Final Design kick-off meeting with the Owner and the design team to review and confirm general requirements, establish critical design parameters and discuss phasing, scheduling and budget for the project.
- Perform one *(1)* building survey to gather additional details.
- Attend virtual meeting*(s)* with the Owner every two *(2)* weeks *(or as needed)* during the Final Design phase *(duration of phase expected to be twenty-four (24) weeks).*
- Prepare Final Design Construction Documents based on the Owner-approved Preliminary Design documents. Final Construction Documents generally include the following:

  - title sheet,
  - updated 3-D renderings of the following areas:
    - passenger holdroom *(two interior and two exterior views; four views total),*
    - ticket lobby *(one interior view),*
    - queuing area and passenger screening checkpoint *(one interior view),* and
    - terminal curb front *(two exterior views),*
  - code data sheet,
  - color coded Scope of Work plans identifying Base and Add Alternate Scopes of Work,
  - construction phasing plans,
  - site plan,
  - civil *(demolition, grading, paving and utility plans),*

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  - demolition floor plans,
  - floor plans,
  - enlarged plans,
  - demolition roof plan,
  - roof plan,
  - demolition ceiling plan,
  - ceiling plan,
  - interior elevations,
  - exterior elevations,
  - building and wall sections,
  - architectural schedules *(door, window and finishes)*,
  - architectural details,
  - structural plans *(structural calculations, foundations, framing and details)*,
  - fire sprinkler and fire alarm plan diagrams and narrative,
  - plumbing plans *(including single line diagrams, schedules and details)*,
  - HVAC plans *(including single line diagrams, schedules and details)*,
  - power plans *(including single line diagrams, schedules and details)*,
  - lighting plans *(including schedules and details)*,
  - telecommunications plan *(pathways included in electrical plans)* extension of existing PA system included PA plan with speaker and microphone station layout *(this is based on the assumption that the existing PA system is in good condition and capable of being expanded)*, and
  - final specifications *(in book format)*.

- Submit a 60 percent Construction Documents quality control review set to the Owner for review-comment.
- Submit a 95 percent Construction Documents quality control review set to the Owner for review-comment.
- Update the OPCC.
- Review 100 percent Construction Documents with the Owner including the OPCC and confirm approval to submit the documents for building permit plan review.
- Prepare the building permit application and submit the Owner-approved 100 percent Construction Documents to the regulatory agency for building permit plan review.
- Respond to up to two *(2)* rounds of regulatory agency plan review comments.
- Notify the Owner when the building permit is approved and available for pick up from the building department.
- Close out the design scope of services and provide the Owner with the Construction Documents in PDF and Revit format.

We propose to provide Final Design *(100% Construction Documents)* services on a Fixed Fee basis of One Hundred Sixty-four Thousand Six Hundred Ninety-eight and 80/100 Dollars ($164,698.80) plus Reimbursable Expenses. Refer to the attached fee schedule for a fee breakdown.

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Reimbursable Expenses *(Task 00)*

Reimbursable expenses such as, but not limited to, materials, supplies, reproduction costs *(plans, manuals, reports)*, travel, meals and lodging.

We propose to provide Reimbursables Expenses on a Cost-Plus basis estimated at Twenty-five Thousand and no/100 Dollars ($25,000.00) with expenses charged at a multiple of one and fifteen hundredths *(1.15)* times the actual cost to the Architect and mileage charged according to current government rates. Regulatory agency application and permit fees are not included in this proposal but can be paid on behalf of the Owner as an additional Reimbursable Expense.

The following services are not included in the above scope but may be contracted separately, as an Additional Task, upon Owner request:

- Bidding support.
- Construction Administration.
- Electrical power service upgrades if existing power service capacity is not adequate to support the building addition.
- Environmental.
- Landscape design.
- Telecommunications. The Owner has indicated that the following systems currently exist in the terminal building, however, will be design-build by the Owner's vendor. The Owner-vendor will provide direction to the design team for designing a pathway *(conduit and junction boxes)* to support installation of the Owner-vendor-provided and installed low voltage cabling and devices to the following systems: electronic access control, video surveillance, Wi-Fi and, airline data/communications network device locations.
- Electric visual information display systems *(flight information display systems)*.
- Baggage conveyor system design.
- Parking lot redesign and/or improvements.
- Apron redesign *(beyond 20 feet of the building expansion area)*.
- Grant funding support *(i.e., grant writing or similar tasks)*.
- FAA and TSA funding support.
- Certified sustainable design *(i.e., LEED, Green Globes or similar)*.
- Electrical arc flash study.
- Value engineering or significant changes to the design after approval of the Preliminary Design documents.
- Change Orders initiated by the Owner to make changes to the design after completion of the Construction Documents.
- Services beyond those noted above.

Employee's time for Additional Tasks, including modifications to the above scope of services, shall be charged at 2.75 times the Employee's Direct Personnel Expense.

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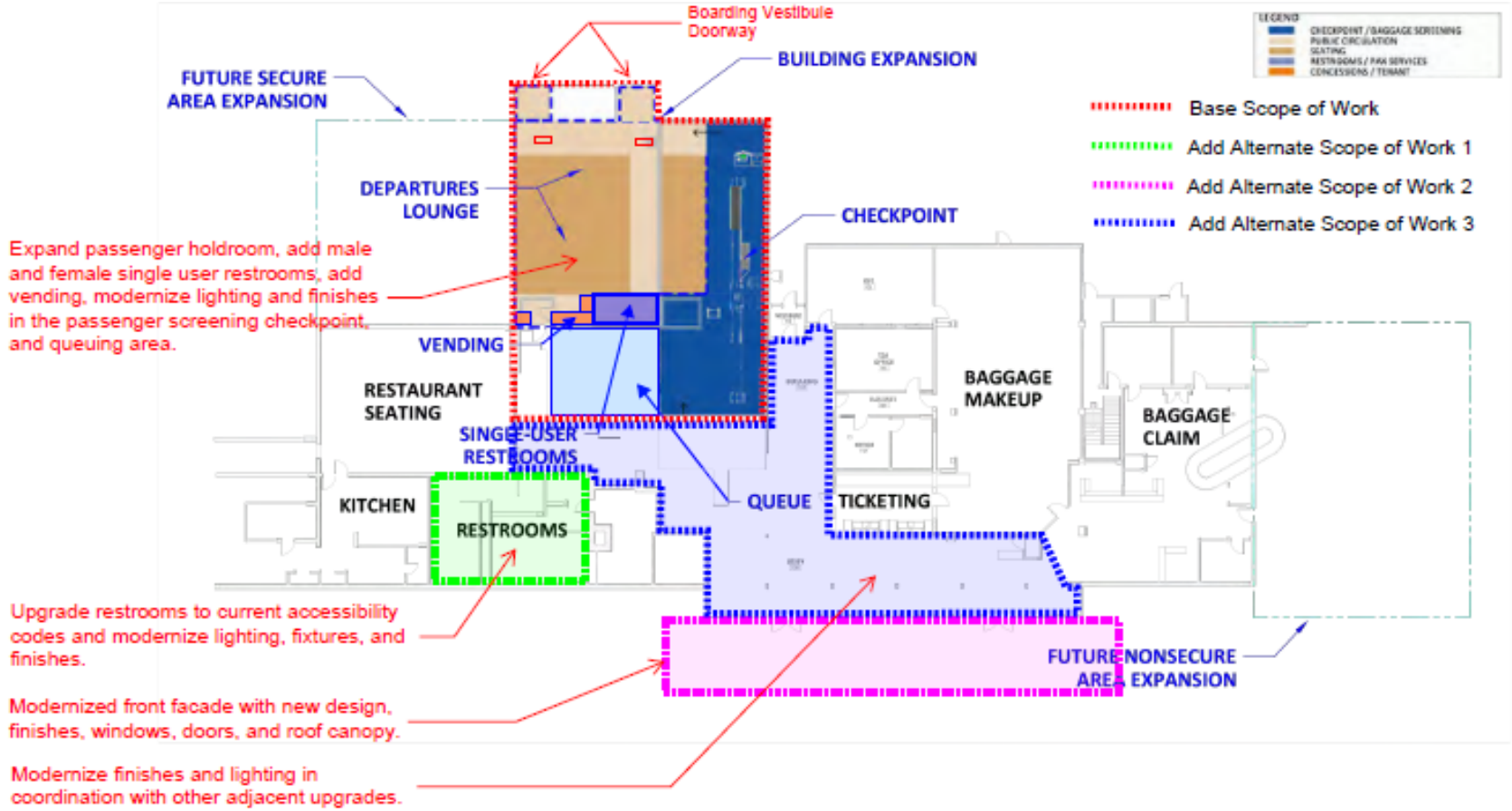

FIGURE D10 Short-Term Terminal Expansion Concept

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SCHEDULE 2

Fee Schedule

Excerpt from Architect's Revised Fee Schedule dated March 16, 2022

Architectural and Engineering Fee Schedule
Pueblo Memorial Airport - Terminal Expansion and Remodel Project

Feasibility Study (Based on $4M target)		Based on $3,000,000 Approved Constrution Budget		
TOTAL LABOR	Task 1 Preliminary Design (30% Design)	Task 2 Final Design Phase (100% Con Docs)	Future Task Bidding and Construction Administration	TOTAL FEE
Basic Services				
Architectural (CSHQA)	$73,440.00	$82,620.00	N/A	$156,060.00
Mechanical (CSHQA)	$15,840.00	$17,820.00	N/A	$33,660.00
Electrical (CSHQA)	$18,720.00	$21,060.00	N/A	$39,780.00
Telecommunications (included in electrical)	$0.00	$0.00	N/A	$0.00
Structural (KPFF)	$23,040.00	$25,920.00	N/A	$48,960.00
Specialty Services				
Fire Sprinkler and Alarm (PCI)	$3,168.00	$1,872.00	N/A	$5,040.00
Cost Estimating (Parmetrix Inc.)	$5,000.00	$6,000.00	N/A	$11,000.00
Civil (Dibble)	$19,161.60	$9,406.80	N/A	$28,568.40
Survey (North Star)	$4,420.00	$0.00	N/A	$4,420.00
Geotech (Terracon)	$9,800.00	$0.00	N/A	$9,800.00
Subtotals	$172,589.60	$164,698.80		$337,288.40
Reimbursable Expense Estimate				$25,000.00
Grand Total				$362,288.40

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Hourly Rates

Title	Billing Rate
Principal	$ 172.00 – $ 210.00
Project Architect	$ 125.00 – $ 162.00
Project Manager	$ 111.00 – $ 149.00
Revit/Architectural Designer	$ 83.00 – $ 101.00
AIT	$ 72.00 – $ 101.00
Interior Designer	$ 72.00 – $ 124.00
Landscape Architect	$ 139.00 – $ 146.00
Landscape Designer	$ 82.00 – $ 95.00
Electrical PE	$ 173.00– $ 191.00
Electrical EIT/Designer	$ 95.00 – $ 111.00
Telecommunications Designer	$ 102.00 – $ 124.00
Mechanical PE	$ 139.00 – $ 180.00
Mechanical EIT/Designer	$ 83.00 – $ 117.00
Civil PE	$ 165.00 – $ 175.00
Civil Project Manager	$ 105.00 – $ 122.00
Civil EIT/Designer	$ 82.00 – $ 105.00
Administrative Assistant	$ 66.00 – $ 90.00

Fee Development

Every project, every design team and every client is unique; therefore development of project fees is a collaborative effort with all parties taking into consideration the type of service and level of service as determined by the project team. Project services are typically calculated using one or a combination of the following:

- **Payroll cost basis**—Employee's time will be charged at two and seventy-five one hundredths (2.75) times the "Direct Personnel Expense." Direct Personnel Expense is defined as the direct salaries of the personnel engaged on the project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.
- **Stipulated cost**—Fixed cost based on a percentage of the direct construction cost. The cost will be adjusted to reflect the percentage of the actual direct cost of construction as determined following acceptance of bids from the contractor. The direct cost of construction is defined as the sum of the accepted contractor's bid plus general conditions as agreed by the Client and Contractor.
- **Fixed fee**—lump sum cost determined by the design team for the labor to be expended to complete the scope of services as delineated by the project team at the point of project understanding.

In addition, there are reimbursable expenses that are generally billed as they are incurred. Expenses may include costs for reproduction of drawings and specifications (contract documents) and costs associated with retaining consultants for the project.

Reimbursable Expenses

Reimbursable Expenses such as, but not limited to, materials, supplies, reproduction costs (plans, manuals, reports), travel, and meals, will be charged at a multiple of one and fifteen hundredths (1.15) times the actual cost to the Architect and mileage will charged according to the current Government rates. Reimbursable expenses are not included as part of the base fee and include expenses directly related to the project as identified in the following:

- Mileage will be charged according to the current government rates.
- Reproduction costs will be charged for instruments of service.
- Charge at one and fifteen hundredths (1.15) times the actual cost to the design professional.

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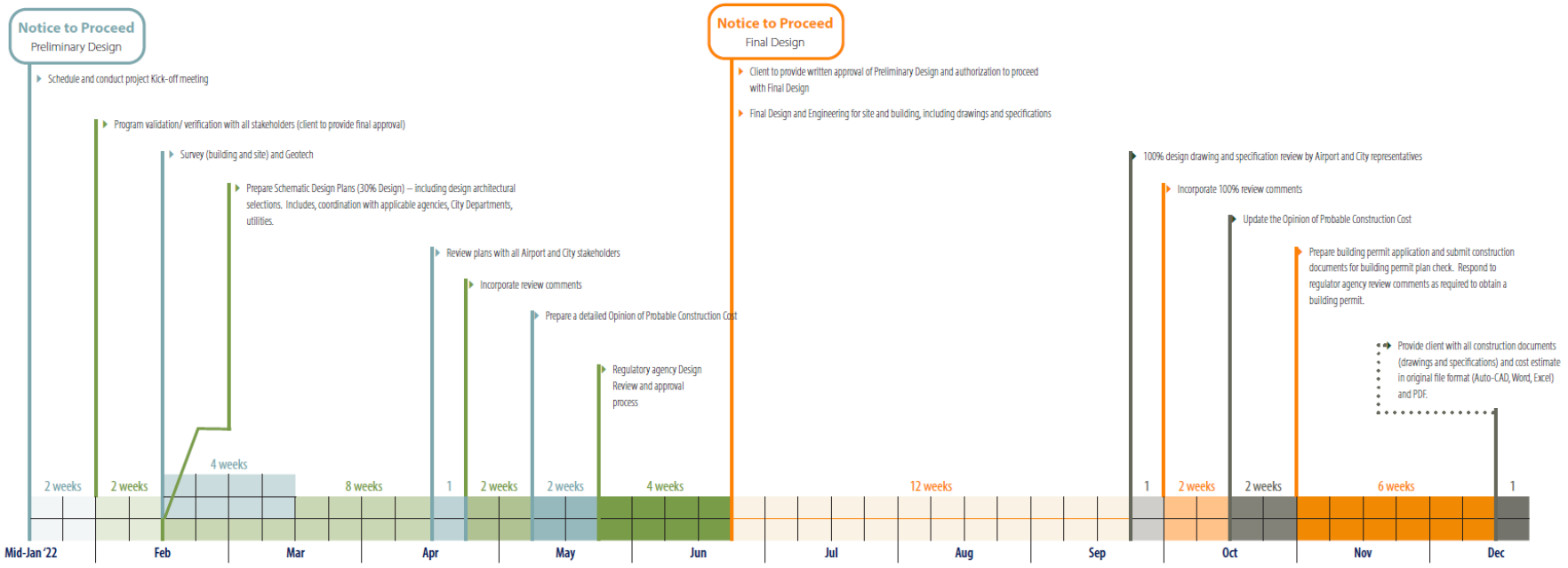
SCHEDULE 3

Work Schedule

Excerpt from Architect's Proposal Submittal dated November 16, 2021; pages 32-33

This schedule starts following issuance of a written Notice-to-Proceed (NTP) from the client. The NTP will not be issued until a fully executed contract agreement is in place between the client and design team.



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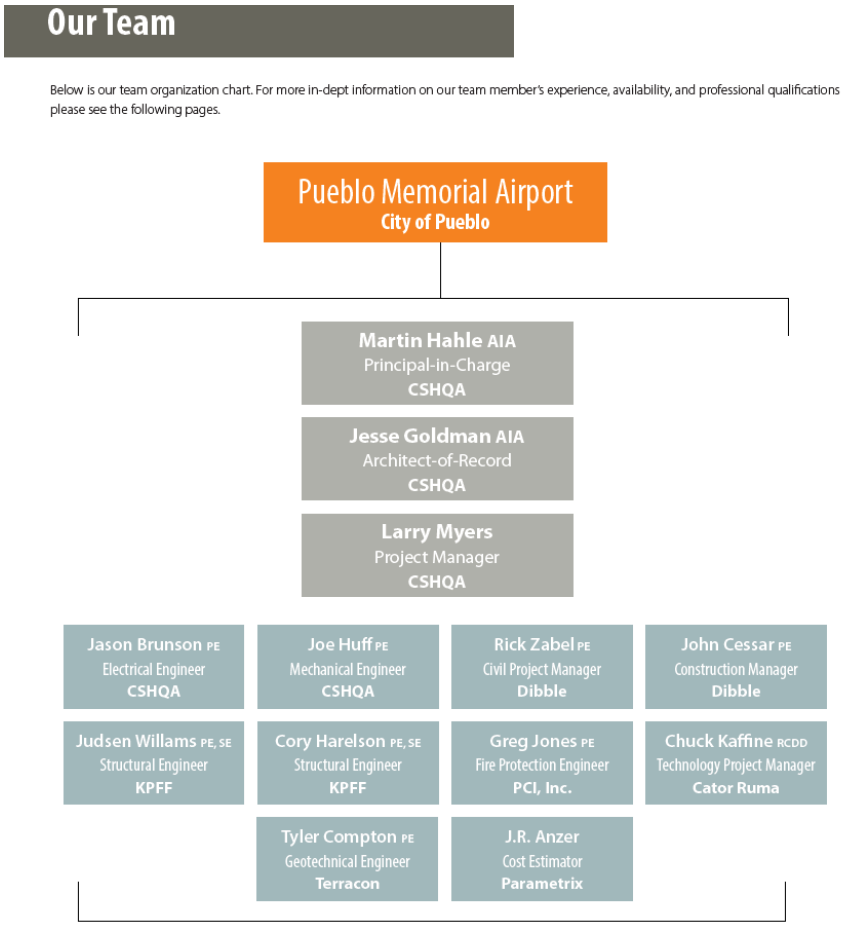
SCHEDULE 4

Identification of Personnel, Subcontractors, and Task Responsibility
Excerpt from letter dated March 16, 2022 (CSHQA to City; page 1) & excerpt from Architect's Proposal Submittal dated November 16, 2021; pages 15-22

Our project team for the Pueblo Memorial Airport *(PUB)* – Terminal Expansion and Remodel project shall include the following disciplines:

Architectural – CSHQA, Inc. – Martin Hahle, AIA, Principal; Jesse Goldman, AIA, Architect of Record; and Larry Myers, Project Manager
Geotechnical* – Terracon Consultants, Inc. – Tyler Compton, P.E.
Civil – Dibble Engineers, Inc. – Rick Zabel, P.E.
Structural – KPFF, Inc. – Judd Williams, P.E., S.E.
Fire Protection* – Protection Consultants, Inc. – Greg Jones, P.E.
Mechanical *(plumbing and HVAC)* – CSHQA, Inc. – Joe Huff, P.E.
Electrical *(power, lighting and limited telecommunications)* – CSHQA, Inc. – Jason Brunson, P.E.
Land Survey* – NorthStar Surveying, Inc. – To Be Determined
Construction Cost Estimating – Parametrix, Inc. – Nick Anzer, CPE

**Geotechnical and land surveying services may be subcontracted through Civil/Dibble Engineers, Inc. as opposed to directly through Architect.*



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Martin A. Hahle AIA

Principal-in-Charge | CSHQA



When he works on aviation projects, Martin describes the complexity of airports as little cities that serve as a community's gateway to the rest of the world. He understands his responsibility to thoughtfully design airport facilities that are functional, efficient, sustainable and that clearly define a sense of place. With nearly 30 years of experience working in aviation, Martin knows how much collaboration, planning, relationship-building, and teamwork it takes to execute these complex projects. He has worked in many different areas of airport facilities, including terminal replacements and remodels, baggage conveyor systems, airline tenant improvements, concessions, rental cars, passenger boarding bridges, parking garages and more. He has completed these projects at various airports around the West, including Boise Airport, Rogue Valley International-Medford Airport, Fresno Yosemite International Airport, Magic Valley Regional Airport and many more.

Availability
25%

Experience
28 years

Education
MArch, University of Nebraska, 1993

BS, Architectural Studies, University of Nebraska, 1991

Registration
Licensed Architect: CO, MT, IA, ID, NE, SD

Certified: National Council of Architectural Registration Boards (NCARB)

Professional Affiliations
American Institute of Architects (AIA)

Design Professionals Risk Control Group (DPRCG)

U.S. Green Building Council (USGBC)

American Association of Airport Executives (AAAE)

Northwest Chapter of American Association of Airport Executives (NWAAAE)

Southwest Chapter of American Association of Airport Executives (SWAAAE)

Idaho Airport Management Association (IAMA)

Oregon Airport Management Association (OAMA)

Arizona Airports Association (AzAA)

Related Experience

Magic Valley Regional Airport Terminal Expansion/Remodel, Twin Falls, ID
Remodel of existing ticket lobby and passenger screening area, airline ticket offices, and relocation of the airline operators and TSA

8,250-SF expansion includes new passenger hold room and public rest rooms. New airport operation areas include a baggage screening room, bag makeup room, and airport storage.

Grant Co. Regional Airport General Aviation Building & USFS Fire Airbase, John Day, OR
New, joint-use general aviation building with pilot lounge, administration office, maintenance shop, training room and support spaces & USFS air base for fire-fighting with helibase administration, ready room, locker rooms and support spaces.

Fresno Yosemite International Airport, Fresno, CA
$86-million Terminal Expansion with new FIS (2019-2023)

Terminal Renovation and Expansion Program including Ticketing, Baggage Claim, Security Checkpoint, Bag Make-Up, Concourse, Concessions, EMS Upgrade, Hydronic Loop & TSA In-line EDS Conveyor System

Federal Inspection Services (FIS) Facility

Rental Car Counter and Parking Lot Reconfiguration

Gate 5/7 Holdroom Renovation

Gate 6/8 Passenger Boarding Bridge and Holdroom Renovation

Terminal Area Master Plan Update

Public Family Restroom Renovation Study

Rental Car Power Panel Infrastructure Upgrades

Boise Airport, Boise, ID
Expansion with New Terminal

- Architect & Project Manager for new three-story 378,000-SF terminal (part of a $110-million expansion program)

ARFF Expansion & Remodel

- Principal-in-charge for code compliance and remodel in existing facility, and expansion that adds gender-specific crew quarters and facilities, apparatus bay and support spaces.

Snow Removal Equipment Complex

- Project Manager for master planning and design for warehouse conversion for storage, maintenance, and office space; new pre-engineered metal building to store four snow removal machines; new pre-engineered metal building to store snow brooms; fueling station with 8,000-gallon above-grade steel storage tank and concrete spill-containment pad

Air Guard C-130 and A-10 maintenance hangars

- **Part of team to design original hangar (1999)**
- Principal-in-charge for conversion to A-10 maintenance hangar (2018)

Rogue Valley International–Medford Airport Passenger Terminal, Medford, OR
New 110,000-SF passenger terminal, airside apron, landside access roadways and parking areas

Reno-Stead Airport Terminal/EOC Programming, Reno, NV

Bloomington-Normal International Airport, Bloomington, IL
TSA In-line baggage screening system building renovation and expansion

McCall Airport Snow Removal Equipment Building, McCall, ID
4,300-SF pre-engineered metal building for four snow removal machines includes support space (office, rest room, etc.)

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Larry Myers
Project Manager | CSHQA



Larry is a Project Manager who has led aviation projects for CSHQA for the past eight years, including expansions and tenant improvements at the Boise Airport, a 10,000 square-foot expansion of the Twin Falls airport in eastern Idaho, and maintenance hangar facilities for SkyWest Airlines. He is also the senior project manager overseeing a 120,000 square-foot terminal expansion at the Fresno Yosemite International Airport, which includes the addition of a new concourse and baggage and passenger screening areas. As a project manager, he focuses on the overall process and "big picture" of a project with all of its moving pieces to ensure it is successful. Larry believes every aviation project is unique and enjoys the puzzle of managing the many logistics and team members involved in these efforts.

Related Experience

Fresno Yosemite International Airport, Fresno, CA
$86-million Terminal Expansion with new FIS (2019-2023)
Terminal Expansion
Gate 6/8 passenger boarding bridge
Gate 6/8 and 5/7 holdroom remodel
EMS upgrade
Terminal Concourse & Federal Inspection Services,
RAC counter & parking lot reconfiguration
FAT CATEX Environ Assess Terminal Bldg Exp & Remodel Design Support

Magic Valley Regional Airport Terminal Expansion/Remodel, Twin Falls, ID

Boise Airport, Boise, ID
In-flight kitchen building re-roof
Concourse C passenger boarding bridge C-11 & C-8
Concourse B and Concourse B extension re-roof
C gates preconditioned air units
Concourse B electrical power feed
Concourse B jet bridge 21 extension
Parking lot 20 and 30 modifications
Rental car parking lot expansion plan
Airport Checked Baggage Resolution Area (CBRA) room remodel
Concessions remodel

Availability
50%

Experience
16 Years

Education
BS, Architecture, University of Idaho

Professional Affiliations
American Association of Airport Executives (AAAE)

Jesse Goldman AIA
Architect-of-Record | CSHQA



Jesse Goldman is Denver's Principal Architect with over 27 years of experience specializing in housing and retail projects. He is responsible for overseeing Denver's office, providing design, review, QA/QC, and business development. He has always liked building projects and figuring out how things worked, so when he learned what architecture was at eight years old he never looked back. He specializes in housing and retail projects.

Related Experience

**Project experience prior to joining CSHQA*

Pueblo HARP Boathouse, Pueblo, CO

SG Blocks AiFi Retail Units, Various Locations in CO

La Plaza Colorado, Aurora, CO

Imperium Event Center

Acoma House, Denver, CO

Alpine Bank Corporate Offices—Wazee, Denver, CO

Eastlake Office Building*

York Street Depot Co-Office*

Alpine Bank Tech Center Branch*

Stucco Rite Office Building*

Bank of Colorado*

Essex House Apartments*

Forney Museum of Transportation*

Rocky Mountain Theatre for Kids*

Availability
20%

Experience
27 Years

Education
BS, Architecture, University of Kansas

Registrations
Licensed Architect: CO, KS, NM, UT, TX

Certified National Council of Architectural Registration Boards (NCARB)

Professional Affiliations
American Institute of Architects (AIA)

LEED Accredited Professional (LEED AP)

International Council of Shopping Centers (ICSC)

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Tyler Compton PE
Geotechnical Engineer | Terracon



Tyler has seven years of experiences as a project geotechnical engineer. His responsibilities include managing geotechnical engineering investigations, laboratory testing assignments, performing engineering analyses related to geotechnical engineering recommendations, and client relations. He has also performed field and laboratory testing and inspections of soils and construction materials. Field engineering experience includes planning, coordinating, and performing geotechnical explorations, as well as shallow and deep foundations, pavement thickness recommendations, reviewing and preparing project plans and specifications, and preparing geotechnical engineering reports.

Related Experience

PUB Taxiway E Rehabilitation and Reconstruction, Pueblo, CO
Project Engineer for subsurface exploration and geotechnical engineering recommendations. Subsurface exploration, laboratory testing, and earthwork and subgrade preparation services were provided to assist our client with their pavement thickness and rehabilitation designs.

Limon Municipal Airport, Limon, CO
Staff Engineer preparing the geotechnical engineering report for this project. Provided information and recommendations to support earthwork and subgrade preparation, and pavement thickness design in accordance with the FAA Advisory Circular and to be used with the FAARFIELD design program.

Durango-La Plata County Airport Commercial Apron Reconstruction, Durango, CO
Project Engineer preparing the geotechnical engineering report for this project. Prior to geotechnical services, the existing asphalt concrete at the location of the commercial apron had experienced distress in the form of severe rutting and varying degrees of longitudinal, transverse, and alligator cracking. Terracon provided geotechnical drilling, laboratory testing, and geotechnical consulting services, and provided earthwork and subgrade preparation recommendations to aid our client in their pavement thickness design.

Availability
15%

Experience
7 Years

Education
BS, Civil Engineering, New Mexico Institute of Mining and Technology

Registrations
Licensed Professional Engineer: CO, NM

Professional Affiliations
American Society of Civil Engineers

Rick Zabel PE
Civil Project Manager | DIBBLE



Rick brings 35 years of civil engineering experience directing successful airport design and construction projects, including projects at airports in Colorado. Rick has managed a variety of design and construction projects and has experience with runway, taxiway, and other airfield pavement projects. Rick brings a collaborative approach and responsiveness to project management, having worked both for private consultants and owner agencies in Colorado.

Related Experience

Northern Colorado Regional Airport: Apron Expansion and Taxiway E
Project Manager for the current design of concrete pavement apron expansion and connector taxiway for commercial aircraft operations. Project is currently under design for 2021 construction.

Colorado Springs Airport: Skywest Maintenance Hangar
Project Manager for landside design of parking lot, drainage, and utilities for a new 60,000-square-foot maintenance hangar.

DEN Taxiway DS East Extension
Project Manager and owner's representative for an extension of the existing Taxiway DS East to allow safer and better traffic flow of aircraft using the east airfield. The project consisted of additional concrete pavement for RON parking of aircraft and ability to have aircraft taxiing in both directions from connector taxiways L&M. This project included planning elements for a variety of options to meet funding requirements.

DEN Taxiway DS East Extension
Project Manager and owner's representative for an extension of the existing Taxiway DS East to allow safer and better traffic flow of aircraft using the east airfield. The project consisted of additional concrete pavement for RON parking of aircraft and ability to have aircraft taxiing in both directions from connector taxiways L&M. This project included planning elements for a variety of options to meet funding requirements.

Availability
35%

Experience
36 Years

Education
BS, Civil Engineering, North Dakota State University

Registrations
Licensed Professional Engineer: CO

LEED AP

Professional Affiliations
Colorado Airport Operators Association (CAOA)

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Judsen Williams PE, SE
Structural Engineer | KPFF



Judsen is a structural engineering principal and the lead of the KPFF's Idaho office. With over 20+ years in the practice of structural engineering Judsen has developed a passion for working with highly collaborative design and construction teams and enjoys engaging and assisting in all aspects of the project from start to finish. With a broad range of project experience with airports, he has the ability to support the client and project needs while proactively solving issues in advance.

Related Experience

Boise Airport Passenger Boarding Bridge, Gate C8, Boise, ID

Fresno Airport Terminal Expansion, Fresno, CA (with CSHQA)

Fresno Air Terminal (FAT) On Call Services 2018-Current, Fresno, CA (with CSHQA)

Fresno Air Terminal (FAT) Gate 6/8 passenger Boarding Bridge, Fresno, CA (with CSHQA)

Fresno Air Terminal (FAT) Gate 6/8 Fire Shutter Door Installation, Fresno, CA (with CSHQA)

Boise Airport Rental Car Maintenance Facility Renovations, Boise, ID (with CSHQA)

Boise Airport MWR Facility, Boise, ID (with CSHQA)

Boise Airport Passenger Screening Expansion, Boise, ID (with CSHQA)

Boise Airport Skylight Phase II, Boise, ID (with CSHQA)

Idaho Air National Guard FMS Building, Boise, ID

Kaweah Delta Health Care District OSHPD Compliance Review and Master Facility Plan, Visalia, CA

Availability
15%

Experience
20 Years

Education
BS, Civil Engineering, Washington State University

MS, Structural Engineering, Washington State University

Registrations
Licensed Professional Engineer: ID, UT, CA, WA, OR TX

Licensed Structural Engineer: ID, UT, WA, CA

Professional Affiliations
American Council of Engineering Companies

Structural Engineers Association of Idaho

Greg Jones PE
Fire Protection Engineer | PCI, Inc.



Greg Jones brings 24 years of fire protection engineering experience on projects with diverse scopes ranging from special agent suppression systems to basic fire sprinkler systems and fire alarm/mass notification systems for both new construction and renovation efforts. He adeptly researches building/fire codes to determine requirements for fire protection systems, prepares fire protection design analysis, performs design modifications to existing fire protection water supply and fire sprinkler systems, prepares drawings and specifications for fire sprinkler systems, surveys existing fire protection systems, and performs plan review of contractors shop drawing submittals.

Related Experience

Kingsley Field Building 400, Klamath Falls, OR
Designed pump, fire sprinkler, high expansion foam, fire alarm, and mass notification systems for remodel of aircraft maintenance hangar. Prepared design narratives, drawings, specifications, and calculations. Met with government representatives to review design. Observed installation of systems and witnessed acceptance testing.

BOI Employee Parking Garage, Boise, ID
Prepared drawings and specifications for fire protection standpipe systems for a five-level open parking structure. Design of the standpipe systems was required to conform to International Building Code, International Fire Code, and NFPA 14.

BOI East Public Parking Garage, Boise, ID
Prepared drawings and specification for a fire protection standpipe systems for a five-level open parking structure. Design of the standpipe system was required to conform to International Building Code, International Fire Code, and NFPA 14.

Provo city Municipal Building, Provo, UT
Prepared and sealed a fire sprinkler and standpipe design drawings for building, including connected, underground parking. Developed performance specifications and fire protection drawings, details, and hydraulic calculations. Prepared 3-D model of the fire sprinkler system using Revit to provide coordination with the building's structural, mechanical, and electrical systems. Reviewed fire protection shop drawing submittals and responded to all requests for information from installing contractors.

Availability
25%

Experience
24 Years

Education
BS, Mechanical Engineering, University of Utah

Registrations
Licensed Professional Engineer: CO, ID, UT (additional 23 states)

National Fire Protection Association Certified Fire Protection Specialist

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Jason Brunson PE
Electrical Engineer | CSHQA



Jason is a quality-focused Professional Electrical Design Engineer with 21 years of industrial, commercial, and nuclear power distribution design experience. He is responsible for thorough power system analysis, completed with a focus on reliability, coordination, load flow, short-circuit and arc flash calculations. He designs cost-effective and quality electrical power distribution systems, lighting systems, grounding and lightning protection systems, communications and network systems, and control systems.

Related Experience

Fresno Yosemite International Airport, Fresno, CA
$86-million Terminal Expansion with new FIS (2019-2023)

Boise Airport, Boise, ID
Administration Office Entry Lobby Remodel
SARA
Mother's Room
Aircraft Lighting Electrical Building (ALEB) Electrical Power Upgrades
Concourse B Arc Flash Study
Electrical Power Feeding Concourse B
Idaho Transportation Department Aeronautics Hangar and Office Site
FedEx Vale
Concourse C Passenger Boarding Bridge C-8

San Carlos Airport New Aircraft Storage Hangars, San Carlos, CA

Idaho Air National Guard: Building 1529 Renovation, Boise, ID

Idaho Air National Guard: Building 1530 Renovation, Boise, ID

Kingsley Field B400 Hangar and Electrical Upgrade
Klamath Falls, OR

Availability
25%

Experience
21 Years

Education
BS, Electrical Engineering, University of Idaho

Registrations
Licensed Professional Engineer: ID, AR, CA, CO, UT, WA

Professional Affiliations
National Council of Examiners for Engineering and Surveying, Model Law Engineer (NCEES MLE)

Joe Huff PE
Mechanical Engineer | CSHQA



Joe is a mechanical engineer with 12 years of experience specializing in the design of HVAC and plumbing systems for a variety of building types. He takes pride in researching and developing solutions to a client's unique problems, and he stays informed of emerging technologies that could benefit current or future projects. He also has experience in energy efficiency projects, DDC controls upgrades, and large industrial campuses, including government and healthcare.

Related Experience

Boise Airport: Terminal Skylight Replacement, Boise, ID

Boise Airport: Idaho Transportation Department Aeronautics Hangar and Office Site, Boise, ID

TAN-691 Maintenance & Vehicle Storage Building Design Services, Idaho Falls, ID

Ketchum City Hall & Police Station Relocation/Renovation
Ketchum, ID

Meridian Police Department Tenant Improvement, Meridian, ID

Idaho Air National Guard: Gowen Field Building 1500 Type B Services, Boise, ID

Idaho Air National Guard: Building 1529 Renovation, Boise, ID

Idaho Air National Guard: Building 1530 Renovation, Boise, ID

Idaho Air National Guard Medical Training Facility, Boise, ID

Availability
25%

Experience
12 Years

Education
BS, Mechanical Engineering,
California Polytechnic State University - San Luis Obispo

Registrations
Licensed Mechanical Engineer:
CA, CO, ID, IL, OK, OR

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J.R. Anzer
Cost Estimator | Parametrix



J. R. has over 46 years of experience in the field of Construction Cost Consulting. He was employed in 1975 as an Estimator and has served as President / Principal since 1979. As one of the company founders, he is responsible for over-all coordination and quality control for each project. He oversees the computer systems used for Quantity Surveying & Estimating. Mr. Anzer reviews all quantities and costs, as well as the scheduling constraints on all projects. He has experience on a wide range Municipal, Housing, Commercial, and Civil Facilities. His combined experience amounts to a Construction Value of over $26 billion with over 6,900 projects to date.

Related Experience

Gunnison-Crested Butte Regional Airport Expansion and Renovation, Gunnison, CO

Grand Junction Regional Airport Terminal Level 2 Addition Grand Junction, CO

Centennial Airport Administration Building, Englewood, CO

Fresno Yosemite International Airport Terminal Expansion Fresno, CA

Boise Airport East Public Parking Garage, Boise, ID

Boise Airport Snow Removal Equipment Storage Building, Boise, ID

Boise Airport Aeronautics Hangar and Administration Building Boise, ID

Salt Lake City International Airport, Salt Lake City, UT

- Addition to Terminal Unit Two
- Administrative Offices
- Airport Hangar Completion
- Alsco Hangar
- Car Rental Expansion Service Counter Phase II
- Car Rental Lobby Expansion
- Concourse B Remodel
- Concourse C Expansion
- Concourse D
- Expansion, South Concourse, North Concourse, Parking Structure, and Central Utility Plant

Jackson Hole Airport Terminal Area Expansion, Jackson Hole, WY

Availability
15%

Experience
46 Years

Education
Cost Estimating, Utah Technical College

Registrations
American Society of Professional Estimators | Certified Professional Estimators

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ADDITIONAL INFORMATION FOR AGREEMENT

System for Award Management (SAM) Information

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

E-Verify Participation Letter

Insurance Certificate(s)

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SAM.GOV®

CSHQA, INC.

DUNS Unique Entity ID	SAM Unique Entity ID	CAGE / NCAGE
063323729	**EBLBNCF3CKL8**	**0HPS0**
Purpose of Registration	Registration Status	Expiration Date
All Awards	**Active**	**Mar 1, 2022**
Physical Address	Mailing Address	
200 Broad ST **Boise, Idaho 83702-7635** **United States**	**200 Broad ST.** **Boise, Idaho 83702-7635** **United States**	

Business Information

Doing Business as	Division Name	Division Number
(blank)	**Boise**	**(blank)**
Congressional District	State / Country of Incorporation	URL
Idaho 02	**Idaho / United States**	**www.cshqa.com**

Registration Dates

Activation Date	Submission Date	Initial Registration Date
Mar 2, 2021	**Mar 1, 2021**	**Jan 29, 2002**

Entity Dates

Entity Start Date	Fiscal Year End Close Date
Nov 14, 1968	**Dec 31**

Immediate Owner

CAGE	Legal Business Name
(blank)	**(blank)**

Highest Level Owner

CAGE	Legal Business Name
(blank)	**(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) 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 not displayed in SAM. They are sent to FAPIIS.gov for display as applicable. Maintaining an active registration in SAM demonstrates the registrant responded to the proceedings questions.

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	Entity Type	Organization Factors
Corporate Entity (Not Tax Exempt)	**Business or Organization**	**Subchapter S Corporation**
Profit Structure		
For Profit Organization		

Socio-Economic Types

Financial Information

Accepts Credit Card Payments	Debt Subject To Offset
No	**No**

EFT Indicator	CAGE Code
0000	**0HPS0**

Points of Contact

Electronic Business

Gabe Caretto, Financial Manager

701 University AVE
STE 210
Sacramento, California 95825
United States

Government Business

Martin A Hahle, President

200 Broad ST
Boise, Idaho 83702
United States

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	**541310**	**Architectural Services**
	541330	**Engineering Services**

Product and Service Codes

PSC	PSC Name
C1AA	**Architect And Engineering- Construction: Office Buildings**
C1AB	**Architect And Engineering- Construction: Conference Space And Facilities**
C1AZ	**Architect And Engineering- Construction: Other Administrative Facilities And Service Buildings**
C1BE	**Architect And Engineering- Construction: Airport Terminals**
C1BG	**Architect And Engineering- Construction: Electronic And Communications Facilities**
C1BZ	**Architect And Engineering- Construction: Other Airfield Structures**
C1CA	**Architect And Engineering- Construction: Schools**
C1CZ	**Architect And Engineering- Construction: Other Educational Buildings**
C1DA	**Architect And Engineering- Construction: Hospitals And Infirmaries**
C1DB	**Architect And Engineering- Construction: Laboratories And Clinics**
C1DZ	**Architect And Engineering- Construction: Other Hospital Buildings**
C1EB	**Architect And Engineering- Construction: Maintenance Buildings**
C1EC	**Architect And Engineering- Construction: Production Buildings**
C1EZ	**Architect And Engineering- Construction: Other Industrial Buildings**
C1FA	**Architect And Engineering- Construction: Family Housing Facilities**
C1FB	**Architect And Engineering- Construction: Recreational Buildings**
C1FC	**Architect And Engineering- Construction: Troop Housing Facilities**
C1FD	**Architect And Engineering- Construction: Dining Facilities**
C1FE	**Architect And Engineering- Construction: Religious Facilities**
C1FF	**Architect And Engineering- Construction: Penal Facilities**
C1FZ	**Architect And Engineering- Construction: Other Residential Buildings**
C1GB	**Architect And Engineering- Construction: Food Or Grain Storage Buildings**
C1GC	**Architect And Engineering- Construction: Fuel Storage Buildings**

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C1JB	Architect And Engineering- Construction: Testing And Measurement Buildings
C1JZ	Architect And Engineering- Construction: Miscellaneous Buildings
C1LA	Architect And Engineering- Construction: Airport Service Roads
C1LZ	Architect And Engineering- Construction: Parking Facilities
C1MG	Architect And Engineering- Construction: Epg Facilities - Solar
C1MH	Architect And Engineering- Construction: Epg Facilities - Wind
C1NA	Architect And Engineering- Construction: Fuel Supply Facilities
C1NB	Architect And Engineering- Construction: Heating And Cooling Plants
C1NZ	Architect And Engineering- Construction: Other Utilities
C1PA	Architect And Engineering- Construction: Recreational Facilities (Non-Building)
C1PB	Architect And Engineering- Construction: Exhibit Design (Non-Building)
C1PC	Architect And Engineering- Construction: Unimproved Real Property (Land)
C1QA	Architect And Engineering- Construction: Restoration Of Real Property (Public Or Private)
C211	Architect And Engineering- General: Landscaping, Interior Layout, And Designing
C219	Architect And Engineering- General: Other
C220	Architect And Engineering- General: Structural Engineering
C221	Architect And Engineering- General: Plumbing Systems
C222	Architect And Engineering- General: Electrical Systems
C223	Architect And Engineering- General: Mechanical Systems

Disaster Response

This entity does not appear in the disaster response registry.



For this Record...
Filing history and documents
Trade names
Get a certificate of good standing
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Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	CSHQA, INC.		
Status	Good Standing	**Formation date**	03/23/2000
ID number	20001060804	**Form**	Foreign Corporation
Periodic report month	March	**Jurisdiction**	California
Principal office street address	200 West Broad Street, Boise, ID 83702, United States		
Principal office mailing address	200 W BROAD ST, BOISE, ID 83702, United States		

Registered Agent	
Name	Jesse G. Goldman
Street address	2696 South Colorado Boulevard, Suit, Ste. 100, Denver, CO 80222, United States
Mailing address	200 W. Broad Street, BOISE, CO 83702, United States

Filing history and documents

Trade names

Get a certificate of good standing

Get certified copies of documents

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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,

CSHQA, 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 20001060804 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 02/02/2022 that have been posted, and by documents delivered to this office electronically through 02/03/2022 @ 15:38:20 .

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 02/03/2022 @ 15:38:20 in accordance with applicable law. This certificate is assigned Confirmation Number 13768954 .

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 Web site 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 Web site, http://www.sos.state.co.us/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 Web site, http://www.sos.state.co.us/ click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

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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: CSHQA, Inc.

Authorized Signature: _____ Title: President

Printed Name: Martin A. Hahle Date: February 22, 2022

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CSHQA

200 Broad St • Boise, ID 83702 | 208.343.4635 | cshqa.com

COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of CSHQA that every employee has the right to work in an environment where every person is treated with respect and dignity. We are committed to maintaining a work environment that is free from bias, prejudice and harassment. Each manager, supervisor and employee is responsible for carrying out this policy. It is the policy of CSHQA **not** to discriminate against any employee or applicant for employment because of his/her race, color, religion, sex, sexual orientation, gender identity, national origin, age, pregnancy, genetic information, retaliation for protected activity, or any other status protected by applicable federal, state and local laws, or because he/she is an individual with a disability or disabled veteran, Armed Forces service medal veteran, recently separated veteran, or active duty wartime or campaign badge veteran, or thereinafter referred collectively as "protected veterans." It is also the policy of CSHQA to take affirmative action to employ and to advance in employment, all persons regardless of their status, as described above, and to base all employment decisions only on valid job requirements. This policy shall apply to all employment actions, including but not limited to recruitment, hiring, upgrading, promotion, transfer, demotion, layoff, recall, termination, rates of pay or other forms of compensation and selection for training, including apprenticeship, at all levels of employment.

Employees and applicants shall not be subjected to harassment, intimidation, threats, coercion or discrimination because they have engaged in or may engage in any of the following activities: (1) Filing a complaint; (2) Assisting or participating in an investigation, compliance evaluation, hearing, or any other activity related to the administration of Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), and Vietnam Era Veterans Readjustment Assistance Act (VEVRAA), or any other Federal, State or local law requiring equal opportunity for individuals with disabilities and protected veterans; (3) Opposing any act or practice made unlawful by Section 503 and VEVRAA or their implementing regulations or any other Federal, State or local law requiring equal opportunity for individuals with disabilities or protected veterans; or (4) Exercising any other right protected by Section 503 and VEVRAA or their implementing regulations in this part.

As President of CSHQA, I am committed to the principles of Affirmative Action and Equal Employment Opportunity. In order to ensure dissemination and implementation of equal employment opportunity and affirmative action throughout all levels of the Company, I have selected Ruthie Heikkila as the EEO/AA Coordinator for CSHQA. One of the EEO/AA Coordinator's duties will be to establish and maintain an internal audit and reporting system to allow for effective measurement of CSHQA's programs. The EEO/AA Coordinator can be reached at 208-429-4040 and is available to answer any questions on EEO Matters.

In furtherance of CSHQA's policy regarding Affirmative Action and Equal Employment Opportunity, CSHQA has developed written Affirmative Action Programs which set forth the policies, practices and procedures that CSHQA is committed to in order to ensure that its policy of nondiscrimination and affirmative action for qualified individuals with disabilities and qualified protected veterans is accomplished. These Affirmative Action Programs are available for inspection by any employee or applicant for employment upon request between the hours of 8 to 5 at our Human Resources department. Any questions should be directed to me, your supervisor, or Ruthie Heikkila, EEO/AA Coordinator.

Martin Hahle, President
CSHQA, Inc

July 1, 2021
Date

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CSHQA

200 Broad St • Boise, ID 83702 | 208.343.4635 | cshqa.com

February 28, 2022

City of Pueblo
230 South Mechanic Street
Pueblo, CO 81003

Re: Compliance with E-Verify Program
Bid 21-090 RFP - Pueblo Memorial Airport Terminal Remodel

To Whom It May Concern:

Please accept this letter as certification that CSHQA, Inc. does not knowingly employ or contract with any workers without authorization and has not or will not knowingly enter into a contract with any subcontractor that fails to certify to us that they do not knowingly employ or contract with any workers without authorization.

CSHQA, Inc. participates in or has applied for participation in the E-Verify Program created by Public Law 208, 104th Congress, as administered by the United States Department of Homeland Security.

Sincerely,

CSHQA, INC.

Martin A. Hahle
President

tc

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CSHQAPA-01 SMAHR

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 2/28/2022

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	CONTACT NAME:	
Boise Office PayneWest Insurance, a Marsh McLennan Agency LLC Company 960 Broadway Avenue Suite 500 Boise, ID 83706	PHONE (A/C, No, Ext): (208) 424-2900	FAX (A/C, No): (877) 512-2753
	E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Hartford Casualty Insurance Company	29424
INSURER B : WCF National Insurance Company	40517
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED

CSHQA, Inc.
200 Broad St
Boise, ID 83702

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		34SBAPM6926	6/1/2021	6/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 1,000,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			34SBAPM6926	6/1/2021	6/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 2,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			34SBAPM6926	6/1/2021	6/1/2022	EACH OCCURRENCE AGGREGATE	$ 1,000,000 $ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		4007721	5/1/2021	5/1/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Employment Practices			34SBAPM6926	6/1/2021	6/1/2022	Each Claim	5,000

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

RE: Bod 21-090 RFP - Pueblo Memorial Airport Terminal Remodel.
City of Pueblo, its agents, officers and employees are included as additional insureds.

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

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QUICK REFERENCE
BUSINESS LIABILITY COVERAGE FORM
READ YOUR POLICY CAREFULLY

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BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C**. - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G**. - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

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(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. Incidental Medical Malpractice

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. MEDICAL EXPENSES

Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(1) The accident takes place in the "coverage territory" and during the policy period;

(2) The expenses are incurred and reported to us within three years of the date of the accident; and

(3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

(1) All expenses we incur.

(2) Up to $1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

(5) All costs taxed against the insured in the "suit".

(6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under **(1)** through **(7)** above will not reduce the limits of insurance.

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b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

(4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;

(5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or

(2) The conditions set forth above, or the terms of the agreement described in Paragraph **(6)** above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

(1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or

(2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

(1) "Bodily injury" or "property damage"; or

(2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

(a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

(ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

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(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

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g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;

(3) Supervisory, inspection, architectural or engineering activities;

(4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;

(5) Any health or therapeutic service treatment, advice or instruction;

(6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

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(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting,demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs **(4)** and **(5)** of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph **1.e.** in Section **A.** - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section **D.** - Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to the use of elevators.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

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o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

(a) Copyright;

(b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

(a) Advertising, broadcasting, publishing or telecasting;

(b) Designing or determining content of web sites for others; or

(c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

(a) An "advertisement" for others on your web site;

(b) Placing a link to a web site of others on your web site;

(c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or

(d) Computer code, software or programming used to enable:

(i) Your web site; or

(ii) The presentation or functionality of an "advertisement" or other content on your web site;

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(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

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2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

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(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

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contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

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(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, 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 the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e**. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

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If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any 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:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No 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.

e. Additional Insured's 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, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

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This Paragraph **f.** applies separately to you and any additional insured.

3. Financial Responsibility Laws

a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) 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;

(3) 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;

(4) 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 **A.** – Coverages.

(5) 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 **k.** of Section **A.** – Coverages.

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(6) When You Are Added As An Additional Insured To Other Insurance

That is 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; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit 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.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured 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:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) 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.

c. Method Of Sharing

If all the 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.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

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F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph **6.** (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section **C.**, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

a. In the performance of your ongoing operations; or

b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) Any "occurrence" that takes place after you cease to lease that land; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. Additional Insured - State Or Political Subdivision – Permits

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

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Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

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This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured(s); or

(2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

a. (1) Radio;

(2) Television;

(3) Billboard;

(4) Magazine;

(5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

a. Injury;

b. Sickness; or

c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

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a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in **a.** above;

(2) The activities of a person whose home is in the territory described in **a**. above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

a. Stored as or on;

b. Created or used on; or

c. Transmitted to or from

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D.** – Liability and Medical Expenses Limits of Insurance.

b. A sidetrack agreement;

c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement; or

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

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(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

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c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard";

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who:

a. Is not your "employee";

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b. Donates his or her work;

c. Acts at the direction of and within the scope of duties determined by you; and

d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTO AND NON-OWNED AUTO

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

This coverage is subject to all provisions in the **BUSINESS LIABILITY COVERAGE FORM** not expressly modified herein:

A. Amended Coverage:

Coverage is extended to "bodily injury" and "property damage" arising out of the use of a "hired auto" and "non-owned auto".

B. Paragraph B. EXCLUSIONS is amended as follows:

1. Exclusion **g. Aircraft, Auto or Watercraft** does not apply to a "hired auto" or a "non-owned auto".

2. Exclusion **e. Employers Liability** does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract".

3. Exclusion **f. Pollution** is replaced by the following:

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto".

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged or released directly from an "auto" part designed by its manufacturer to hold, store, receive, or dispose of such "pollutants"; and

(2) The "bodily injury" and "property damage" does not arise out of the operation of any equipment listed in paragraphs **15.b.** and **15.c.** of the definition of "mobile equipment".

Paragraphs **b.** and **c.** above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

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(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage as a result of the maintenance or use of a covered "auto".

4. With respect to this coverage, the following additional exclusions apply:

a. Fellow employee

Coverage does not apply to "bodily injury" to any fellow "employee" of the "insured" arising out of the operation of an "auto" owned by the "insured" in the course of the fellow "employee's" employment.

b. Care, custody or control

Coverage does not apply to "property damage" involving property owned or transported by the "insured" or in the "insured's" care, custody or control.

C. With respect to "hired auto" and "non-owned auto" coverage, Paragraph **C. WHO IS AN INSURED** is deleted and replaced by the following:

The following are "insureds":

a. You.

b. Your "employee" while using with your permission:

(1) An "auto" you hire or borrow; or

(2) An "auto" you don't own, hire or borrow in your business or personal affairs; or

(3) An "auto" hired or rented by your "employee" on your behalf and at your direction.

c. Anyone else while using a "hired auto" or "non-owned auto" with your permission except:

(1) The owner or anyone else from whom you hire or borrow an "auto".

(2) Someone using an auto while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(3) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from an "auto".

(4) A partner (if you are a partnership), or a member (if you are a limited liability company) for an "auto" owned by him or her or a member of his or her household.

d. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

D. With respect to the operation of a "hired auto" and "non-owned auto", the following additional conditions apply:

1. OTHER INSURANCE

a. Except for any liability assumed under an "insured contract" the insurance provided by this Coverage Form is excess over any other collectible insurance.

However, if your business is the selling, servicing, repairing, parking or storage of "autos", the insurance provided by this endorsement is primary when covered "bodily injury" or "property damage" arises out of the operation of a customer's "auto" by you or your "employee".

b. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

2. TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US

If the Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

E. The following definitions are added:

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:

1. "Hired auto" means any "auto" you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your "employees", your partners (if you are a partnership), members (if you are a limited liability company),

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or your "executive officers" or members of their households.

This does not include a long-term leased "auto" that you insure as an owned "auto" under any other auto liability insurance policy or a temporary substitute for an "auto" you own that is out of service because of its breakdown, repair, servicing or destruction.

2. "Non-owned auto " means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes:

a. "Autos" owned by your "employees" your partners (if you are a partnership), members (if you are a limited liability company), or your "executive officers", or members of their households, but only while used in your business or your personal affairs.

b. Customer's "auto" that is in your care, custody or control for service.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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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 applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

1. Waiver Type Blanket

A blanket waiver of subrogation is granted for all projects and contracts for the below named insured and its subsidiaries for all jobs requiring such a waiver in writing in all states excluding Texas listed under section 3A of your information page.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 05/01/2021 Policy No. 4007721 Endorsement No.
Insured CSHQA Inc Premium
200 BROAD ST
BOISE, ID 83706 Countersigned by _____
Insurance Company WCF National Insurance Company

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CSHQPA0-01 AARCHULETA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/1/2022

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	CONTACT NAME: Aubrey Archuleta	
The Hartwell Corporation PO Box 400 Caldwell, ID 83606	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS: aubrey@thehartwellcorp.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : XL Specialty Insurance Co.	37885
INSURED	INSURER B :	
CSHQA Inc 200 Broad St Boise, ID 83702	INSURER C :	
	INSURER D :	
	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 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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liabili			DPR9985539	11/1/2021	11/1/2022	Each Claim Limt	5,000,000
A	Retro Date 1/1/1889			DPR9985539	11/1/2021	11/1/2022	Aggregate Limit	5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Bid 21-090 RFP - Pueblo Memorial Airport Terminal Remodel

CERTIFICATE HOLDER

City of Pueblo, a Municipal Corporation
230 South 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

Jenny Kroll

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City Clerk's Office Item # R-4

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew E. Hayes, P.E., Director of Public Works

SUBJECT: AN ORDINANCE ESTABLISHING EAST GENERAL AVIATION APRON REHABILITATION PROJECT NO. AP2204, TRANSFERRING $13,545 FROM THE AIRPORT FUND, BUGETING AND APPROPRIATING $13,545 TO PROJECT NO. AP2204, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $13,545 TO DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., AN ARIZONA CORPORATION, FOR PROJECT EAST GENERAL AVIATION APRON REHABILITATION PROJECT IN CONNECTION WITH BID 17-062 RFQ – PUEBLO MEMORIAL AIRPORT ENGINEER OF RECORD AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance establishes Project No. AP2204, transfers and appropriates $13,545 to the Project and approves an Agreement for Professional Engineering Services to Dibble & Associates Consulting Engineers, Inc., for engineering services for East General Aviation (GA) Apron Rehabilitation Project at the Pueblo Memorial Airport.

PREVIOUS COUNCIL ACTION:

City Council approved a design agreement between the City and Dibble Engineering on January 25, 2021 under Ordinance No. 9869 in the amount of $164,617. That Ordinance also established the Taxiway E. Reconstruction Project No. AP2101.

City Council approved an agreement between the City and Dibble Engineering on July 12, 2021 under Ordinance 9961 in the amount of $135,313.

BACKGROUND:

The Agreement is for the professional design services of the East GA Apron Rehabilitation project. Dibble Engineering will provide preliminary design, final design and construction documents and bidding assistance.

The East General Aviation Apron is composed of approximately 26,200 square yards of asphalt concrete pavement and is experiencing severe rutting and alligator cracking. The Dibble team will provide a simplified design documents package for the rehabilitation of the apron.

FINANCIAL IMPLICATIONS:

Funding in the amount of $13,545.00 will be paid from AP2204 –East GA Apron Rehabilitation Project.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not Applicable to this Ordinance.

ALTERNATIVES:

Denial of this Ordinance will result in the City of Pueblo being unable to proceed with the design of the East GA Apron Rehabilitation Project

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Agreement for Professional Services

ORDINANCE NO. 10159

AN ORDINANCE ESTABLISHING EAST GENERAL AVIATION APRON REHABILITATION PROJECT NO. AP2204, TRANSFERRING $13,545 FROM THE AIRPORT FUND, BUGETING AND APPROPRIATING $13,545 TO PROJECT NO. AP2204, APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $13,545 TO DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC., AN ARIZONA CORPORATION, FOR PROJECT EAST GENERAL AVIATION APRON REHABILITATION PROJECT IN CONNECTION WITH BID 17-062 RFQ – PUEBLO MEMORIAL AIRPORT ENGINEER OF RECORD AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

East General Aviation Apron Rehabilitation Project No. AP2204 is hereby established.

SECTION 2.

Funds in the amount of $13,545 are hereby transferred from the Airport Fund to the East General Aviation Apron Rehabilitation Project No. AP2204.

SECTION 3.

Funds in the amount of $13,545 are hereby budgeted and appropriated to the East General Aviation Apron Rehabilitation Project No. AP2204.

SECTION 4.

An Agreement for Professional Engineering Services (“Agreement”), a copy of which is attached hereto and made part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, to provide engineering services for the East General Aviation Apron Rehabilitation Project at Pueblo Memorial Airport, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 5.

The Mayor is authorized to execute the Agreement on behalf of the City of Pueblo, a Municipal Corporation, and the City Clerk is shall affix the seal of the City thereto and attest same.

SECTION 6.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance and the attached Agreement to implement the policies and procedures described therein.

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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BY AND BETWEEN
CITY OF PUEBLO
AND
DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

THIS AGREEMENT made and entered this ____ day of _____, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and Dibble & Associates Consulting Engineers, Inc., an Arizona Corporation authorized to do business in the State of Colorado, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional planning, design, engineering and related services for Owner in connection with Bid 17-062 RFQ – Pueblo Memorial Airport Engineer of Record, for this project referred to as East GA Apron Rehabilitation, all together hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[ ] - Study and Report Phase

[X] - Preliminary Design Phase

[X] - Final Design Phase

[X] - Construction Documents & Bidding Phase

[ ] - Construction Phase

Upon completion of any phase, Engineer shall not proceed with work on the next phase, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include all usual and customary professional engineering services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical engineering, environmental, and planning services. Engineer shall also provide any landscape engineering, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services.

1.3 Professional engineering services (whether furnished directly or through a professional consultant subcontract) 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 Owner and which shall be signed by and bear the seal of such registered engineer.

1.4 Surveying work included within or reasonably contemplated by 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.

1.5 Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine his requirements for the Project and review available data.

(b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Engineer's findings and recommendations with opinions of probable costs.

(g) Engineer shall furnish one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request hard copies as needed for no additional charge.

2.2 Preliminary Design Phase. If Engineer is to provide professional services with respect to the Project during the Preliminary Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.

(b) Prepare and submit to Owner 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 Owner 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 Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner 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) Engineer shall furnish one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request hard copies as needed for no additional charge.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner 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. Engineer 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 reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's best professional judgment, prepare and submit to Owner 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) Engineer shall furnish one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request hard copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner 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, Engineer shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, 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 or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors, or bidders, and, if requested by Owner, 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 Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner 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 Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Engineer 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 Owner 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 Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any 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 Owner, 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, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner 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 Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner'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 Owner 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 Engineer 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 Owner or Contractor, the Engineer 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 Engineer shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; except that Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer'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 Owner from any and all claims, suits, loss, or injury to Engineer's employees.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Within ten (10) days of execution of this Agreement, Owner 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 Engineer will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Engineer shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he 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 Owner’s timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or additional work until authorized in writing by Owner. 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 Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 – “Fee Schedule”, if any.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner'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 Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner'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 Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of fourteen (14) days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of forty-five (45) days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Engineer'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 – "Scope of Services" and Sections 1 and 2 of this Agreement.

SECTION 5. PAYMENT

5.1 Owner will pay to Engineer as full compensation for all services required to be performed by Engineer under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed $13,545.00 in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section.

5.2 Engineer shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and

expenses incurred. Thereafter, Owner shall pay Engineer for the amount of the application within forty (40) days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule", if any.

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5 No compensation shall be paid to Engineer for services required and expenditures incurred in correcting Engineer's mistakes or negligence.

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Engineer's performance hereunder at any time upon written notice, either for cause or for convenience. Upon such termination, Engineer and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Engineer, Engineer shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within ten (10) days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Engineer or Client. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in Section 5.1.

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and Engineers, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Engineer's entire right to compensation shall be limited to the lesser of: (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments or intellectual property procured or produced by the Engineer in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless Engineer from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

7.2 Advertising. Unless specifically approved in advance in writing by Owner, Engineer shall not include

representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Engineer's employees. If Engineer 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 Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.3 Insurance and Indemnity.

(a) Engineer agrees that it has procured and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of bodily injury including personal 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 subparagraph (b).

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(i) 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 Client.

(ii) Commercial General Liability Insurance. The Engineer shall secure and maintain during the period of this agreement/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 Engineer with respect to all work performed by him and all his subcontractors under the agreement/ contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for 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, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Engineer under the provisions of this Agreement, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than $1,000,000 in a form and with a deductible acceptable to Owner.

(iv) Comprehensive Automobile Liability Insurance. The Engineer shall procure and maintain during the period of the agreement/contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Engineer 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 Engineer.

(c) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

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 Owner or the Engineer 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 Owner, City of Pueblo Department of Public Works; Attention: Andrew Hayes, Director; 211 E. D Street; Pueblo, CO 810033 or to the

Engineer at Dibble & Associates Consulting Engineers, Inc., Attention: C. W. Moyers, 2696 South Colorado Blvd., Suite 330, Denver, CO 80222. Either party may change its 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 Owner and the Engineer respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Engineer in relation thereto not expressly set forth in this instrument is null and void. 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 this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.6 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 Engineer may be assigned by him without the written consent of the Owner. 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 incidental beneficiaries only.

7.7 Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by authorized representatives of Engineer and Owner.

7.8 Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado.

7.9 Equal Employment Opportunity. In connection with the performance of this Agreement, Engineer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, disability, or age. Engineer 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.

7.10 Severability. If any provision of this Agreement, except for Section 2.6, 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. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.11 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if construction is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Engineer shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

7.12 Additional Requirements on Federally Funded Contracts. If any of the work to be performed by Engineer under this Agreement is funded in whole or in part with federal funds, then this Agreement shall be construed to include all applicable terms required by the federal assistance agreement and integrated federal regulations. By executing this Agreement, Engineer agrees to be bound by all such mandatory federal requirements, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.13 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands

and agrees that entry to properties not under Owner's control may require Engineer to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works, whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Engineer shall proceed diligently with performance of his work under this Agreement.

SECTION 9. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:

Schedule 1 - "Scope of Services" consisting of 3 pages
Schedule 2 - "Fee Schedule" consisting of 1 page

SECTION 10. 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 Engineer therefore, will use his or her best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules, codes, ordinances, and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Engineer shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without authorization", as that term is defined within §8-17.5-101(9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Engineer will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Engineer shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement;

(ii) Enter into a contract with a subcontractor that fails to certify to Engineer that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Engineer shall have 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.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Engineer obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Agreement, the Engineer shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Engineer has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Engineer shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Engineer is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Engineer shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Engineer shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Engineer to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

The Engineer 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 Engineer shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Agreement.

(Signature Section on following page)

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

By_____
Naomi Hedden, Director of Purchasing

Attest_____
City Clerk

DIBBLE & ASSOCIATES CONSULTING ENGINEERS, INC.

By_____
C. W. Moyers, Vice President

[S E A L]

BALANCE OF APPROPRIATION EXISTS FOR THIS CONTRACT AND FUNDS ARE AVAILABLE

_____
Director of Finance

APPROVED AS TO FORM

_____
City Attorney

Attachments: Schedule 1 - "Scope of Services"
Schedule 2- "Fee Schedule"

Schedule 1
Scope of Services

Excerpt from Letter to the Pueblo Memorial Airport on behalf
of the Department of Public Works dated February 15, 2022; pages 2, 3, and 6

SCOPE OF WORK
Pueblo Memorial Airport
East General Aviation Apron
Rehabilitation
City of Pueblo Project No. TBD

Introduction

Dibble (Dibble or the Engineer) has been requested by the City of Pueblo (Sponsor) to provide limited design phase services for Rehabilitation of the East General Aviation Apron at the Pueblo Memorial Airport.

The East General Aviation Apron is composed of approximately 26,200 square yards of asphalt concrete pavement and is experiencing severe rutting and alligator cracking. The pavement consists of approximately 2 inches of asphalt on 6 to 7 inches of Portland Cement Concrete Pavement (PCCP). In the latest 2020 Colorado Department of Transportation (CDOT) Division of Aeronautics, pavement condition study, the Pavement Condition Index (PCI) was determined to be 0. A PCI of 0 indicates that the pavement is unserviceable.

The Dibble team will provide a simplified design documents for the rehabilitation of the apron with one bid package (i.e. one Bid Schedule). The total project cost needs to fall within $500K.

It is anticipated that this project will be funded with local City of Pueblo funds.

This proposal is based on the following: an estimated 1-month design phase (March 2022). It is anticipated that the City of Pueblo will provide bid and construction phase services which will take place in the spring/summer of 2022.

Design Phase Services (Lump Sum)

1) **General Project Management**:

   a) Project Management and Administration: provide and direct all project management and coordination of the design team and will provide coordination between design team members, the Sponsor, and other interested stakeholders as necessary. Administration tasks such as file coordination and miscellaneous project communications throughout the course of the design phase, and project printing and packaging at each submittal level will also be included under this task.

      Monthly invoicing shall be submitted to the Sponsor in a format acceptable to the Sponsor.

2) **95% Progress Submittal**:

   a) 95% Schematic Exhibit: The 95% schematic exhibit will provide a layout with visual location of the area of rehabilitation.

   b) 95% Contract Documents and Technical Specification: The draft contract documents and technical specifications will be developed by the Engineer in a manner consistent with local regulations and standards:

      - Pavement removal (saw cut and mill)
      - CDOT Local AC Mix Design
      - Bituminous Tack Coat

   d) 95% Quantities and Engineer's OPCC: based on the 75% construction plans and technical specifications, the Engineer will develop a 75% OPCC. The unit pricing for each line item will be based on recent bids.

3) **100% Final (Bid) Documents**:

a) 100% Final Schematic Exhibit:

b) Final Contract Documents and Technical Specification: the final bid contract documents and technical specifications shall have all internal and external review comments by the Airport and City of Pueblo incorporated and addressed. The contract documents and technical specifications will be prepared for the bidding phase.

c) Final Quantities and Engineer's OPCC: based on the final construction plans and technical specifications, the Engineer shall provide a final bidding schedule in the contract documents and an OPCC based on a unit price basis, reflecting recent bid tabulations from comparative projects, locations, materials, and quantities available at that time.

Miscellaneous Scope of Work Items

4) **Project Deliverables (hard copies)**:

a) 95% Submittal: the 95% Submittal shall include 95% schematic exhibit, Contract Documents and Technical Specifications, and quantities and OPCC. This submittal shall be submitted to the Airport and City of Pueblo.

b) 100% Final (Bid) Submittal: the 100% Submittal shall include 100% Final Schematic Exhibit, Contract Documents and Technical Specifications, and quantities and OPCC. This submittal shall be submitted to the Airport and City of Pueblo.

Each submittal will be posted on the Dibble Webshare database electronically (i.e. PDF documents) for the client's convenience.

5) **Miscellaneous and Assumptions**:

a) This proposal is based on the following: an estimated 1-month design phase (March 2022); All plans are to be prepared in AutoCAD Civil 3D 2019.

b) The design phase services are to be locally funded.

c) It is anticipated that this project will be designed with one Base Bid Schedule.

d) The Dibble team will design the Apron Rehabilitation with one bid packages (i.e. one Bid Schedule). The project construction cost is estimated to be approximately $500K.

6) **Exclusions To This Scope of Work**:

a) Landscape, Irrigation, and Environmental Design Services

b) Structural Engineering, Mechanical, or Architectural Design Services

c) Electrical Services

d) Survey Services

e) Full design phase services.

f) Bid Phase Services

g) Construction Phase Services

Firm:	Dibble	Contract Number:	TBD
	On-Call Engineering	Project Number:	TBD
Project:	**East General Aviation Apron Rehabilitation**	Task Number:	N/A
	Design Phase Services	Amendment Number:	N/A
	Pueblo Memorial Airport	FAA Number:	N/A
Date:	2/15/2022	CDOT Number:	N/A

DESIGN PHASE SERVICES - ESTIMATED MANHOURS

TASK	PRINCIPAL	PRINCIPAL ENGINEER	SENIOR PROJECT MANAGER	PROJECT MANAGER	SENIOR ENGINEER	QA/QA MANAGER	PROJECT ENGINEER	SENIOR DESIGNER	ADMIN ASSISTANT	TOTAL HOURS BY TASK
1 General Project Management										
1a Project Management & Administration		2	16							18
2 95% Progress Submittal										
2a 95% Schematic Exhibit			2				4	12		18
2b 95% Contract Documents and Technical Specification:			2				12		4	18
2c 95% Quantities and Engineer's OPCC			1				4			5
3 100% Final (Bid) Documents										
3a 100% Final Schematic Exhibit							2	8		10
3b Final Contract Documents and Technical Specification							6		2	8
3c Final Quantities and Engineer's OPCC							2	2		4
TOTAL HOURS BY CLASSIFICATION	0	2	21	0	0	0	30	22	6	81

Schedule 2
Fee Schedule

Excerpt from Letter to the Pueblo Memorial Airport on behalf
of the Department of Public Works dated February 15, 2022; page 5

Firm:	Dibble	Contract Number: TBD
	On-Call Engineering	Project Number: TBD
Project:	**East General Aviation Apron Rehabilitation**	Task Number: N/A
	Design Phase Services	Amendment Number: N/A
	Pueblo Memorial Airport	FAA Number: N/A
Date:	2/15/2022	CDOT Number: N/A

DESIGN PHASE SERVICES SUMMARY

	Classification	Total Hours	Billing Rates	Total Costs
1	Principal	0	$294.45	$0.00
2	Principal Engineer	2	$232.90	$465.80
3	Senior Project Manager	21	$206.28	$4,331.88
4	Project Manager	0	$199.63	$0.00
5	Senior Engineer	0	$189.65	$0.00
6	QA/QC Manager	0	$192.97	$0.00
7	Project Engineer	30	$169.69	$5,090.70
8	Senior Designer	22	$143.07	$3,147.54
9	Admin Assistant	6	$84.85	$509.10
	Totals:	**81**		**$13,545.00**

DESIGN PHASE SERVICES DIRECT COSTS

	Item	Cost	Type of Compensation
1	Lodging (Dibble)	$0.00	Direct Cost
2	Mileage (Dibble)	$0.00	Direct Cost
3	Meals (Dibble)	$0.00	Direct Cost

Sub-Total for Direct Costs..... **$0.00**

DESIGN PHASE SERVICES TOTAL FEE

TOTAL FEE (*rounded*)..... $13,545.00

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Director of Public Works

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT CI2120 FOR UNION AND MAIN STREETSCAPE PROJECT, 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: STA M086-095 (24779), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $2,000,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project No. CI2120 for Union and Main Streetscape Project, approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Union and Main Streetscape Project, and budgets and appropriates funds from CDOT totaling $2,000,000 for the Project.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

This Ordinance establishes the Union and Main Streetscape Project, CI2120. The project will provide for design and construction of the streetscape improvements along Union Avenue between Abriendo Avenue and City Center Drive as well as along Main Street from the Arkansas River to City Center Drive.

The City of Pueblo was awarded a Revitalizing Main Streets (RMS) Opportunity 1 grant with an overall project cost of $4,800,000. The match requirement for the federally funded grant is $500,000. The funds for the required match ($500,000) will be

transferred to the account at a later date, prior to execution of a design contract.

FINANCIAL IMPLICATIONS:

Funds in the amount of $2,000,000 will be provided by CDOT and shall be budgeted and appropriated for the project, CI2120.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the CDOT RMS Grant funds.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
City-State of Colorado IGA for Pueblo Downtown Multimodal Safety Improvements

ORDINANCE NO. 10160

AN ORDINANCE ESTABLISHING PROJECT CI2120 FOR UNION AND MAIN STREETSCAPE PROJECT, 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: STA M086-095 (24779), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $2,000,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Union and Main Streetscape Project, CI2120, is hereby established.

SECTION 2.

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, Project: STA M086-095 (24779), Pueblo Downtown Multimodal Safety Improvements, 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 Colorado State Department of Transportation, funds from the Pueblo Downtown Multimodal Safety Improvements Project (STA M086-095 (24779) in the amount of $2,000,000 are hereby budgeted and appropriated for the Union and Main Streetscape Project, No. CI2120.

SECTION 4.

The Mayor is authorized to execute and deliver the IGA in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance and IGA to implement the policies and procedures 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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 INTERGOVERNMENTAL AGREEMENT
Signature and Cover Page

State Agency Department of Transportation			**Agreement Routing Number** 22-HA2-XC-00035
Local Agency CITY OF PUEBLO			**Agreement Effective Date** The later of the effective date or February 25, 2022
Agreement Description Pueblo Downtown Multimodal Safety Improvements			**Agreement Expiration Date** February 24, 2032
Project # STA M086-095 (24779)	**Region #** 2	**Contract Writer** RDM	**Agreement Maximum Amount** $2,500,000.00

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 _____ Signature _____ By: (Print Name and Title) Date: _____	**STATE OF COLORADO** Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Stephen Harelson, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed _____ Signature _____ By: (Print Name and Title) 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: _____

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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 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 ARPA Award 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").

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.

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 Treasury Department. 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**, 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. "**Matching Funds**" means the funds provided by the Local Agency as a match required to receive the federal 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.

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. "**Work**" means the delivery of the Goods and performance of the Services in compliance with CDOT's Local Agency Manual described in this Agreement.

TT. "**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 period of performance for a phase of Work authorized under this Agreement. To exercise this 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 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. Matching Funds

Local Agency shall provide matching funds as provided in **§7.A**. and **Exhibit C**. Local Agency shall have raised the full amount of matching 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 Matching 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**. 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. 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 issue a unilateral Option Letter to simultaneously increase and 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 five (5) 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") of three (3) years following the date of submission to the State of the final expenditure report, 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.

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

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

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 protect 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 cancelled 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 noninfringing Work or modify the Work so that it becomes noninfringing; 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.

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)
Don Scanga, Local Agency Coordinator
CDOT
5615 Wills Blvd
Pueblo, CO 81008
719-248-0378
donald.scanga@state.co.us

For the Local Agency

CITY OF PUEBLO
Charles Roy, Engineering Division Manager Kelly Grisham, Project Coordinator
211 East D Street
Pueblo, CO 81004
719-553-2271 719-553-2254
CRoy@pueblo.us 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 anytime 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**, Statement 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**, Checklist of Required Exhibits Dependent on Funding Source.
xxii. 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

Local Agency 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. Local Agency shall 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 and available at https://www.w3.org/TR/WCAG21/.

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 except where noted in italics.

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(2.6), 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.

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.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, 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.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[*Not applicable to intergovernmental agreements*] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq*., C.R.S.

Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq*., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

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.

24. DISPUTES

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.

EXHIBIT A

SCOPE OF WORK

Name of Project: Pueblo Downtown Multimodal Safety Improvements
Project Number: STA M086-095
SubAccount #: 24779

The local agency shall be responsible for design and construction of infrastructure improvements, Project M086-095, (24779). On Union Avenue the improvements consist of the expansion of sidewalks, reduction of travel lanes with sharrows for bicyclists, parallel parking, and enhanced streetscape. On Main Street the improvements consist of the expansion of sidewalks, reduction of travel lanes, bike lanes in each direction and enhanced streetscape with additional parallel parking options.

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 byMarch 31, 2027.

If this project is funded with Multimodal Transportation & Mitigation Options Funding (MMOF) these funding expenditures must be invoiced by June 1st of the year they expire.

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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:_____
Stephen Harelson, 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; Project #: STA M086-095 (24779)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be $2,500,000.00, which is to be funded as follows:

1. BUDGETED FUNDS

a.	Federal Funds (80% of Award)	$2,000,000.00
b.	Local Agency Matching Funds (20% of Award)	$500,000.00
	TOTAL BUDGETED FUNDS	**$2,500,000.00**

2. OMB UNIFORM GUIDANCE

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	CFDA # Highway Planning and Construction	CFDA 20.205
d.	Is the Award for R&D?	No
e.	Indirect Cost Rate (if applicable)	N/A

3. ESTIMATED PAYMENT TO LOCAL AGENCY

a.	Federal Funds Budgeted	$2,000,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	$0.00
	TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	**$2,000,000.00**

4. FOR CDOT ENCUMBRANCE PURPOSES

a.	Total Encumbrance Amount	$2,500,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	$0.00
	NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	**$2,500,000.00**

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 24779.10.30	Performance Period Start*/End Date TBD – TBD	Design 3020	$0.00
WBS Element 24779.20.10	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. Matching Funds

The matching ratio for the federal funds for this Work is 80% federal funds to 20% Local Agency funds, and this ratio applies only to the $2,500,000.00 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 $2,500,000.00, and additional federal funds are available for the Work, the Local Agency shall pay 20% of all such costs eligible for federal funding and 100% of all other costs. If 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 $2,500,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **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 $2,000,000.00. For CDOT accounting purposes, the federal funds of $2,000,000.00 and the Local Agency funds of $500,000.00 will be encumbered for a total encumbrance of $2,500,000.00, 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 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 matching 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 AGREEMENT ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No.	STIP No.	Project Code	Region
STA M086-095		24779	2

Project Location	Date
Union Avenue and Main Street Pueblo Colorado	1/14/2021

Project Description
Pueblo Downtown Multimodal Safety Imp.

Local Agency	Local Agency Project Manager
The City of Pueblo	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 *CDOT Local Agency Manual*.

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	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	

Previous editions are obsolete and may not be used.

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
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	
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)		XX
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 11/9/2021 CDOT Resident Engineer (Signature on File) 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
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey • Construction staking • Monumentation	 X 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		

Previous editions are obsolete and may not be used.

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Chuck Roy 719-553-2271 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	
	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. Chuck Roy 719-553-2271 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 X	
9.6	Approve Sources of Materials		
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	

Previous editions are obsolete and may not be used.

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
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	
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

Previous editions are obsolete and may not be used.

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 ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises 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. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or its the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies 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. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency upon request: Business

Programs Office

Colorado Department of Transportation 2829 West Howard Place

Denver, Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR PART 26

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

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated 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. Compliance with Government wide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

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 (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).

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.

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). 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 bid proposal or request for proposal 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).

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.

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. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 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 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, 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 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29USC 794), and Title VI of the Civil Rights Act of 1964, as amended, 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 230, 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 (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 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 35 and 29 CFR 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.

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, 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 who 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.

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, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure 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:** 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.

a. 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).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. 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. 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, 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, 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 there under. 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, 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 and 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. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor 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 contracting agency deems appropriate.

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 $10,000 or more.

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, 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). The requirements apply to all projects located within the right-of- way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt.
Contracting agencies may elect to apply these requirements to other projects.

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:

a. All laborers and mechanics employed or working upon the site of the work, 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 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.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. 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 shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). 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 classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall 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. (1) The contracting officer shall 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 shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore 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 utilized 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) 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 shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. 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.

(3) 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 shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour 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.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall 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.

c. 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 shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. 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, 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.

2. Withholding:

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, 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.

3. Payrolls and basic records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, 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 section 1(b)(2)(B) of the Davis- Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) 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 section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall 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. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3) (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed 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 Regulations, 29 CFR part 3;

(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 of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, 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 may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed 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 Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall 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 the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall 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, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. 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. 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 journeymen 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.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 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.

9. **Disputes concerning labor standards.** 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 he or she) 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 section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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 watchmen 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.

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. 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 watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 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.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or 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, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

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” 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:

(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.

2. 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. 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

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

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 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.

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 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).

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 (40U.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 635) in one or more places where it is readily available to all persons concerned with the project:

"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 1, 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

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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.

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.

18 U.S.C. 1020 reads as follows:

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.

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.

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.

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 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee 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 grantee or subgrantee 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.

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.

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. 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 Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

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. 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) 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;

(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; 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.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. 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)

a. By signing and submitting this proposal, the prospective lower tier 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.

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 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 grantee or subgrantee 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 grantee or subgrantee 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.

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 transactionsexceedingthe$25,000 threshold.

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 verifythe eligibility of its principals, as well as the eligibility of any lowertier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

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.

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.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall 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 20).

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.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESSROAD CONTRACTS

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 Agencys and their contractors or the Local Agencys).

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 Agencys and the Local Agencys 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).

Clear Air Act

Standards, orders, or requirements issued under section 306 of the Clear 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 in excess of $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 US.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 US.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 fairopportunity

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 investigationsconducted 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 nationalorigin.

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 limitedto:

    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 inpart.

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 nondiscrimination 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, subpart C;

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 dataelements:

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, Zip code + 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 arrangement 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)? *Examples of funding programs include CMAQ, TAP, STP-M, etc.*	☐	☐	
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?	☐	☐	☐
	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? *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.*	☐	☐	
FINANCIAL ASSESSMENT		**Yes**	**No**	**N/A**
7	a) Does your entity have an indirect cost rate that is approved and current?	☐	☐	
	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. *If Yes, please submit with this form.*	☐	☐	☐
	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 *(Buy America requirements)? If Yes, please submit with this form.*	☐	☐	☐

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 AuditRequirements 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 meaningsascribed 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 conditionsof 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 underthe 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. 2CFR §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 ofhigher education.

1.9. "Subrecipient" means a non-Federal entity receiving an Award from a Recipient to carry out part of aFederal 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 notlimited 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 partyexecuting any further instrument. The State of Colorado may provide written notification to Subrecipient of suchrevisions, 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 politicalsubdivision 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 theEPA 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 tothe 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 electedfor 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 UniformGuidance Part F-Audit Requirements.

6. Contract Provisions for Subrecipient Contracts. Subrecipient shall comply with and shall include all of thefollowing 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 inconspicuous 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 pursuantthereto, 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 suspendedin 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 bylaw.

(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 pursuantto 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, contractorsmust 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 other wise 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 Actas 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 asparties 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, oran employee of a member of Congress in connection with obtaining any Federal contract, grant or any otheraward 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. 2CFR §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 ofactivity 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 anevent 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 theFederal 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 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 Interim 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. "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.

2.1.3. "Entity" means:

2.1.3.1. a Non-Federal Entity;

2.1.3.2. a foreign public entity;

2.1.3.3. a foreign organization;

2.1.3.4. a non-profit organization;

2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);

2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only);

2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or

2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).

2.1.4. "Executive" means an officer, managing partner or any other employee in a management position.

2.1.5. "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.

2.1.6. "Federal Awarding Agency" means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1

2.1.7. "Grant" means the Grant to which these Federal Provisions are attached.

2.1.8. "Grantee" means the party or parties identified as such in the Grant to which these Federal Provisions are attached.

2.1.9. "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.

2.1.10. "Nonprofit Organization" means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

2.1.10.2. Is not organized primarily for profit; and

2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.

2.1.11. "OMB" means the Executive Office of the President, Office of Management and Budget.

2.1.12. "Pass-through Entity" means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.

2.1.13. "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.

2.1.14. "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.

2.1.15. "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.

2.1.16. "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:

2.1.16.1. Salary and bonus;

2.1.16.2. 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;

2.1.16.3. 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;

2.1.16.4. Change in present value of defined benefit and actuarial pension plans;

2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;

2.1.16.6. 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.

2.1.17. "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.

2.1.18. "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.

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.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) 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 after the initial registration, and more frequently if required by changes in its information.

4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

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.

EC1: Public Health

COVID-19 Vaccination (EC 1.1) and COVID-19 Testing (EC 1.2)

a. Description of metrics for disadvantaged communities served.

Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.) (EC 1.4), Mental Health Services (EC 1.10) and Substance Use Substances (1.11)

a. Measurement of the metric.

Payroll for Public Health and Safety Employees (EC 1.9)

a. Number of governmental FTEs responding to COVID-19 supported under this authority

Public Health Project-Specific Reporting Requirements (EC1)

a. Unique requirement(s), if applicable

EC2: Negative Economic Impacts

Household Assistance (EC 2.1-2.5)

a. Description of metrics for disadvantaged communities served.
b. Measurement of the metric.
c. Number of households served (by program if recipient establishes multiple separate household assistance programs).

Household Assistance (EC 2.2 & 2.5)

a. Number of people or households receiving eviction prevention services (including legal representation)
b. Number of affordable housing units preserved or developed.

Unemployment Benefits or Cash Assistance to Unemployed Workers (EC 2.6)

a. Measurement of the metric.

Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives) (EC 2.7)

a. Description of the metrics for disadvantaged communities served.
b. Measurement of the metric.

Small Business Economic Assistance (EC 2.9)

a. Description of the metrics for disadvantaged communities served.
b. Measurement of the metric.
c. Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs)

Aid to Nonprofit Organizations (EC 2.10)

a. Measurement of the metric.

Other Economic Support (EC 2.13)

a. Description of the metrics for disadvantaged communities served.
b. Measurement of the metric.

Rehiring Public Sector Staff (EC 2.14)

a. Number of FTEs rehired by governments under this authority

Negative Economic Impacts Project-Specific Reporting Requirements (EC2)

a. Number of workers enrolled in sectoral job training programs
b. Number of workers completing sectoral job training programs
c. Number of people participating in summer youth employment programs
d. Unique requirement(s), if applicable

EC3: Services to Disproportionately Impacted Communities

Education Assistance: Early Learning (EC 3.1), Education Assistance: Aid to High-Poverty Districts (EC 3.2) Education Assistance: Academic Services (EC 3.3), Education Assistance: Social, Emotional, and Mental Health Services (EC 3.4), and Education Assistance: Other (EC 3.5)

a. Description of metrics for disadvantaged communities served.
b. Measurement of the metric.
c. National Center for Education Statistics ("NCES") School ID or NCES District ID
d. Number of students participating in evidence-based tutoring programs

Housing Childhood Environments (EC 3.6-3.9)

a. Number of children served by childcare and early learning (preschool/pre-K/ages 3-5)
b. Number of families served by home visiting.

Healthy Childhood Environments: Child Care (EC 3.6), Healthy Childhood Environments: Home Visiting (EC 3.7), Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System (EC 3.8), Healthy Childhood Environments: Other (EC 3.9), Housing Support: Affordable Housing (EC 3.10), Housing Support: Services for Unhoused Persons (EC 3.11), Housing Support: Other Housing Assistance (EC 3.12), Social Determinants of Health: Other (EC 3.13), Social Determinants of Health: Community Health Workers or Benefits Navigators (EC 3.14), Social Determinants of Health: Community Violence Interventions (EC 3.16)

a. Description of the metrics for disadvantaged communities served.
b. Measurement of the metric.

Housing Support (EC 3-10-3.12)

c. Number of people or households receiving eviction prevention services (including legal representation)
d. Number of affordable housing units preserved or developed.

Social Determinants of Health: Lead Remediation (EC 3.15)

a. Description of metrics for disadvantaged communities served.
b. Measurement of the metric.

Services to Disproportionately Impacted Communities Project-Specific Reporting Requirements (EC3)

a. Unique requirement(s), if applicable

EC4: Premium Pay

Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2)

a. Number of workers served

Premium Pay Project-Specific Reporting Requirements (EC3)

a. Unique requirement(s), if applicable

EC5: Infrastructure

All infrastructure projects (EC 5)

a. Projected/Actual construction start date (month/year)
b. Projected/Actual initiation of operations date (month/year)
c. Location (for broadband, geospatial location data)
d. Description of how the project contributes to addressing climate change

Water and sewer projects (EC 5.1-5.15)

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)

Broadband projects (EC 5.16-5.17)

a. Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100Mbps download and upload speeds
    a. If the project is not designed to reliability meet or exceed symmetrical 100Mbps speeds, explain why not and:
    b. Confirm project design to meet or exceed 100 Mbps download and between 20 and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps upload and download speed.
b. Additional programmatic data requirements will be issued by US Treasury in July 2022 for broadband projects, and agencies may be required to report on additional metrics, including, but not limited to:
    a. 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
    b. 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

c. 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.

<u>Infrastructure Project-Specific Reporting Requirements (EC5)</u>

a. Unique requirement(s), if applicable

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 DUNS Number;

8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;

8.1.2.3. Subrecipient parent's organization DUNS Number;

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 DUNS Number 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 only applicable to EC 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 2.9, 2.13, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, and 3.16.

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. This requirement is only applicable to EC 1.4, 1.10, 1.11, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.9, 2.10, 2.13, 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, and 3.16.

8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the negative economic impacts of COVID-19. This requirement is only applicable to EC 2.1, 2.2, 2.3, 2.4, 2.5, 2.9, 2.11, and 2.12. 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, for whom premium pay would increase total pay above 150 percent of their residing State's average annual wage, or their residing county's average annual wage, whichever is higher, on an annual basis 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), 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 Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing "Never Agreement 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 O 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.

      i. 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.

      ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

      iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

      iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

v. 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 Contractorsto 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 theTreasury, 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, aloan 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 not 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

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT OF 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	✓		✓
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, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: **April 11, 2022**

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Jerry M. Pacheco, Pueblo Urban Renewal Authority Executive Director

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 3 TO THE COOPERATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO URBAN RENEWAL AUTHORITY RELATING TO THE ST. CHARLES INDUSTRIAL PARK URBAN RENEWAL AREA

SUMMARY:

The attached Ordinance approves Amendment No. 3 to the Cooperation Agreement between the Pueblo Urban Renewal Authority ("PURA") and the City relating to the St. Charles Industrial Park Urban Renewal Project Area. The third amendment to the Cooperation Agreement authorizes PURA to distribute excess proceeds in the Special Fund, collected in the St. Charles Industrial Park Urban Renewal Project Area, to public bodies levying ad valorem property taxes in said area.

PREVIOUS COUNCIL ACTION:

The Urban Renewal Plan for the St. Charles Industrial Park Urban Renewal Project ("Plan") was approved by City Council on December 21, 2008. PURA and the City entered into a Cooperation Agreement on June 8, 2009 regarding the financing of certain eligible public improvements.

Amendment No. 1 to the Cooperation Agreement was entered into by PURA and the City on October 23, 2010. The purpose of the first amendment to the Cooperation Agreement was to, among other things, provide for reimbursement to the Pueblo Board of Waterworks ("Pueblo Water") for eligible public improvements made by Pueblo Water in order to provide water service to Vestas.

Amendment No. 2 to the Cooperation Agreement was entered into by PURA and the City on November 27, 2017. The purpose of the second amendment to the Cooperation Agreement was to provide for additional reimbursement to Pueblo Water for additional costs of eligible public improvements incurred in providing water service to the Vestas Towers America, Inc. manufacturing plant.

BACKGROUND:

In the administration of terms and obligations of the St. Charles Industrial Park Urban Renewal Project Area, PURA has determined that excess proceeds will be collected in the Special Fund over and above its fiscal obligations. This Amendment No. 3 will provide a procedure to distribute excess proceeds collected in the Special Fund to Pueblo County, School Districts 60 and 70, Library District, Southeastern Water Conservancy District and Lower Arkansas Valley Water Conservancy District. PURA will continue to reimburse the City the City's portion of the collected TIF revenue, consistent with the June 8, 2009 Cooperation Agreement.

FINANCIAL IMPLICATIONS:

None. PURA will continue to reimburse the City the City's portion of the collected TIF revenue.

BOARD/COMMISSION RECOMMENDATION:

On April 12, 2022, the Pueblo Urban Renewal Authority Board of Commissioners will vote on this Amendment No. 3 of the Cooperation Agreement.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved there will be no procedure to distribute excess proceeds collected in the special fund to taxing entities.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Proposed Amendment No. 3 to the Saint Charles Industrial Park Urban Renewal Project Area Cooperation Agreement.

ORDINANCE NO. 10161

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. 3 TO THE COOPERATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO URBAN RENEWAL AUTHORITY RELATING TO THE ST. CHARLES INDUSTRIAL PARK URBAN RENEWAL AREA

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

SECTION 1.

Amendment No. 3 to the Cooperation Agreement between the City of Pueblo, a Colorado Municipal Corporation ("City") and the Pueblo Urban Renewal Authority, a body corporate and politic of the State of Colorado ("PURA") relating to the St. Charles Industrial Park Urban Renewal Area, dated April 25, 2022, 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 Amendment No. 3 for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 3.

The officers and staff of the City authorized to perform any and all acts consistent with this Ordinance and the attached Amendment No. 3, 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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

AMENDMENT NO. 3
COOPERATION AGREEMENT
Saint Charles Industrial Park Urban Renewal Project

1.0 PARTIES. The parties to this amendment ("Amendment No. 3") are the CITY OF PUEBLO, a Colorado municipal corporation (the "City") and the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the "Authority"). The City and the Authority are sometimes referred to herein collectively as the "Parties" and individually as a "Party".

2.0 RECITALS. The recitals to this Agreement are incorporated herein by this reference as though fully set forth in the body of this Agreement.

2.1 The Urban Renewal Plan. The Authority is carrying out the Urban Renewal Plan for the Saint Charles Industrial Park Urban Renewal Project (the "Plan"), which was approved by the City Council of the City on December 21, 2008.

2.2. Cooperation Agreement. To facilitate the orderly development and execution of the Plan, the Parties entered into a Cooperation Agreement dated as of June 8, 2009, which agreement, as amended to date and as further amended by this Amendment No. 3 is collectively called the "Cooperation Agreement" in this Agreement.

3.0 TERMS AND CONDITIONS. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows.

4.0 SECTION 6.01. Section 6.01d of the Cooperation Agreement is modified to state that the distribution of funds remaining in the Special Fund payable to any taxing body under the terms and conditions described in Section 6.01d may be made pursuant to agreement between any such taxing body and the Authority.

5.0 SECTION 6.03. Section 6.03 of the Cooperation Agreement is amended to read as follows:

Except for the obligations listed in Section 6.01, the Authority agrees that it will not issue any other debt or obligation payable from Property Tax TIF; provided, however, the Parties are aware that the Owner may commit to construct additional public and private improvements ("Phase 2") comparable in size and scope to those now constructed or under construction in the Urban Renewal Area. The Parties agree that should the Owner commit to undertake Phase 2, the Parties will give favorable consideration to such additional and further reimbursement for additional public improvements as they may deem reasonable and necessary to facilitate the construction of Phase 2 or other development or redevelopment consistent with the sound needs of the municipality and the goals of the Act and Plan ("Additional Project Debt"). The Parties agree to consult with the County Commissioners of Pueblo County prior to agreement by the Authority to incur any financial obligations in excess of those listed in Sections 6.01a, b, and c.

6.0 EFFECT OF AMENDMENT. Except as modified by this Amendment No. 3, the Cooperation Agreement will remain in full force and effect and inure to the benefit of and binding upon the Parties. Except as expressly modified, any obligations remaining to be performed under the Cooperation Agreement by either Party, are not waived or excused in any manner, but shall be fully performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 3.

IN WITNESS WHEREOF, the City and Authority have caused this Amendment No. 3 to be executed as of April 25, 2022.

PUEBLO, A MUNICIPAL CORPORATION

ATTEST: _____ By: _____
City Clerk Mayor

THE URBAN RENEWAL AUTHORITY OF PUEBLO, COLORADO

ATTEST: _____ By: _____
Secretary Chairman of the Commissioners

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE PORTIONS OF PARCEL 522300002 FROM B-3, HIGHWAY AND ARTERIAL BUSINESS, R-3, ONE AND TWO FAMILY RESIDENTIAL, AND R-4, MIXED RESIDENTIAL TO R-6, MULTIPLE RESIDENTIAL AND COMMERCIAL

SUMMARY:

The applicant is requesting to rezone the southern 26.86-acres of parcel 522300002 from B-3, R-3, and R-4 to R-6 to facilitate the development of a recreational vehicle park.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Portions of parcel 5522300002 are being rezoned to an R-6 zone district to allow the development of a Recreational Vehicle Park containing approximately 26.86 acres, as well as other uses by right. A recreational vehicle park is a use by review in a R-6 zone district and will require the approval of a special use permit by the Zoning Board of Appeals prior to a recreational vehicle park beginning operations. The property has more than hundred feet of frontage on 24th Street and complies with the minimum lot area and width for the R-6 zone district. The property is designated in the Pueblo Comprehensive Plan as "Urban Residential." According to the Pueblo Municipal Code Section 15-4-51(a)(9), the R-6 zone district is designed to retain and provide areas of mixed residence and commercial uses. While much of the urban residential designation is aimed at small-scale single-family development the Comprehensive Plan does mention that "Community-scale commercial zoning will be appropriate at intersections of two collector roads or of a collector and an arterial road".

The property is a large parcel containing unplatted land as well as vacated rights-of-way and derelict lots from the Saunders Subdivision. The land is characterized mainly by open desert scrub situated east of Pueblo Boulevard and south of 24th Street. The property was annexed into the City in 1973 as part of the Arkansas River Annexation. Upon annexation of the property by the City, the currently undeveloped Saunders Subdivision platted in the County, was included within city limits. Rights-of-way including 22nd Street were vacated by Ordinance in 1957 but the lots remained.

The access, utilities, and development standards will be addressed during the recreational vehicle park special use permit review at the Zoning Board of Appeals. Recreational Vehicle Parks are strictly regulated by Pueblo Municipal Code, Sec 17-4-51(d)(9), (b) a detailed staff review will occur during the subdivision review process to accommodate all development considerations. The R-6 zone district allows a wide range of housing, restaurant, retail, and office uses by right which are compatible with a large parcel that fronts a very busy state highway and future major intersection to the north. There is ample space for various types of development with room for buffering the residential uses to the east and south. The rezoning accommodates the prior zone district uses while allowing flexibility to private owners going forward as the West Side neighborhood grows and expands.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 9, 2022 Regular Meeting, voted 7-0 to recommend approval.

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.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance the property will not be zoned in accordance with the Pueblo Municipal Code.

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:
Proposed Ordinance
Minutes of the Planning and Zoning Commission March 9, 2022, Public Hearing
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. 10162

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE PORTIONS OF PARCEL 522300002 FROM B-3, HIGHWAY AND ARTERIAL BUSINESS, R-3, ONE AND TWO FAMILY RESIDENTIAL, AND R-4, MIXED RESIDENTIAL TO R-6, MULTIPLE RESIDENTIAL AND COMMERCIAL

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

SECTION 1.

The zoning restrictions covering the following described property, and in addition half of all adjacent dedicated roadway and alley rights-of-way, together generally identified in the attached Rezone Exhibit, is hereby changed from B-3 Highway and Arterial Business, R-3, One and Two Family Residential, and R-4, Mixed Residential to R-6, Multiple Residential and Commercial:

Beginning at the West ¼ of Section 22, Township 20 South, Range 65 West of the 6th P.M. thence the following courses:

1. N 00° 15’ 48” E a distance of 1345.72 ft.;
2. S 50° 39’ 42” E a distance of 803.30 ft.;
3. S 60° 40’ 04” E a distance of 325.28 ft.;
4. S 77° 56’ 23” E a distance of 368.00 ft.;
5. N 89° 33’ 37” E a distance of 110.00 ft. to the West line of Lots 13-21, Block 6, First Filing, Sanders Subdivision;
6. S 00° 59’ 18” E along the West line of Lots 13-21, Block 6, Sanders Subdivision, First Filing a distance of 572.24 ft.;
7. S 88° 47’ 59” W along the South line of the SW ¼ of Section 22, Township 20 South, Range 65 West of the 6th P.M. a distance of 1362.64 ft. to the Point of Beginning.

Including the vacated portions of Sanders Subdivision, First Filing, Recorded at Book 1332 at Page 431 on July 22, 1957.

SECTION 2.

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 3.

This Ordinance shall become effective immediately upon final action by the Mayor
and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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.

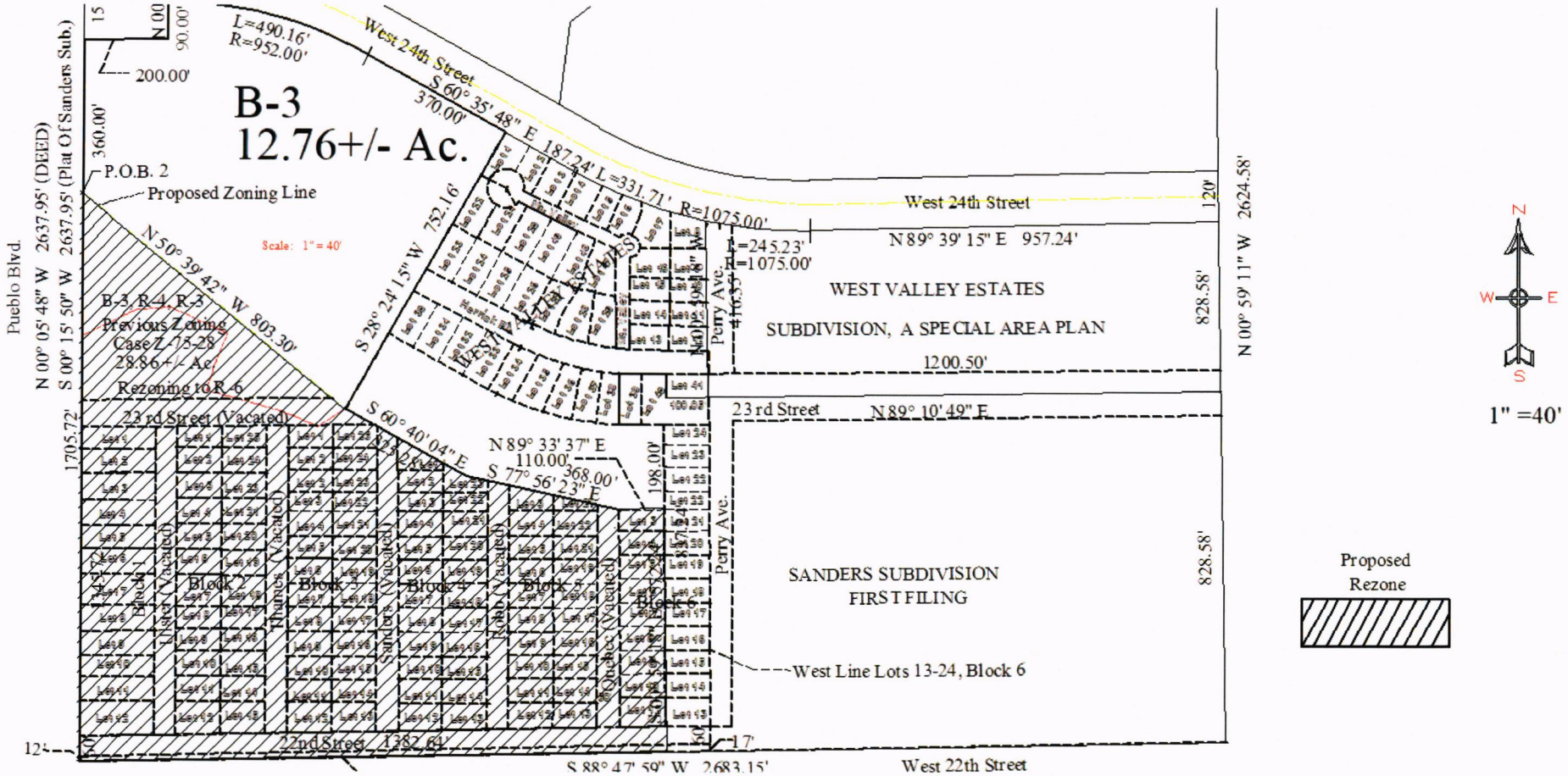
☐ Ordinance re-adopted on a vote of _____, on _____

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

_____
President of City Council

ATTEST

_____
City Clerk


B-3
12.76+/- Ac.
West 24th Street
L=490.16'
R=952.00'
S 60° 35' 48" E 187.24' L=331.71' R=1075.00'
370.00'
200.00'
360.00'
P.O.B. 2
Proposed Zoning Line
Scale: 1" = 40'
N 50° 39' 42" W 803.30'
S 28° 24' 15" W 752.16'
B-3, R-4, R-3
Previous Zoning
Case Z-75-28
28.86+/- Ac.
Rezoning to R-6
23 rd Street (Vacated)
S 60° 40' 04" E
N 89° 33' 37" E
110.00'
368.00'
S 77° 56' 23" E
198.00'
Pueblo Blvd.
N 00° 05' 48" W 2637.95' (DEED)
S 00° 15' 50" W 2637.95' (Plat Of Sanders Sub.)
1705.72'
Block 1
Block 2
Block 3
Block 4
Block 5
Block 6
Ulster (Vacated)
Thames (Vacated)
Sanders (Vacated)
Robb (Vacated)
Quebec (Vacated)
Perry Ave.
West 24th Street
N 89° 39' 15" E 957.24'
L=245.23'
R=1075.00'
WEST VALLEY ESTATES
SUBDIVISION, A SPECIAL AREA PLAN
1200.50'
23 rd Street
N 89° 10' 49" E
SANDERS SUBDIVISION
FIRST FILING
West Line Lots 13-24, Block 6
22nd Street 1382.64'
S 88° 47' 59" W 2683.15'
West 22th Street
N 00° 59' 11" W 2624.58'
828.58'
120'
17'
12'
N
W
E
S
1" =40'
Proposed
Rezone

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

MINUTES OF REGULAR MEETING
City of Pueblo, Colorado
Wednesday, March 9, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:38 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Alexandra Aznar, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: none

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Wade Broadhead, Senior Planner; Danielle Baxter, Planner; John Sakariason, Stormwater Coordinator; and Joe Martellaro, Associate Engineer II.

APPROVAL OF AGENDA

A Motion was made by Bailey to approve the agenda with changes to move V-21-03 & S-21-10 to April 13, 2022, hearing and move Z-21-16, V-21-04, and S-21-12 to March 23, 2022, hearing. Seconded by Aznar.

Motion passed 7-0.

1. **Z-21-22:** Rezoning a parcel of land, 26.86 acres, located immediately east of Pueblo Blvd and north of Westview Drive, from R-4, Mixed Residential District to R-6, Multiple Residential and Commercial District for the purposes of developing a recreational vehicle park.

   Staff Report by Wade Broadhead.

BACKGROUND AND ANALYSIS:

The subject property was annexed into the City in 1973 with the Arkansas River Annexation. Portions of parcel 5522300002 are being rezoned to R-6 to allow the construction of a recreational vehicle park. A recreational vehicle park is a use by review in a R-6 and will require the approval of a special use permit approved by the Zoning Board of Appeals prior to a recreational vehicle park to begin operations.

STAFF REVIEW AND FINDINGS:

The subject property is a large parcel containing unplatted land as well as vacated rights of way and derelict lots from the Saunders Subdivision. The rezoning site landscape is characterized mainly by open desert scrub situated east of Pueblo Boulevard and south of 24th street. The City inherited the Saunders Subdivision which was platted in the County but never developed when this property was annexed. Rights of way including 22nd street were vacated by ordinance in 1957 but the lots remained. The applicant is proposing the development of an RV park. Access, utilities, and development standards will be addressed during the recreational vehicle park special use permit review at the Zoning Board of Appeals. Recreational Vehicle Parks are strictly regulated by Pueblo Municipal Code, Sec 17-4-51(d)(9), (b) a detailed staff review will occur during the subdivision review process to accommodate all development considerations.

The R-6 allows a wide range of housing, restaurant, retail, and office uses by right which are compatible with a large parcel that fronts a very busy state highway and future major intersection due north. There is ample space for various types of development with room for buffering the residential uses to the east and south. The rezoning accommodates the prior zone district uses while allowing flexibility to private owners going forward as the West Side neighborhoods grows and expands.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The project is located in a desert scrub prairie located directly east of Pueblo Boulevard and south of 24th street.

- **Neighborhood Compatibility:**

North	B-3, empty prairie and R-8 manufactured homes
East	A-4, R-8 Manufactured homes and single-family homes on larger lots
South	R-3, Duplex development
West	Honor Farm Open Space

- **Comprehensive Plan Compliance:**

The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." According to Pueblo Municipal Code Section 15-4-51(a)(9) states that the purpose of the R-6 Zone District is designed to retain and provide areas of mixed residence, commercial use and accommodations for transients. While much of the urban residential designation is aimed at small-scale single-family development the Comprehensive Plan does mention that "Community-scale commercial zoning will be appropriate at intersections of two collector roads or of a collector and an arterial road". 24th Street and Pueblo Boulevard are major roads where commercial and mixed-use zoning is appropriate. The R-6 allows a wide range of housing and commercial uses at a neighborhood and community scale to comply with the Urban Residential designation. This property is zoned appropriately and will facilitate compliance with the future land use category of the Pueblo Regional Comprehensive Plan.
Staff has determined that the proposed rezoning is consistent with the comprehensive plan designation.

APPLICATION REQUIREMENT PER §17-6-1 OF THE PUEBLO MUNICIPAL CODE

The applicant's name and address and the name and address of any person, firm or corporation represented by such applicant in the application

- ❑ Comments **The application contains applicant's information.**

The interest of the applicant and the interest of the person, firm or corporation represented by the applicant, be it legal, sales development, operation or other interest.

- ❑ Comments **The property owner is the applicant.**

The nature of the amendment and a legal description of the property that would be affected by the amendment.

- ❑ Comments **A full legal description of the property was provided with the application and is attached to the staff report. Staff is working with the representative to refine the legal description before it goes to City Council.**

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

- ❑ Comments **The applicant proposes to implement a recreational vehicle park on the site after a subdivision and special use permit review.**

A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

- ❑ Comments **A site plan has not been provided but will be provided for the special use review and subdivision, and commercial site plan review.**

A statement of the proposed time schedule for beginning and completion of development.

- ❑ Comments **The applicant indicated that redevelopment may begin in late 2022 or 2023 after the subdivision and special use permit are approved**

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

- ❑ Comments **The application did not include information regarding the applicant's economic responsibility and capability.**

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- ❑ Minimum lot size and area:

- The R-6 Zone District requires a minimum of 3000 square foot of lot area for single family.
- The proposed area will be 28 acres and has over a hundred feet of frontage on 24th Street. The existing site has been reviewed and it complies with the minimum lot area and width for the proposed zone district.

- Lot coverage:
  - The R-6 Zone District allows a maximum lot coverage of 50%.
  - Staff will check for lot coverage at the time of building permits for the home and any accessory buildings.

Zone District performance standards:

- **Multifamily Residential Standards, Section 17-4-4, (c), of the Pueblo Municipal Code: Standards will be implemented at the time of development.**
- **Recreational Park performance Standards, section 170451(d),(9), of the Pueblo Municipal Code: Standards will be implemented at the time of development.**

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-All lots, blocks. Streets, vacated streets, etc. must be shown in this exhibit. The legal description must also reference the existing lots within the Saunders Subdivision. Joe Martellaro, 2/17/20222.

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED with the following conditions:**

1. **Provide an amended legal description, based on the redlined "Butcher Exhibit for 24th Street and Pueblo Blvd.," February 17, 2022, Joe Martellaro, Associate Engineer II.**
2. **Provided an amended Zoning Map Exhibit, based on the redlined "Butcher Exhibit for 24th Street and Pueblo Blvd.," February 17. 2022, Joe Martellaro, Associate Engineer II.**

All conditions must be met and approved by Planning and Public Works prior to scheduling the rezone for City Council review.

HEARING: Ms. Spinuzzi asked for clarification regarding the cul-de-sac from the residential neighborhood providing access to the park. Mr. Broadhead stated that this will remain a cul-de-sac and will not have a through street. Mr. Castellucci asked for clarification of what else could be built on this lot if the R-6 rezoning goes through. Jim Butcher (1 Judy's Dream, Pueblo) and Joe Gagliano (7240 Eagleridge Blvd, Pueblo) were sworn in to represent the application. Mr. Butcher stated this is to be an upscale park, catering to traveling public that may stay from a few days to a season. There will not be any units rented on the property, just parking for RVs. Mr. Gagliano stated some cul-de-sacs will need to be evaluated but the intent is that the only access is from 24th St. Ms. Bailey asked if there is a size limitation. Mr. Gagliano stated he is unaware of size limitations, but he is utilizing designs from similar facilities for larger spaces and hookups.

No one else spoke in support of the application.

Tiffany Grainger (Ridgeview Place) was sworn in and spoke in opposition of the application. Ms. Grainger stated that residential is a greater need than an RV park. RV park is not best suited for neighborhood and Pueblo in general. Even though the RV park claims to be upscale there could be increased crime which would be a detriment to the neighborhood. There could be unwanted clientele that is disruptive to the neighborhood. Ms. Grainger also stated that notices may not have been received by all residences and there may be more opposition down the road. No one else spoke in opposition.

Randy Thurston (102 S. Union) was sworn in and spoke on behalf of the applicant. Mr. Thurston stated there are a lot of new homes and apartments being built in Pueblo. What is needed in Pueblo is RV parking for EVRAZ and solar contractors who travel in RVs. Canon City is opening an RV park with 100 spaces. This will be a quality, first class, RV park with amenities and parks. Marijuana restrictions and RV year manufactured restrictions will be in place. Ms. Martinez asked why this parcel was chosen. Mr. Thurston stated it has easy access off the Blvd, close to reservoir, RV parks need major roadways for access. Also, the proposed extension of 24th to Pueblo West would create an ideal location for the community. Mr. Avalos stated this is not a mobile home park, the stay in an RV Park is temporary and not permanent in nature. Ms. Spinuzzi seconded these statements stating that her experience is that these parks are well maintained and would not bring in any additional crime.

MOTION: Motion to recommend approval of Z-21-22 with staff conditions to City Council was made by Bailey, second by Pasternak.

MOTION PASSED 7-0

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-21-22

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Wade Broadhead, Senior Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	March 9th, 2022
APPLICANT:	Jim Butcher, Amella Surveying and JVG Engineering
PROPERTY OWNER:	Jim Butcher
LOCATION:	Legal attached, portions of parcel 522300002.
EXISTING ZONE:	**R-3, One and Two Family Residential** **R-4, Mixed Residential** **B-3, Highway and Arterial Business District**
PROPOSED ZONE:	R-6, Multiple Residential and Commercial District
CONCURRENT REQUESTS:	None

REQUEST:
Applicant is requesting to rezone the southern 26.86 acres of parcel 522300002 from B-3, R-3, and R-4 to R-6 to facilitate the development of a recreational vehicle park.

BACKGROUND AND ANALYSIS:

The subject property was annexed into the City in 1973 with the Arkansas River Annexation. Portions of parcel 5522300002 are being rezoned to R-6 to allow the construction of a recreational vehicle park. A recreational vehicle park is a use by review in a R-6 and will require the approval of a special use permit approved by the Zoning Board of Appeals prior to a recreational vehicle park to begin operations.

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- City Public Works-All lots, blocks. Streets, vacated streets, etc. must be shown in this exhibit. The legal description must also reference the existing lots within the Saunders Subdivision. Joe Martellaro, 2/17/20222.
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment

- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No comment
- Black Hills Energy-No comment
- CDOT-No comment

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED with the following conditions:**

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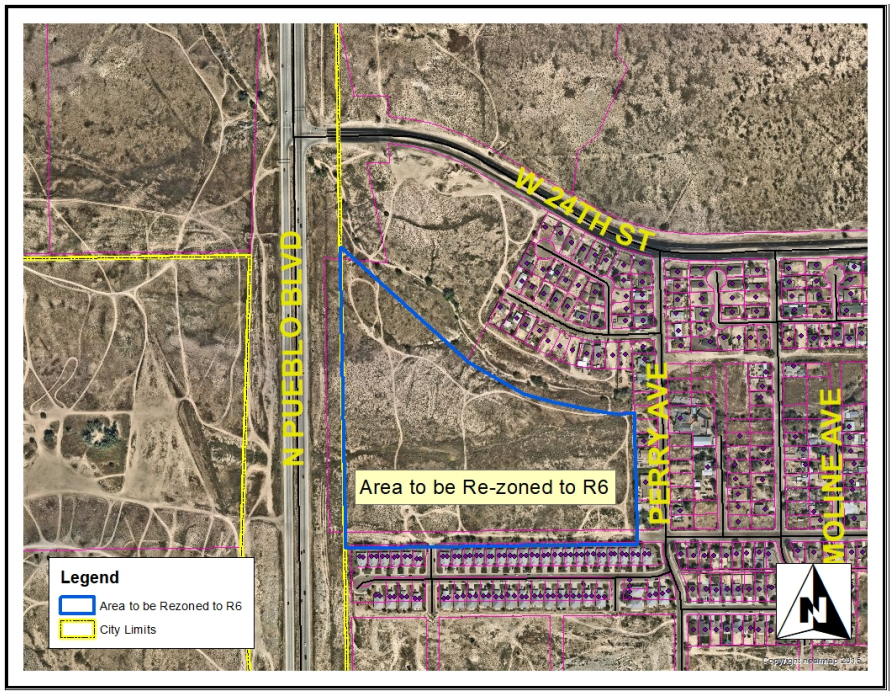
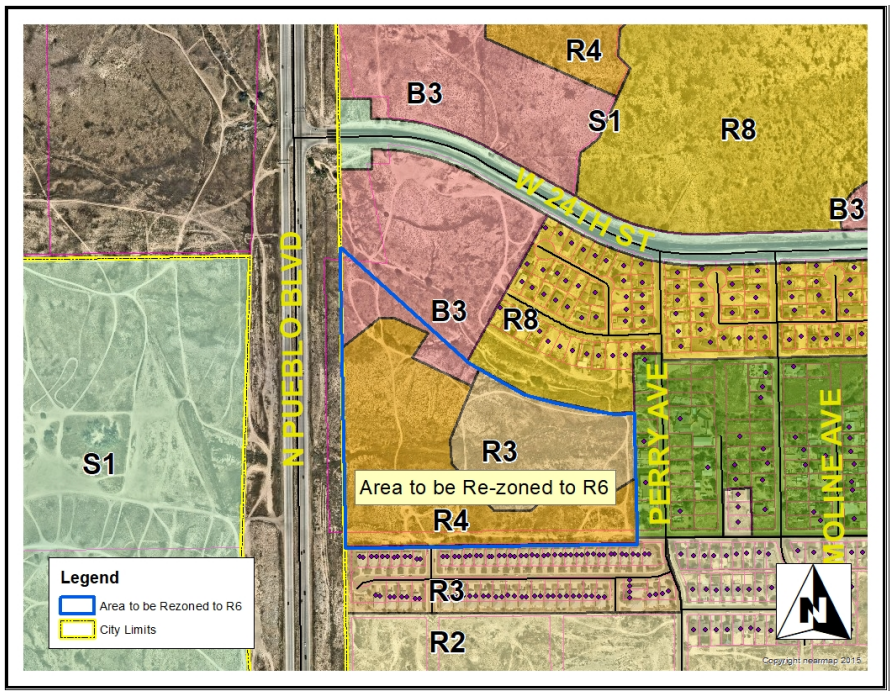
ATTACHMENTS:

A. Location Map
B. Zoning Map
C. Comprehensive Plan Map
D. Site Photographs
E. Rezoning Exhibit
F. Application

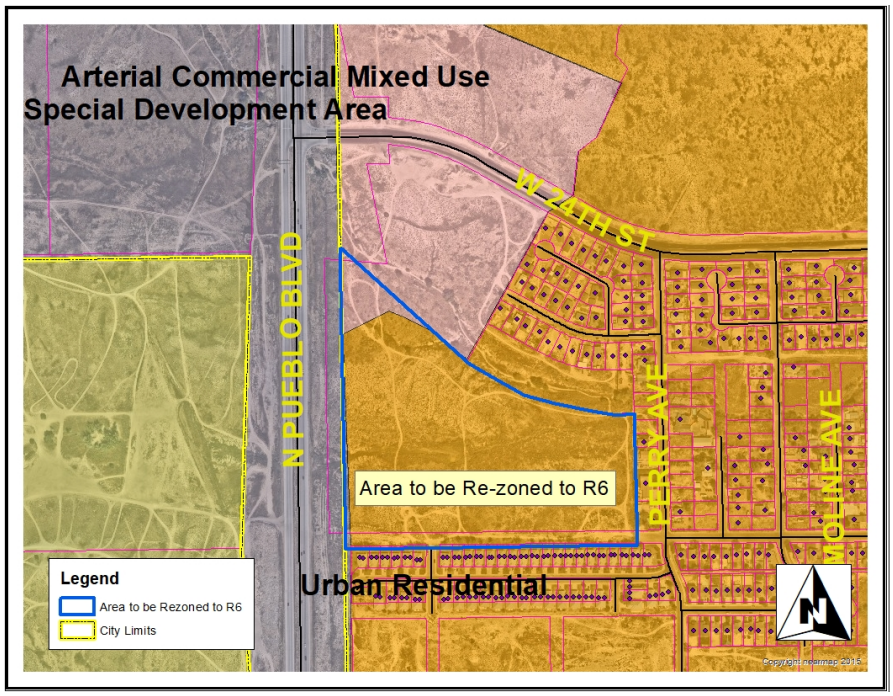
ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map



C. Comprehensive Plan Map

Attachment D. Site Photos



Public Notice Poster



View looking at 22nd street and adjacent development.



Overview of the property from the south looking north.



Development is in the background.

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **James Butcher** for the approval of the following application(s):

Z-21-22 A rezoning of potions of unsubdivided land (legal on file at 211 E. D. St) generally located immediately east of Pueblo Boulevard, north of Westview Drive from, R-4, Mixed Residential District, to Multiple Residential and Commercial District (R-6) for the purposes of developing a recreational vehicle (RV) park.

The Planning and Zoning Commission meeting will be held on March 9th, 2022, at 3:30 p.m., by Zoom: Meeting ID:927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston)) or in-person at 1 City Hall Pl (3rd Floor City Council Chambers). 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 contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

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Scott Hobson, Director
Planning & Community Development
Wade Broadhead, Senior Planner
(719) 553-2280

CASE NUMBER Z-21-22

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed Zoning Map Amendment of the property located at, A PORTION OF PARCEL 0522300002 24TH & 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 Zoning Map Amendment 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.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Zoning Map Amendment of the property located at A PORTION OF PARCEL 0522300002 24TH & PUEBLO BLVD, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Owne	OwnerZip
BUTCHER JAMES H	1 JUDYS DREAM LN	PUEBLO	CO	81005-8703
HEIER TIM P/HEIER MICHELLE	1011 SONOMA CIR UNIT A	LONGMONT	CO	80504-1732
LISCOTT CUSTOM HOMES LTD	1160 CAPRICE DR STE A	CASTLE ROCK	CO	80109-1501
ARGUELLO JUANITA/ARGUELLO CARLOS	2201 PERRY AVE	PUEBLO	CO	81003-3820
VALDEZ EMILIO PETE/VALDEZ LAWRENC + MO	2202 PERRY AVE	PUEBLO	CO	81003-3821
MOORE STEVEN A/MOORE JOYCE K + MOORE	2207 PERRY AVE	PUEBLO	CO	81003-3820
VARGAS STELLA D + RASCHKA ALEX + GONZALE	2209 OTIS AVE	PUEBLO	CO	81003-3814
BUTLER PAULA J	2213 PERRY AVE	PUEBLO	CO	81003-3820
HIGGINS RICHARD D/HIGGINS ANDREA	2216 PERRY AVE	PUEBLO	CO	81003-3821
WRIGHT RAYMOND L + WRIGHT RAYMOND L J	2223 PERRY AVE	PUEBLO	CO	81003-3820
TAYLOR WILLIAM C JR + TAYLOR NIKKI	3042 W 22ND ST	PUEBLO	CO	81003-3860
REEVES JESSICA JEAN	3044 W 22ND ST	PUEBLO	CO	81003-3860
GONZALES GARY	3047 CANDICE LN	PUEBLO	CO	81003-3863
MARTINEZ ROBERT/MARTINEZ ALICIA	3110 HERRICK PL	PUEBLO	CO	81003-3838
SOTO FELIPE PLANCARTE	3112 HERRICK PL	PUEBLO	CO	81003-3838
FLORES JOHN PETE /FLORES MARTA L + C/O JC	3120 HERRICK PL	PUEBLO	CO	81003-3838
GUTIERREZ DE SANTIAGO SUSANA + ARELLANO	3122 HERRICK PL	PUEBLO	CO	81003-3838
FAIR REBECCA E	3124 HERRICK PL	PUEBLO	CO	81003-3838
SANDOVAL RALPH ALBERT + SANDOVAL ALBER	3220 FALCON RIDGE RD	DIAMOND BAR	CA	91765-3819
WEST VALLEY ESTATES LLC	8901 PARAMOUNT CT NE	ALBUQUERQUE	NM	87122-3001
MATTY GEORGE TR/MATTY CHRISTINE T	9 W MORRIS DR	QUEEN VALLEY	AZ	85118-9723
BAKER GEORGE WAYNE	PO BOX 1216	WESTCLIFFE	CO	81252-1216
CLAYTON STREET PROPERTIES LLC	PO BOX 2868	CORRALES	NM	87048-2868
42 VILLAGE AT PUEBLO LP + 51 VILLAGE AT PUE	PO BOX 37	OAKDALE	CA	95361-0037

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE CHANGING ZONING RESTRICTIONS OF THE FOOTHILLS SUBDIVISION FROM R-8, MANUFACTURED HOME RESIDENTIAL DISTRICT AND B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO A PUD, PLANNED UNIT DEVELOPMENT ZONE DISTRICT GENERALLY LOCATED EAST OF NORTH PUEBLO BOULEVARD AND NORTH OF WEST 24TH STREET

SUMMARY:

The applicant is requesting to rezone 73.93 acres covering the Foothills Subdivision from R-8 and B-3 zone districts to a Planned Unit Development (PUD) zone district to facilitate a mixed-use community offering diverse residential housing options and commercial services for residents. The site is located east of North Pueblo Boulevard, north of West 24th Street and is currently subdivided and zoned for manufactured home and commercial uses.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to vacate all of the streets and easements in the Foothills Subdivision and is also requesting to resubdivide the property for future development sites.

BACKGROUND:

NeighborWorks of Southern Colorado purchased the Foothills Subdivision and is requesting to rezone, vacate rights-of-way/easements and re-subdivide to facilitate the development of a mixed-use neighborhood that offers a variety of housing options and commercial services to residents. According to NeighborWorks, the Pikes Peak Park community will offer "permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities to support a walkable, ten-minute neighborhood." Pikes Peak Park PUD, proposes to introduce small residential lots accessed by private drives that face green-spaces, intermixed with more traditional larger-lot residential development, multifamily development, and commercial nodes along West 24th Street and Sun Mountain Boulevard. The previous Foothills Subdivision (approved in 2000) was intended for development of manufactured homes and one commercial node west of what was previously Spaulding Avenue and is now Sun Mountain Boulevard. Per the PUD Zone District Regulations, a development guide has been submitted which contains information as required

by Section 17-8-6, of the Pueblo Municipal Code. According to the Pikes Peak Park PUD Guide, the proposed development will be a “social, economic, and environmentally Resilient Community.” The PUD Guide states that a variety of complimentary uses “within walking and cycling distance from one another” “will decrease reliance on the automobile.” The PUD contains provisions for single-family development on narrow and shallow lots with a maximum of 619 residential dwelling units and 446 Commercial Mixed-Use dwelling units. The maximum gross density is 12 dwelling units per acre and 20 commercial mixed-use units per acre.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 23, 2022 Public Hearing, voted 5 to 1 recommend approval. (Commissioner Castellucci dissenting, Commissioner Aznar absent)

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.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance the property will not be zoned in accordance with the Pueblo Municipal Code.

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:
Proposed Ordinance
Minutes of the Planning and Zoning Commission March 23, 2022, Public Hearing
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. 10163

AN ORDINANCE CHANGING ZONING RESTRICTIONS OF THE FOOTHILLS SUBDIVISION FROM R-8, MANUFACTURED HOME RESIDENTIAL DISTRICT AND B-3, HIGHWAY AND ARTERIAL BUSINESS DISTRICT TO A PUD, PLANNED UNIT DEVELOPMENT ZONE DISTRICT GENERALLY LOCATED EAST OF NORTH PUEBLO BOULEVARD AND NORTH OF WEST 24TH STREET

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

SECTION 1.

The zoning restrictions covering the following described property, and in addition half of all adjacent dedicated roadway and alley rights-of-way, together generally identified in the attached Rezone Exhibit, are hereby changed from R-8, Manufactured Home Residential District and B-3, Highway and Arterial Business District to a Planned Unit Development Zone District (PUD), and upon passage of this Ordinance, zoning restrictions affecting the PUD, shall apply to said property:

Parcels of land located in the South one-half of Section 22, Township 20 South, Range 65 West of the 6th P.M. in the County of Pueblo and State of Colorado and being more particularly described as follows:

All of Blocks 1 and 2 of Foothills Subdivision, A Special Area Plan as filed for record at Reception No. 1349438 in the office of the Pueblo County Clerk and Recorder.

Containing 73.925 acres, (3,220,178 sf) more or less.

SECTION 2.

With the recommendation of the Planning and Zoning Commission, the Planned Unit Development Guide, attached hereto, is hereby approved.

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 immediately upon final action by the Mayor
and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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

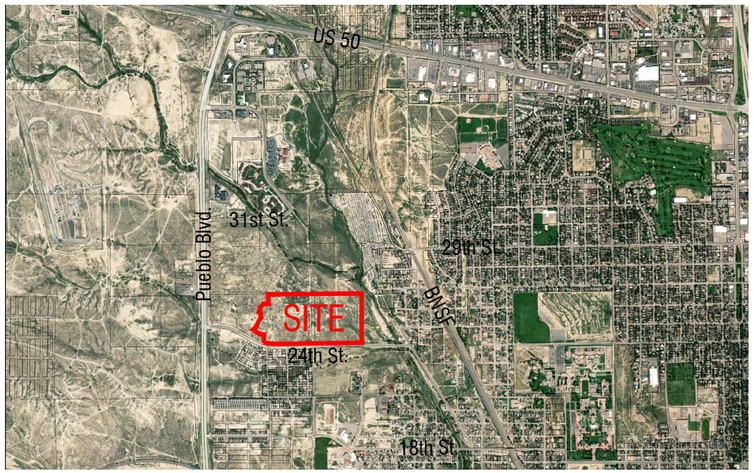
_____
City Clerk

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
2nd submittal: November 30, 2021
3rd submittal: December 23, 2021
4th submittal: February 14, 2022
5th submittal: March 14, 2022

VICINITY MAP ::



N

not to scale (N.T.S)

I. LEGAL DESCRIPTION ::

LOTS 1 THRU 224 + 226 BLK 1 FOOTHILLS SUB + PARCELS D, E, F, G + H FORMERLY #05-223-10-001 THRU 229 and LOTS 1 THRU 213 BLK 2 FOOTHILLS SUB + PARCELS A, B, C + J FORMERLY #05-224-30-001 THRU 216.

II. INTRODUCTION ::

The primary purpose of this PUD is to allow this property to develop in a manner that aligns with NeighborWorks Southern Colorado(NWSoCo) Vision and Urban Design Concept Plan for Pikes Peak Park Neighborhood. This site is currently designated as R-8 with a small portion designated as B-3. This PUD establishes a set of land uses, street sections, and development guides intended to create a walkable, mixed residential community with neighborhood serving retail primarily located at the intersection of 24th Street and a future north/south street.

This PUD will allow the site to develop in a logical, efficient manner that integrates with the surrounding land use and provide mixed-income affordable housing, attract services and increase the self-sufficiency of the organization through earned income opportunities.

III. PROJECT NARRATIVE ::

Pikes Peak Park is envisioned to become a horizontally mixed-use and mixed-income community that co-locates permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities, among other uses, to support a walkable, ten-minute neighborhood.
Through community engagement, diverse expertise and the right partnerships; the Pikes Peak Park Neighborhood is a critical first step that will positively impact the entire west side of Pueblo community by linking diverse developments together, raising home values, connecting people to nature, amenities and each other, and ultimately become more integrated into the City. This project aims to provide 'proof-of-concept' for community design in Pueblo and become a catalyst for public and private investment for the westside of Pueblo, creating a community with significant housing available for low-moderate income families otherwise locked out of home ownership.

IV. GUIDING PRINCIPLES ::

- Provide a range of **Affordable and Attainable housing** products that caters to a variety of income levels and family sizes.
- Create a distinct neighborhood that includes a variety of open spaces, nodes, destinations and third places, connected by a web of links that will encourage human interaction necessary to develop the personal bonds that grows a strong **Community and Culture** and inclusive social network.
- Create a **Sense of place**, through urban design, landscape and built form, that is authentic to Pueblo, future residents, and the communities' time and place in the world.
- Create a **Healthy and Vibrant** community that values a balanced lifestyle by enabling active living, increased mobility, reduced stress, and social interaction.
- Create a **Connected** network of streets and open spaces systems that links the Pikes Peak Park neighborhood to the surrounding community.
- Pikes Peak Park strives to be a social, economic and environmentally **Resilient Community**. This starts with creating a cohesive and interconnected master plan that co-locates a variety of complimentary uses with-in walking and cycling distance from one another as a means to decrease reliance on the automobile.

V. PUD ZONE DISTRICT APPLICATION AMENDMENT PROCESS ::

The Pikes Peak Park Metro District #1 Board shall have the sole authority to initiate amendments to the PUD. Any amendment to this PUD shall be subject to the City of Pueblo amendment process per PMC section 17-8-8 (a), as amended.

VI. PUD SITE PLAN APPROVAL PROCESS ::

- PUD Site Plan for Multi-family and Commercial development submittals shall include all information required by applicable sections of the Pueblo Municipal Code and Site Development Plan Checklist, and meet the intent of this PUD.
- PUD Site Plans and Site Plan Amendments for single-family detached and single-family attached projects developed on individual lots will be administratively reviewed and approved by the City in accordance with the PUD. Site Plan Amendments may be filed, processed and scheduled concurrently for staff review if required.

VII. DESIGN GUIDELINES ::

In order to implement the vision for Pikes Peak Park, private Architectural and Site Design Standard and Guidelines(D.S.G.) will be prepared to guide the overall look, feel and character of the neighborhood. These will be administered by the Design Review Board.

Private Design Standard and Guidelines will supplement the Development Guide established by this PUD and shall be in lieu of Sec. 17-4-11 Residential Placement Standards, and any subsequent revisions, as identified by the Pueblo Municipal Code.

The Pikes Peak Park Metro District #1 Board will appoint five (5) Board Members to the Design Review Board (DRB). Three (3) members shall constitute a quorum. All DRB members shall be real estate or design professionals. The Director of Planning and Community Development may appoint a 6th DRB member. This member is an ex officio member who does not have voting rights.

The DRB will have the responsibility of reviewing, approving, approving with conditions, or denying all site plans, architecture, landscape plans, lighting plans, signage plans and signs, for all physical improvements to individual Lots or Blocks based upon PUD criteria and Pikes Peak Park Design Standard and Guidelines. The DRB will meet with applicants in a timely manner and will provide written comments, conditions and approvals in writing to the Applicant and the Director of Planning and Community Development. Any PUD site plan amendment shall require a DRB letter of recommendation of approval before the final approval from P&Z or Technical Advisory Committee.

Site Plans may be submitted to the DRB and City of Pueblo concurrently. Architectural building plans may be submitted to the Building Department concurrently with DRB review. Any changes made to civil or architectural construction documents subsequent to final DRB approval shall be submitted to DRB for review. Upon DRB approval, the DRB will provide an approval letter to the City of Pueblo. Upon receipt of the approval letter, the City of Pueblo will administratively review Site Development Plans for individual Lots using the City of Pueblo's review process provided that the requirements of the PUD have been met. DRB approval and Metro District authorization is required prior for final City Site Plan approval and issuance of building permits.

PAGE INDEX ::

PAGE 1: COVER SHEET AND INTRODUCTION
PAGE 2: CONTEXT MAPS AND ZONING
PAGE 3: LAND USE PLAN
PAGE 4: CIRCULATION
PAGE 5: PARK AND TRAIL PLAN
PAGE 6: PERMITTED / RESTRICTED USES
PAGE 7: DEVELOPMENT GUIDE
PAGE 8: DEVELOPMENT GUIDE
PAGE 9: DEVELOPMENT GUIDE
PAGE 10: SINGLE-FAMILY LOT CONFIGURATIONS
PAGE 11: STREET SECTIONS / DESIGN STANDARDS
PAGE 12: STREET SECTIONS / INTERSECTION
PAGE 13: VARIANCES

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Denver, CO 80204
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TITLE: COVER SHEET AND INTRODUCTION		
SCALE: N.T.S.	DRAWN BY: S.C.	PAGE 1 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
2nd submittal: November 30, 2021
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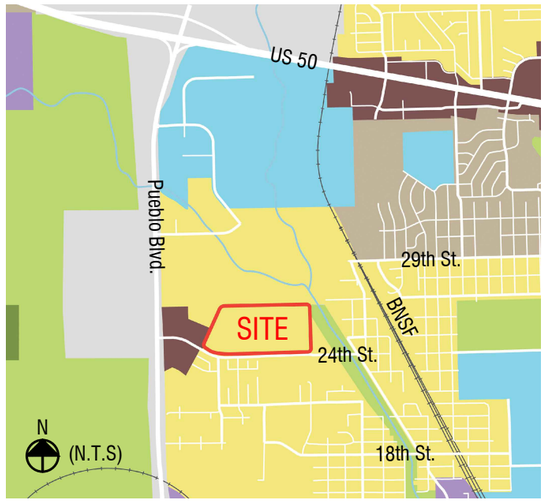
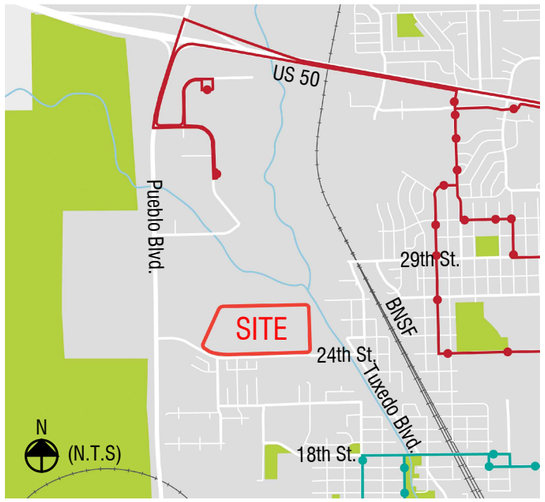
ZONING CONTEXT::



The site is bordered by 24th Street, and low density existing residential to the South. No other development is adjacent to the site. Future open space corridor expansion along the Wild Horse Creek is planned to the east per Pueblo's Comprehensive plan, 2002.

- Arterial commercial
- Institutional mixed-use
- Suburban residential
- Light industry
- Urban residential
- Park and open space

PUBLIC TRANSPORTATION CONTEXT::



There are two bus routes that access the west side of Pueblo. The applicant will work with the city to extend one or both bus routes to the site.

- Route 3
- Route 8

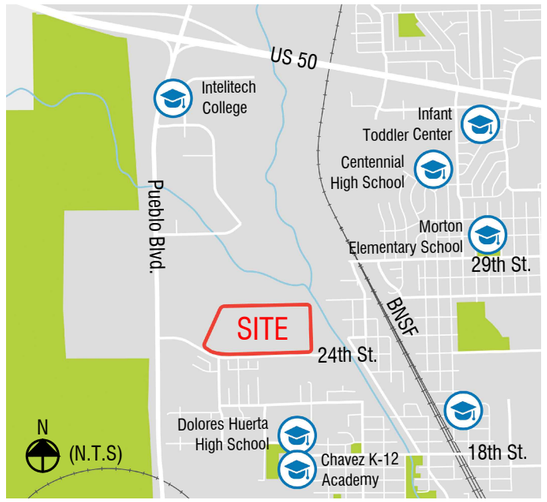
OPEN SPACE AND BIKE NETWORK CONTEXT::



The site is located directly west of Wild Horse Creek which will provide access to future regional trails. Pikes Peak Park open space and street network will be designed to allow for safe, comfortable bicycle and pedestrian connections that connect to future open space facilities as planned by the City of Pueblo.

- Multi-use trail
- Bike route
- Future open space corridor

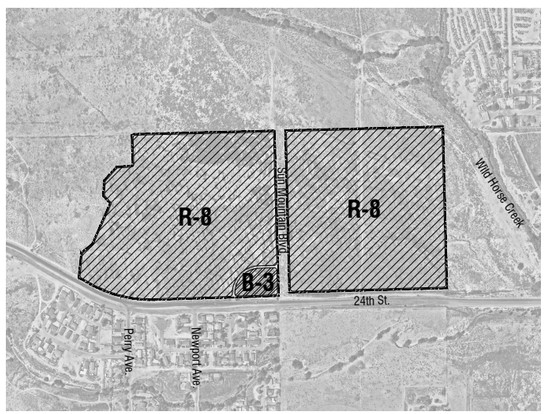
SCHOOLS CONTEXT::



Currently, the designated schools for this area are Morton Elementary School, Centennial High School. Chavez Huerta Charter School is a convenient walking and bicycle distance for residents. Work with school district to allow for preferred enrollment status for Pikes Peak Park children.

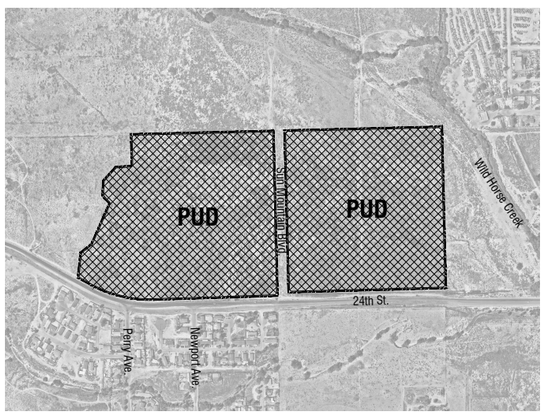
EXISTING ZONING ::

R-8 zoning exists on the majority of site, and B-3 exists at the corner of 24th St. and Sun Mountain Blvd.



PROPOSED ZONING ::

PUD zoning on the entire site.



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TITLE: CONTEXT MAPS AND ZONING		
SCALE: N.T.S	DRAWN BY: S.C.	PAGE 2 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

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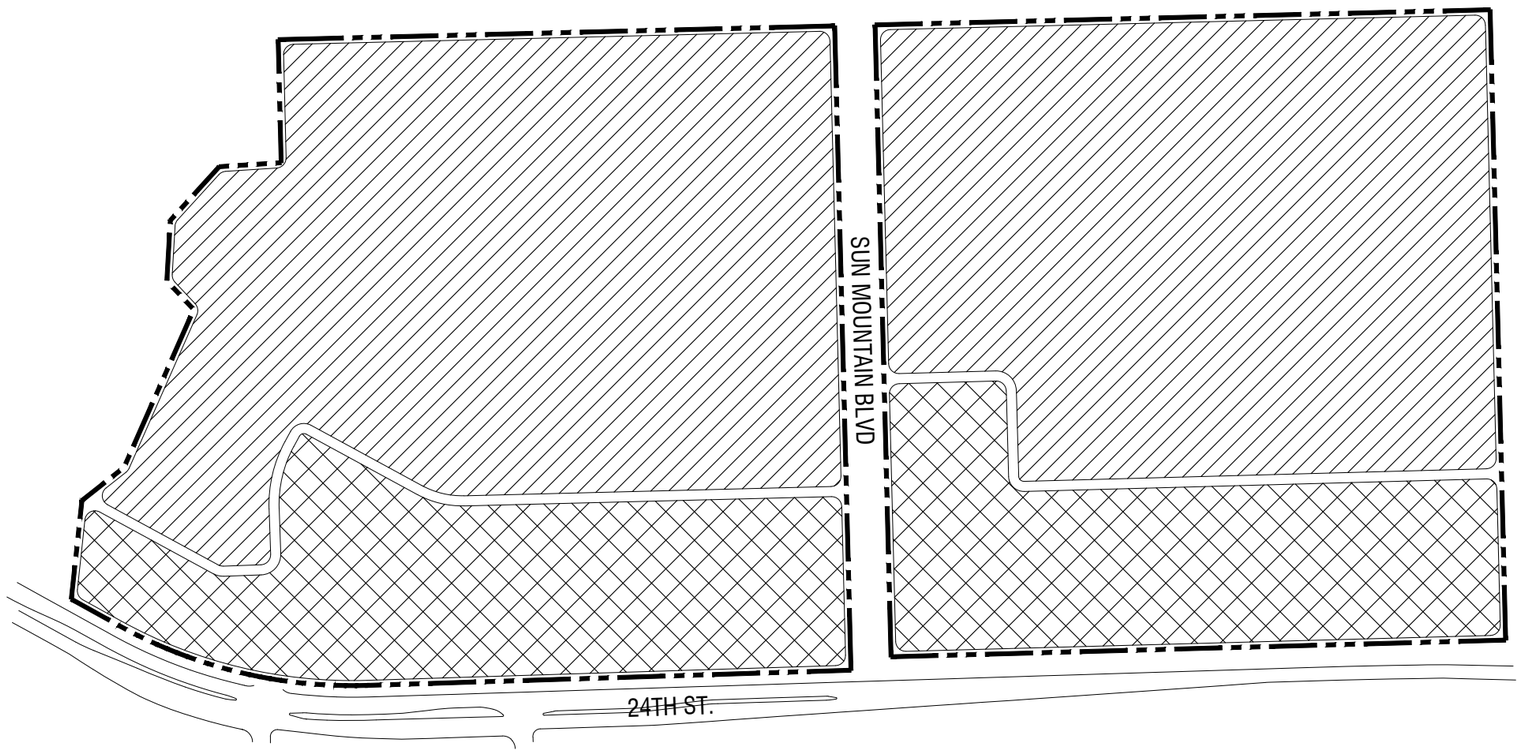

SUMMARY LAND USE TABLE ::

Land Use	Land Area		Max. Gross Density (du/ac)	Max. Dwelling Units (du)	Max. Commercial /Community area (sq.ft.)
	Acres	%			
Residential	51.61	70	12	619	8,000
Commercial Mixed-Use	22.32	30	20	446	80,000
Total	73.93	100	14	1,065	88,000

* Fire station does not count towards maximum commercial square footage count.

LEGEND ::

- PUD BOUNDARY
- RESIDENTIAL
- COMMERCIAL MIXED-USE

NOTE ::

1. Residential use is characterized by primarily single family attached(duplex, triplex, fourplex, rowhomes and townhomes), single family detached housing with variety of product mix including single-family green court cluster.
2. The intent of commercial mixed-use planning area is to allow for denser multifamily, vertically mixed-use multifamily, restaurant and neighborhood serving retail to develop along 24th Street. Single-family attached are allowed where transitioning from a denser multifamily development to single-family residential area.

CIVITAS
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TITLE: LAND USE PLAN
SCALE: 1"=300'
DRAWN BY: S.C.
PAGE 3 OF 13
DATE: 3-14-22
CHECKED BY: C.W.P.
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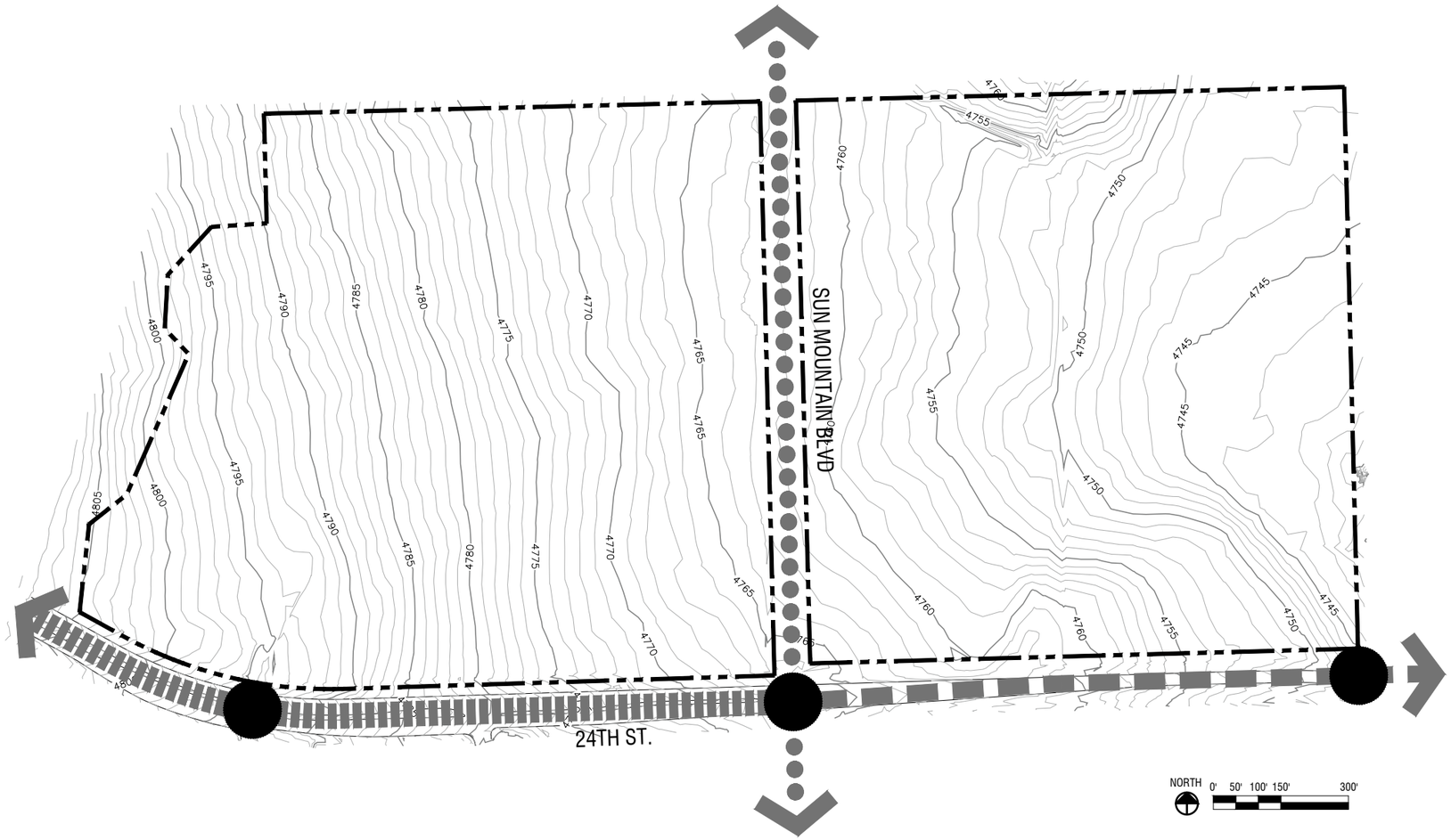

NOTE ::

1. The eastern portion of 24th St. is currently a 2 lane street and may be expanded to a four-lane street in the future by the City of Pueblo. The developer will coordinate planning efforts with the City.
2. Final location of intersections will be determined by the Plat.

LEGEND ::

- PUD BOUNDARY
- EXISTING 24TH STREET (4 LANE)
- EXISTING 24TH STREET (2 LANE)
- SUN MOUNTAIN BLVD
- FULL MOVEMENT INTERSECTION
- MAJOR CONTOUR
- MINOR CONTOUR

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TITLE: CIRCULATION		
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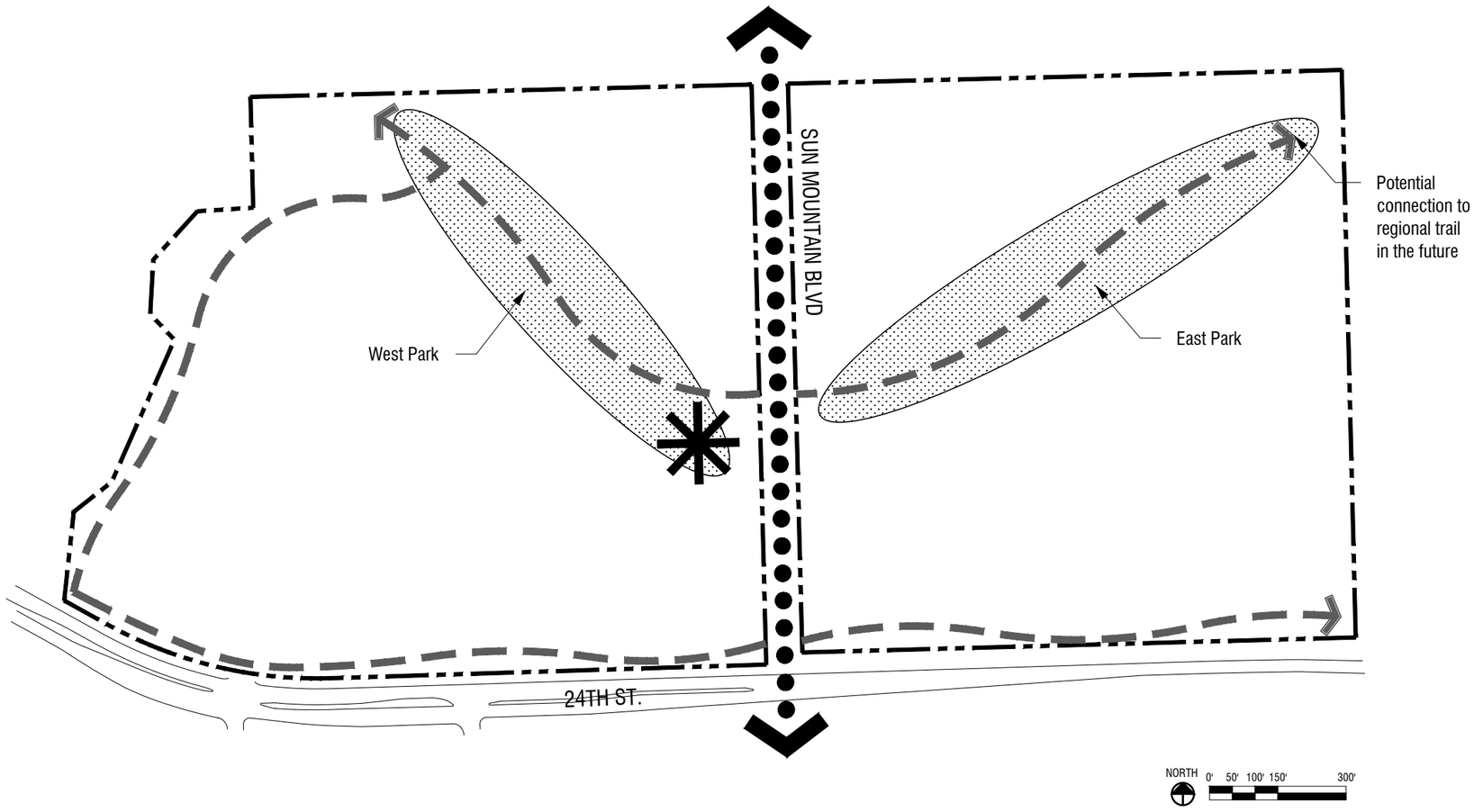


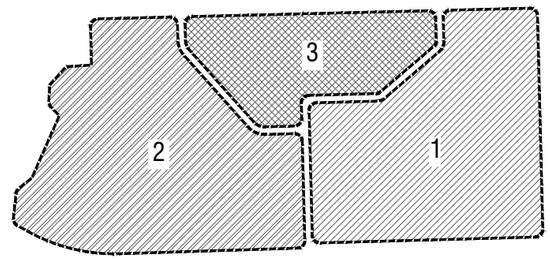
NOTE ::

1. The intent of the park and trail plan is to provide a network of space that connect neighborhoods to the regional open space corridors, and preserve view corridors to the Pikes Peak and Green Horn Mountain.
2. A minimum of 8% of the land area shall be dedicated to the Metro District for use as parks and recreational facilities per the PMC section 12-4-7(e). Parks and recreational facilities will be developed, owned and maintained by the Metro District.

PHASING ::

1. Southern part of Sun Mountain Blvd and South-east portion of site.
2. South-west portion of site.
3. Northern part of Sun Mountain Blvd and Northern portion of site.

Keymap



* East Park will be constructed as part of Phase 1, and West Park will be constructed as Part of Phase 2.

LEGEND ::

- PUD BOUNDARY
- POTENTIAL LOCATION OF PARK AND OPEN SPACE
- POTENTIAL MULTI-USE TRAIL
- BICYCLE LANE OR OFF-STREET BICYCLE FACILITY
- POTENTIAL LOCATION FOR CENTRAL GATHERING AREA

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TITLE: PARK AND TRAIL PLAN		
SCALE: 1"=300'	DRAWN BY: S.C.	PAGE 5 OF 13
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RESIDENTIAL PLANNING AREA ::

Residential use is characterized by primarily single family attached(duplex, triplex, fourplex, rowhomes and townhomes), single family detached housing with variety of product mix including single-family green court cluster.

A. Uses by Right

- Accessory Dwelling Unit
- Accessory Uses
  - Drainage facilities
  - Outdoor exercise
  - Temporary art installations
- Child Care Home
- Co-housing, Common house
- Community Center
- Community garden
- Home, elderly
- Home, foster
- Manufactured Home
- Parking lot solar array
- Parks, Trails, Open Space
- Residence, Single Family Detached - alley and front loaded
- Residence, Single-Family Green Court Cluster
- Residence, Paired Housing (duplex) - alley and front loaded
- Residence, Three and Four family - alley and front loaded
- Residence, Townhouse - alley loaded
- Roof mount solar array

B. Conditional Uses

A conditional use may be permitted if certain minimum conditions, contained in the applicable City Ordinances are satisfied as determined by the DRB and the Land Use Administrator. The DRB is required to send a letter of recommendation to the Land Use Administrator.

- Food trucks
  a. Shall comply with conditions in the applicable City Ordinances.
  b. Limited to public right-of-way adjacent public parks, community center and other ground floor commercial.
- Home based business
- Mobile food unit
- Model home
- Temporary farmers/art/craft market
  a. Limited to public right-of-way adjacent public parks, community center and other ground floor commercial.

C. Restricted Uses

- All uses not expressly permitted as use by right or conditional use.
- Short term rental through third party applications.

COMMERCIAL MIXED-USE PLANNING AREA ::

The intent of this planning area is to allow for denser multifamily, vertically mixed-use multifamily, restaurant and neighborhood serving retail to develop along 24th Street. Single-family attached are allowed where transitioning from a denser multifamily development to single-family residential area.

A. Uses by Right

- Accessory Uses
  - Beer gardens
  - Dining patios
  - Drainage facilities
  - Entertainment district
  - Food Trucks
  - Home based business
  - Ice cream stand
  - Outdoor exercise
  - Temporary art installations
- Adult day service center
- Art Gallery
- Bar/Tavern
- Brewery/Cidery
- Childcare Center
- Community Center
- Community garden
- Dog care facility
- Hotel
- Library
- Municipal buildings
- Neighborhood serving commercial
  - art gallery
  - beauty salon/barber shop
  - butcher
  - convenience store
  - dry cleaner
  - financial institution
  - laundromat
  - personal and professional service
  - pet grooming
- Office, general
- Office, medical
- Office, professional
- Parking Lot
- Parking lot solar canopy
- Parking Structure
- Parks, Trails, Open Space
- Pharmacy
- Religious institution
- Restaurant (sit-down, fast casual)
- Roof mount solar array
- Residential, Multifamily (includes mixed-use, co-housing, age-targeted, age-restricted, market rated, and affordable).
- Residence, Paired Housing (duplex) - alley and front loaded
- Residence, Three and Four family - alley and front loaded
- Residence, Townhouse - alley loaded
- Schools, public and private
- Health club, less than 3,200 sq.ft of gross floor area
- Temporary farmers/art/craft market
- Urban agriculture

B. **Conditional Uses**

A conditional use may be permitted if certain minimum conditions, contained in the applicable City Ordinances are satisfied as determined by the DRB and the Land Use Administrator. The DRB is required to send a letter of recommendation to the Land Use Administrator.

- Health club
- Mobile food unit
- Model home
- Rental shop, general

C. Restricted Uses

- All uses not expressly permitted as use by right or conditional use.
- Short term rental through third party applications.

DEFINITIONS ::

- Accessory Dwelling Unit: An accessory dwelling unit (ADU) is a secondary dwelling unit on a single-family residential lot, and generally situated above a detached garage. ADU shall be owned and maintained under the same ownership of the primary structure.
- Co-housing, Common House: Co-housing is a community intentionally designed with common areas surrounded by private homes. Common House generally include a large kitchen, lounges, meeting rooms, recreation facilities, library, workshops, or childcare. Common areas are owned and maintained by community members.
- Food trucks: A non-permanent food truck or food cart that operates at a fixed location for a period of time.
- Pet grooming: An establishment engaged in a business of grooming of a domestic animal, including bathing, cutting of hair, trimming of nails, but does not include any associated outdoor kennel, veterinary service, breeding, boarding and overnight accommodation.
- Residence, Single-Family Green Court Cluster: Four or more single-family homes are arranged with front doors or porches facing a common green space with an alley for garage access. The Common green space is designed to provide amenities for adjacent homes, and encouraging pedestrian connectivity to a neighborhood.
- Temporary farmers/art/craft market: Temporary market is an event that operates at a fixed location for a periodic sale of goods no more than 14 consecutive days. Temporary market does not include regularly scheduled events. These are limited to public parks, community center, and festival street.
- Urban agriculture: Generally involved in low-impact farming methods such as professionally managed garden hydroponics, vertical farms, and rooftops used for crop production.

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TITLE: PERMITTED / RESTRICTED USES		
SCALE:	DRAWN BY: S.C.	PAGE 6 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

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VIII. DEVELOPMENT GUIDE ::

A. STREETS, ACCESS AND SIGNALIZATION

24th Street is the only existing street and is located along the southern edge of the site. It is currently a 4-lane road along the western portion of the site and a 2-lane road along the eastern portion. It is understood that the eastern portion may be expanded to a four-lane street in the future by the City of Pueblo. The developer will coordinate planning efforts with the City. 24th Street is a front door to the neighborhood for residents. A 10' wide ADA-accessible detached multi-use trail or path will be designed and built by individual multi-family developer within the R.O.W along north side of 24th Street providing a bicycle and pedestrian connection from the neighborhoods to a future Wild Horse Creek regional trail. Multifamily and commercial buildings should be located in designated parcels along 24th Street to create an urban edge and identity for the neighborhood. Parking lots along 24th St. should be screened from view with landscape. Small, pocket parks associated with multifamily should connect to the regional trail along 24th Street.

Sun Mountain Blvd with +/- 80' wide R.O.W. bi-sects the site. It is characterized by well-designed pedestrian zones with wide sidewalks, landscape zone, on-street parking, and bicycle facilities. The installation of curb extensions(bump-outs) are allowed at intersections to facilitate speed calming as well as safety for pedestrian crossing. Buildings should front the street with primary facade and primary pedestrian entries. Where ground floor retail is anticipated, shallow setbacks may be used to allow for outdoor patio and storefront space. Commercial buildings along these streets should be designed with facade articulation and ground floor transparency in order to create a human scale street environment. Surface parking should not be located between buildings and the street.

Neighborhood Local Streets characterize residential districts and create a walkable network of streets and blocks that are connected to the open space network. The streets include sidewalks, landscape zone with street trees, and on-street parking on both sides of street. There will be three full movement access points to W. 24th St. as indicated in Circulation plan, page 4.

Neighborhood Design

The design of the neighborhood should consider topography, drainage, water quality, connectivity, and a contemporary housing program. Special care should be taken to create a highly connected neighborhood pattern that includes a variety of housing types and sizes organized around a hierarchy of open spaces. Several design strategies should shape the neighborhood plan; all residences should be located within 1/4 mile of a park or open space; the parks should provide a variety of program elements to encourage use persons of diverse interests and ages that may include: tot lots, picnic and seating areas, outdoor cooking areas, community gardens and flexible lawn space.

The single family residential community is primarily located on the northern two thirds of the site, and multifamily and mixed-use development is located at the southern portion of the site along 24th Street. The residential program should reflect a range of single family home sizes, townhomes, paired homes, and three-four family homes, both alley served and front loaded product.

Public Realm

The public realm should be defined by a network of streets, paseos and green corridors, parks and open space that support a high level of mobility and interconnected neighborhoods. The plan should offer multiple routes or loops for people to walk, run, and bike; to their favorite park, to the mail box, to the regional trail system, to each other's houses and to other neighborhood and community destinations. While the design for the various environments may vary, there should be a thread or 'DNA' that ties them all together to unify the neighborhood. It is foundational to the plan that the Public Realm serve to both create a strong sense of place but it also serves to support a strong community.

B.MULTIFAMILY AND MIXED-USE DESIGN GUIDELINES

Multifamily and Mixed-use Design Guideline is intended to apply to a residential structure or mixed residential with ground floor commercial where individual dwelling units are located above one-another and accessed by a common interior corridor or hallway.

Site Design

Buildings should be located in a manner that contributes to the creation of a pedestrian oriented and walkable community. This is done by fronting buildings close to the property line along streets, open spaces and trails.

- Parking lots shall not be located between a building's primary facade and the street.
- Services including trash and recycling center, loading docks, utility connections, including gas and electric meters, and rooftop mechanical equipment shall be screened from public view.
- Site landscape should be designed in a sustainable manner by selecting low-water planting and species that are adaptable to an arid environment.
- Parking facilities shall be sized with the intent of promoting efficient use of available land resources. The number of parking spaces provided shall be no less than the number prescribed in Section H, “Parking Standards” associated with each respective type of development.
- Shared use parking should be encouraged between nearby complementary land uses that have opposite peak hour demands.

Building Character

Buildings should be designed in a manner that is authentic to their function and time and place in the community. Building facades should be articulated to create human scale and interest. This may be achieved by the following strategies.

- Facade walls should incorporate horizontal relief through projections and recesses to provide visual interest.
- Ground floor facades should have recessed windows, entry areas, awnings or other such features.
- Building facades may use changes in color, texture and material judiciously to provide visual interest. All facades of a building which are visible from public street, park or open space, or paths should incorporate features similar to the front facade.

Resident entries should be protected from weather by overhead roofs or overhangs, or being recessed. First floor residences should have functional porches and front doors that provide direct access to the exterior and connections to the public realm. Balconies having usable space with a minimum average depth of no less than 3 feet are encouraged on upper levels.

Relationship of Buildings to Streets

Primary facade is a facade that faces a street, park or open space. Primary facades should contain a primary building entry and direct sidewalk connection to a public street, plaza, or park. Side entries may be allowed if an entry statement (e.g: patios, arbor, fence, gate, etc.) is provided on the building side facing the street.

Massing, Form and Scale

The following design elements should be considered:

- Entryway design elements and variations should give orientation and character to the building and contribute to the pedestrian orientation of the project by including some or all of the following features: arcades; canopies or porticoes; overhangs; recesses/projections; or special lighting.
- Express facade components in modules and materiality at a human scale that is meaningful to a person passing by on the sidewalk.
- Building height should transition to be scaled to lower height and density in residential areas.
- Architecture should consider its location and function in the overall neighborhood and be designed to emphasize visual focal points and view termini.
- Vertical and horizontal articulation in facade is encouraged through plane breaks, recessed windows and entries, or balconies.
- Multifamily and mixed-use buildings should be articulated with varied architectural features such as bays, balconies, massing changes, or porches that face the adjacent streets, parks, plazas, open areas.
- Each residential unit should have usable exterior open space in the form of balconies or porches.
- Balconies should be designed to be incorporated into the architecture to avoid a "tacked-on" appearance.
- Ground level residential units should have a front door and porch/stoop that provides direct access to a street, park or walkway.
- Stairways shall be conditioned, interior space.

Building Materials

New buildings should support regional traditions and maintain a level of craft in the process of construction and durability.

- Allowable facade material includes stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS), tilt-up concrete panels or other faux facade treatments should be avoided.

Mechanical Equipment

Rooftop mechanical equipment should be screened from view from the ground and from adjacent buildings of comparable height through the use of screen walls and/or parapets.

Treatment of Residential Open Area

Common areas in the multi-family property should be landscaped and include pedestrian connections to adjacent public streets, trails, open spaces and commercial areas. Pedestrian-scale lighting and street furniture should be included.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (b) and (d) of Pueblo Municipal Code.

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PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
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C. COMMERCIAL DEVELOPMENT DESIGN GUIDELINES

In addition to the Pueblo Municipal Code (PMC) requirements found in Sections 17-4-46 or 17-4-47 or 17-4-48 for small-scale, medium-scale and large-scale; respectively, commercial performance standards and the PUD shall guide the exterior architectural design within the Pikes Peak Park development. Where section 17-4-47 through Section 17-4-48 conflict with the PUD, the PUD shall govern.

Pedestrian Circulation

The following design guideline should be considered:

- Providing sidewalks and walkways of adequate width to allow groups of people to comfortably pass each other. Sidewalks in commercial areas will be no less than six feet wide and conform to all requirements of the Americans With Disabilities Act (ADA).
- Public lobbies and/or primary entry should connect directly to the pedestrian network.
- Provide pedestrian oriented lighting and shade trees along walkways.

Building Character

Buildings should be designed to provide human scale, interest and variety. Examples of techniques may include:

- Variation in the building form such as recessed or projecting bays;
- Expression of architectural or structural module and detail;
- Diversity of window size, shape or patterns that relate to interior functions;
- Emphasis of building entries through projecting or recessed forms, detail, color, or materials;
- Variations of materiality, material modules, expressed joints and details, surface relief, color, and texture to scale;
- Bay column spacing that subdivides the facade into smaller, more human scaled elements.

Relationship of Buildings to Streets

A primary building entry should face a public street, plaza or park. Buildings that are sited between a street and a surface parking area, for example, should have a pedestrian entrance on both the parking area side for employees to gain access from their cars, and along the public street to provide access for visitors, and pedestrians arriving from transit, on-street parking, adjacent neighborhoods and other buildings.

- The long-side of buildings should be generally parallel with the public street.
- Building entry plazas are allowed, but should not disrupt the public realm design.
- Pedestrian oriented signage that identifies building tenants is allowed near a building entry.
- Building entrances facing parking lots should be coordinated with building service areas to avoid conflicts between pedestrians and service vehicle movements.
- Outdoor storage, trash collection, and loading areas shall be screened, recessed or enclosed.
- Service areas should be located in a manner that they are not visible from adjoining neighborhoods, pedestrianways, streets or customer entrances.
- Service area screening should be accomplished by landscape materials and/or architectural treatments with similar or complementary materials to the primary structures.

Massing, Form / Scale

Building form and massing should be used to frame the public realm and create a pedestrian scale, urban environment.

- One story buildings should be designed with a tall first floor minimum 18' height.
- Varied building form and facade articulation should be used to break up long wall faces.
- Building forms should respond to important gateway locations and view terminal.

Building Materials

New buildings should support regional traditions and maintain a level of craft in the process of construction.

- Allowable facade materials include stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS) and tilt-up concrete panels are not allowed.

Mechanical Equipment

Rooftop mechanical equipment should be screened from view from the ground and from adjacent buildings of comparable height through the use of screen walls and/or parapets.

Open Space

Publicly accessible, privately maintained open space such as plazas, courtyards or outdoor rooms are an important part of the overall open space network. Each development block is encouraged to include some form of outdoor space that is connected to the public realm either directly, or by a publicly accessible walkaway.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (f) of Pueblo Municipal Code.

D. SINGLE FAMILY RESIDENTIAL DEVELOPMENT DESIGN GUIDELINES

Single-Family Residential Development Design Guidelines is intended to apply for variety of product mix including single-family detached, duplex, triplex fourplex, rowhomes and townhomes. These guidelines are in lieu of the PMC Section 17-4-11 Residential Placement Standards.

Architecture Design

Residential architecture at Pikes Peak Park will reinforce and add richness to the urbanist design principles that define its streets, parks and public realm. The developer is committed to providing quality architecture and a range of architectural styles that balance the need to create affordable and attainable housing and create a great neighborhood. Our process involves working directly with builders to develop the right mix of housing designs, products and lots for this site. This is an ongoing process and we will update the City as designs progress.

Residential design at Pikes Peak Park should contribute the fabric of Pueblo's memorable neighborhoods by supporting:

- Best practices in architectural design and construction technology.
- Allowing for a range of affordable and attainable homes.
- Strategic insight into market conditions and consumer preferences.
- A balance of individuality and diversity that reinforces community placemaking.

Porches and Front doors

Special attention should be paid to the role that front porches and front doors play in enlivening the streetscape. Stylistically appropriate front porches or front doors are required for houses with garages accessed from the street(front-loaded) and houses with garages accessed from the alley(rear-loaded).

- Front porch details: Columns, railings and other details should support the architectural style of the house.
- Front doors: Front entry doors should be a prominent design feature.
- Front porch: porch width and depth should be usable and furnishable..
- Wrap-around porches: corner lots, lots adjacent to open space and lots with high visibility are encouraged to have porches that address both the front and side elevations.

Front Loaded Lots (garages accessed from streets)

Special attention should be paid to the architectural design for street-accessed (front-loaded) lots to de-emphasize the garage and driveways.

- Street-facing garage doors should be located behind the “front building line” of the main house.
- Paved on-site parking is required outside of setback.

Building Materials

- Allowable facade materials include stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS) and tilt-up concrete panels are not allowed.

Roof Design

Acceptable roof types are below.

- Sloping roof with a minimum 2 in 12 slope.
- Gable, Hip, Pyramid Hip, Shed, Mansard, Gambrel or Butterfly
- Flat roof.
- Acceptable roof materials are asphalt shingle, slate roofing, tile roofing(concrete, clay), metal standing seam.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (a) and (c.1) of Pueblo Municipal Code.

Trash

The Metro District will work directly with a private trash collection company to establish trash collection protocol for 'Green court residential' products with Private Lanes. Solid waste collection points will be provided within the street right-of-way where dead end alleys or private lanes intersect with public streets. The locations and design will be addressed in the Part 2 phase of the City's Subdivision process.

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Accessory Dwelling Units (ADU)

Accessory Dwelling Units shall be allowed over separated parking garages located along private lanes or alleys. The following guidelines apply.

- Only one Accessory Dwelling Unit is allowed on a same lot as a primary dwelling unit.
- Mobile homes, recreational vehicles, sheds and trailers shall not be used as Accessory Dwelling Unit.
- Accessory Dwelling Units shall be owned and maintained under the same ownership of the primary structure.
- An Accessory Dwelling Unit shall not be sold apart from the primary structure.
- Designed in an architectural style compatible with the primary structure.
- Include a covered stair leading to the unit.
- Minimum of 400 square feet floor area, and living area with a clear ceiling height greater than 4 ft minimum, but where more than half of the space is 7 ft or greater.
- An Accessory Dwelling Units will count as dwelling units for the purpose of determining parking requirements. Parking for ADUs must be provided on the same lot with the primary structure and will not be located in a separate "common" parking lot away from the ADU location.

E. LANDSCAPE DESIGN STANDARDS

Intent

The following standards are intended to establish the framework for a low-water, low-maintenance landscape composed of native and adapted plants which provide year-round color and interest. The landscape design shall adhere to Pueblo Municipal Code unless otherwise noted below.

Streetscape

- Trees shall be 2.5" caliper minimum size spaced at 35' maximum O.C. (or an average of one tree per 35 linear feet)
- Shrubs shall be #3 container minimum size spaced at 5' maximum O.C. (or an average of one shrub per 25 square feet)
- Perennials and Ornamental Grasses shall be #1 container minimum size spaced at 48" maximum O.C. (or an average of one plant per 15 square feet)
- Nonliving Landscape Material such as rock mulch, wood mulch, or gravel shall account for no more than 40% of the required landscape area as measured by the following:
  - 5 gal plants cover 25 square feet
  - 3 gal plants cover 9 square feet
  - 1 gal plants cover 3 square feet

Parking Lots

Planting interior to parking lots shall meet or exceed Pueblo Municipal Code as amended.

Surface parking lots shall be set back a minimum of ten feet from the public right-of-way or property line to provide space for a continuous landscape buffer zone. Parking lots shall be visually screened from the public right-of-way, open space, and adjacent property by one or more of the following methods:

- A continuous landscaped buffer zone consisting of an architectural berm between 18” and 36” high with a maximum slope of 3:1 planted with shrubs or drought tolerant grasses planted at a maximum of 3 feet on center in a triangular pattern.
- A continuous landscaped buffer zone that includes a minimum six-foot wide screening layer consisting of shrubs and grasses planted a maximum of 3 feet on center in a triangular pattern with a mature height of at least 36 inch high. Ornamental, tall grasses may be substituted for up to 30% of the shrubs within the screening layer subject to approval by the DRB.

F. RESIDENTIAL LOT STANDARDS

	Single family Attached/ Rear-loaded[1]	Single family Detached/ Rear-loaded, Shallow lot[1]	Single family Detached/ Rear-loaded, Deep lot[1]	Single family Detached/ Front-loaded[1]	Multi-family Residential
Min. Lot area (square feet)	1,500	2,500	3,100	4,000	n/a
Min. Lot width (feet)	22	35	35	45	n/a
Max. Coverage of Lot (%)[2]	75	60	60	50	n/a
Principal Building Setback (feet) [3]					
Front Yard (min/max) [6]	15/20	15/20	15/20	15/20	15/20
Min. Side Yard	5	5	5	5	20
Min. Rear Yard /from Alley	5	5	5	15	15
Min. Side Yard along a street	10	10	10	10	10
Setback from 24th St.(min/max)	20	20	20	n/a	20
Garage Setback (feet) [3][4]					
Min. Front	n/a	n/a	n/a	20[5]	20
Rear(20' alley/private lane)	5[8]	5[8]	5[8]	n/a	10
Min. Side Yard	5	5	5	5	20
Min. Side Yard along a street	10	10	10	10	10
Max building height (stories)	3 [9]	3 [9]	3 [9]	3 [9]	4 [10]

(1) Conceptual lot layouts of each product type are shown on page 10, Single-family Lot Configurations.
(2) Garage is included in building coverage.
(3) All setbacks shall be measured from property line.
(4) The minimum size for a garage with two parking spaces is 22' wide by 22' depth for all single family homes.
(5) Garage shall be placed minimum of 5' behind principle structure.
(6) 20' setback along the 24th St, and 15' setback for all other neighborhood street.
(7) Front porch is allowed to encroach up to 6' into front setback.
(8) All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.
(9) Single-family detached and single-family attached residences shall have a maximum building height of three stories, not to exceed 30' measured from the grade plane. Refer to 2015 International Fire Code, Section D105.
(10) Multifamily, Commercial, or mixed-use buildings shall have maximum building height of four stories and will need to comply with providing the 26' clear zone adjacent to the building to accommodate fire apparatus. Refer to 2015 International Fire Code, Section D105.

G. BULK STANDARD FOR MIXED-USE RESIDENTIAL OR COMMERCIAL

Max. F.A.R.	0.5
Min. Lot Size	n/a
Min. Lot Depth	n/a
Min. Lot Frontage	n/a
Building Setback (feet)	
Setback from 24th St.	20'
Setback from Sun Mountain Blvd (min/max)[1]	5'/10'
Setback from Park, Plaza or Linear Park (min/max)	0'/10'
Min. Building Height	18'

(1) Amount of setback should be considered in coordination with type of retail space and public realm design to allow potential for outdoor cafe seating or amenity space to create an active streetscape experience.

H. PARKING STANDARDS

Minimum parking requirement	
Townhouse/Paired homes	1.0/du
Single Family Detached	2.0/du
Accessory Dwelling Units (ADU)	1.0/du
Multi-family Residential	1.25/du
Retail	5/1,000 gsf
Restaurant / Bar	7.5/1,000 gsf
Professional / Medical office	2.5/1,000 gsf
Community Center	5/1,000 gsf

(1) Parking calculations for mixed-use development shall be calculated as the sum of minimum parking requirements for each type of proposed use included in the facility(-ies) being constructed.

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PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

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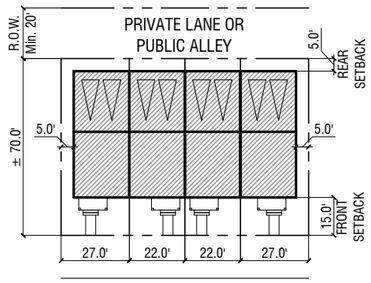
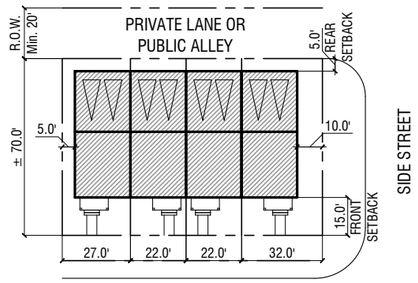
A. SINGLE-FAMILY ATTACHED / REAR-LOADED::

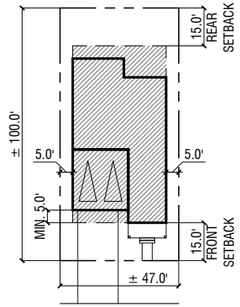


PRIMARY STREET

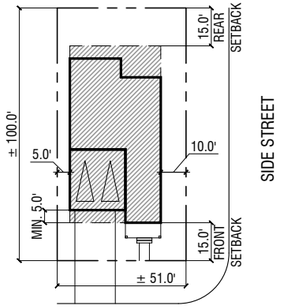


PRIMARY STREET

B. SINGLE-FAMILY DETACHED / FRONT-LOADED::

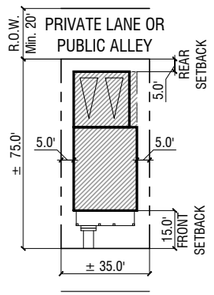


PRIMARY STREET

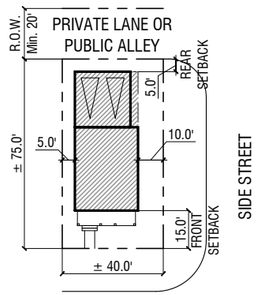


PRIMARY STREET

C. SINGLE-FAMILY DETACHED / REAR-LOADED: SHALLOW LOT::

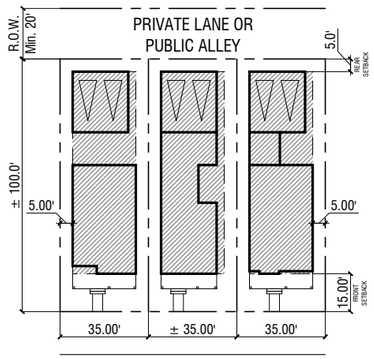


PRIMARY STREET

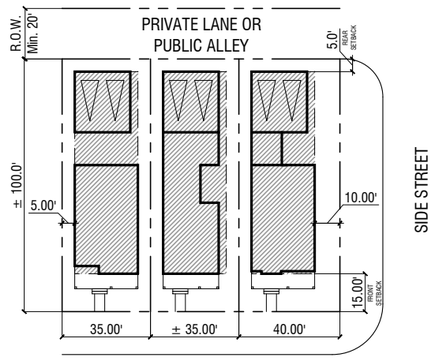


PRIMARY STREET

D. SINGLE-FAMILY DETACHED / REAR-LOADED: DEEP LOT::

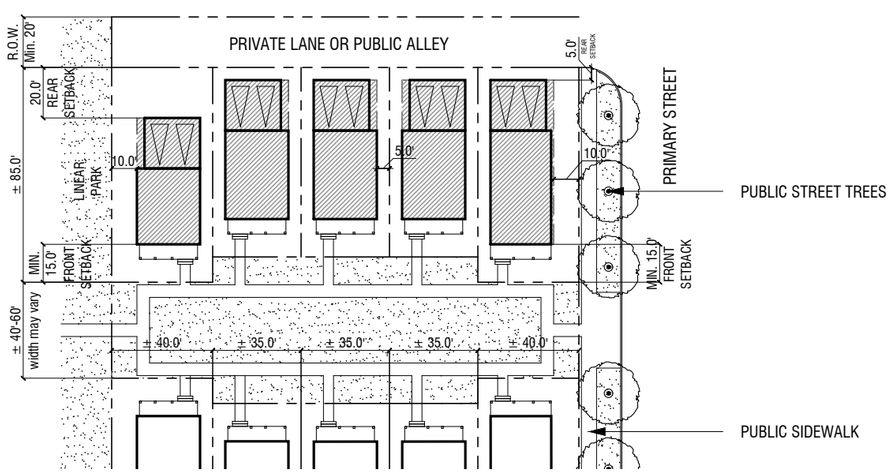


PRIMARY STREET



PRIMARY STREET

E. SINGLE-FAMILY DETACHED / REAR-LOADED: GREEN COURT LOT::



LEGEND ::

- PROPERTY LINE
- CONCEPTUAL CURB LINE
- BUILDABLE AREA
- DETACHED/ATTACHED GARAGE SPACE

NOTE ::

1. Lot configurations represent minimum lot sizes.
2. Front porch is allowed to encroach up to 6' into front setback.
3. The minimum size for a garage with two parking spaces is 22' wide by 22' depth for all single family homes.
4. Building footprints shown are diagrammatic.
5. All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.

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TITLE: SINGLE-FAMILY LOT CONFIGURATIONS		
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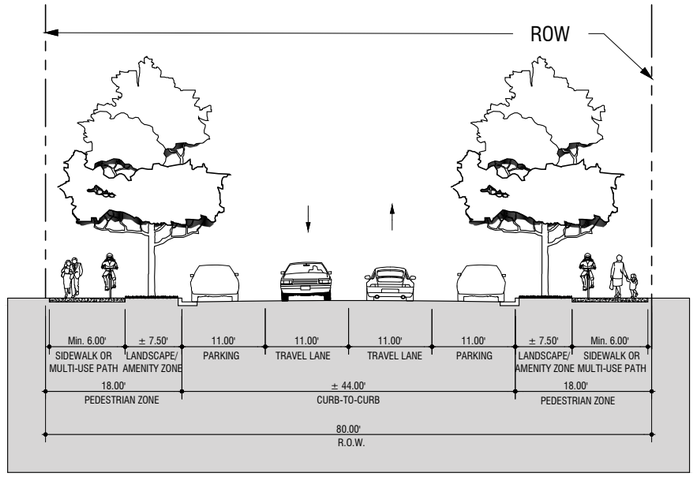
A. SUN MOUNTAIN BLVD ::

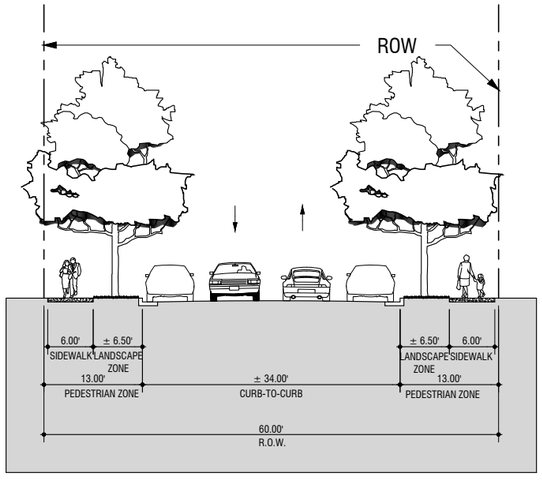
Land Use	Mixed-use, Single-family attached
Function	Primary collector roadway within the neighborhood
Speed Limits	25 to 35 mph
Roadway Width	44'
ROW	80'
On-street Parking	On-street parking both sides of street
Off-street Parking	Adjacent properties must comply with zone district regulations
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 1,320' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Rear-loaded single family residences can face Sun Mountain Blvd. Driveway access to individual residential lots are not permitted. When additional space is needed to accommodate additional travel or turn lanes, on-street parking may be prohibited. Sun Mountain Blvd cannot dead end and must intersect with other roadways.



Two travel lanes / On-street parking on both sides of street / Multi-use path on both sides
Curb extensions allowed at pedestrian crossing in lieu of on-street parking at intersections.
*see note 1 on this sheet.

B. NEIGHBORHOOD LOCAL STREET ::

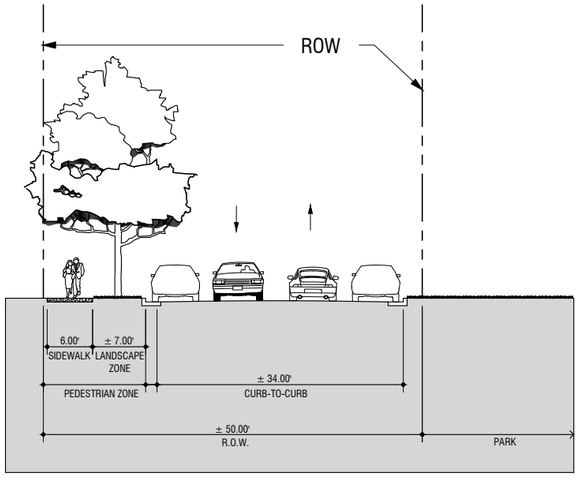
Land Use	Residential
Function	Access to and through residential areas
Speed Limits	20 to 25 mph
Roadway Width	34'
ROW	60'
On-street Parking	On-street parking both sides of street
Off-street Parking	2 spaces per platted lot
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 660' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Street may dead end in a cul-de-sac (maximum cul-de-sac length is 660').



Two travel lanes / On-street parking on both sides of street
*see note 1 on this sheet.

C. NEIGHBORHOOD PARK STREET ::

Land Use	Residential
Function	Access to and through residential areas
Speed Limits	20 to 25 mph
Roadway Width	34'
ROW	60'
On-street Parking	On-street parking both sides of street
Off-street Parking	2 spaces per platted lot
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 660' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Street may dead end in a cul-de-sac (maximum cul-de-sac length is 660'). Neighborhood Park street to provide sidewalk and landscape zone on one side of street opposite of a park.



Two travel lanes / On-street parking on both sides of street
*see notes 1 and 2 on this sheet.

NOTES ::

1. All street sections are conceptual. Final design and lane configuration will be determined during the Part 2 phase of the City's Subdivision process.
2. A 50' park street is only allowed adjacent to a linear park. A combined sidewalk/multi-use trail will be located within the park tract in lieu of sidewalk along the street. ADA access to be provided that connects intersection curb ramps to multi-use trail.

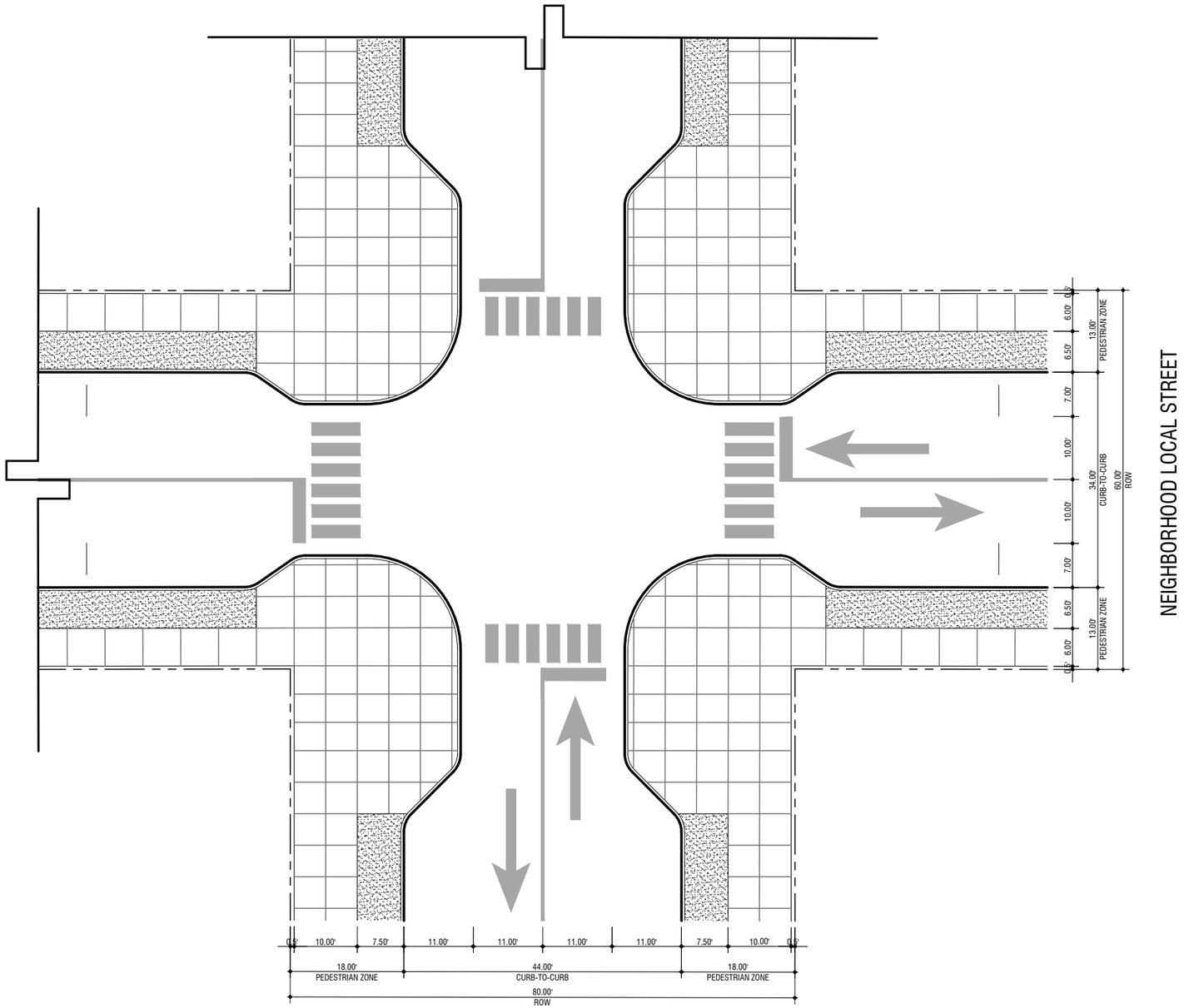
CIVITAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: STREET SECTIONS / DESIGN STANDARDS
SCALE: 1"=20'
DRAWN BY: S.C.
PAGE 11 OF 13
DATE: 3-14-22
CHECKED BY: C.W.P.
JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

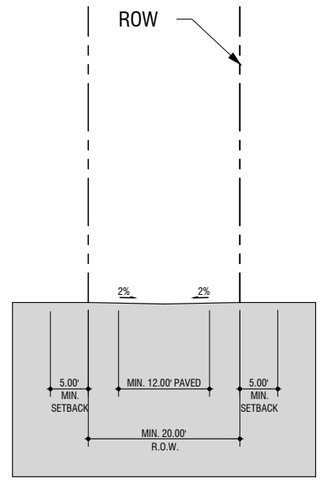
1st submittal:	September 7, 2021
2nd submittal:	November 30, 2021
3rd submittal:	December 23, 2021
4th submittal:	February 14, 2022
5th submittal:	March 14, 2022



SUN MOUNTAIN BLVD

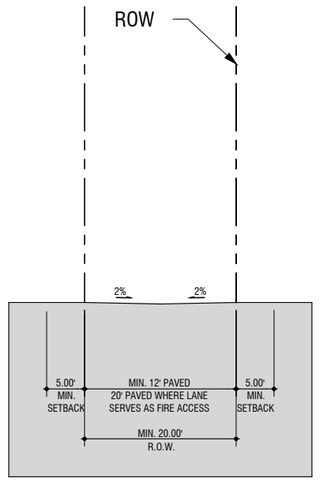
D. CONCEPTUAL SUN MOUNTAIN BLVD AND LOCAL STREET INTERSECTION::

Two travel lanes / On-street parking on both sides of street / Multi-use path on both sides
*see note 1 on this sheet.



E. PUBLIC ALLEY::

*see note 1 on this sheet.



F. PRIVATE LANE::

*see notes 1 on this sheet.

NOTES ::

1. All street sections are conceptual. Final design and lane configuration will be determined during the Part 2 phase of the City's Subdivision process.
2. All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.

CIVITAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: STREET SECTIONS / INTERSECTION		
SCALE: 1"=20'	DRAWN BY: S.C.	PAGE 12 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
2nd submittal: November 30, 2021
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Barbara Huber
Fire Chief

Chris Harner
Deputy Fire Chief

Fire Inspectors
Erik Duran
Paul Haley

city of PUEBLO colorado

Fire Department

1551 Bonforte Blvd.
Pueblo, CO 81001
Phone (719) 553-2830
www.pueblo.us/fire

January 14, 2022

Chris Parezo
Principal
Civitas, Inc.
1200 Bannock Street
Denver, CO 80204

RE: Request for Variance to Table D103.4 Requirements for Dead-End Fire Apparatus Access Roads, associated with Pikes Peak Park PUD. [Application Number: Z-21-16]

To Whom it may concern,

A written document and site plan exhibit have been received from Civitas, Inc., dated January 10, 2022. It requests that the Pueblo Fire Department grant a variance of the International Fire Code requirements, as adopted by the Pueblo Municipal Code. Specifically, a variance to not provide the required turnaround options for dead-end access roads that are greater than 150 feet in length for this development.

2015 IFC - Appendix D

D103.4 Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

TABLE D103.4
REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750		Special approval required

For SI: 1 foot = 304.8 mm.

The Pueblo Fire Department has taken the above indicated documents into consideration as well as the site development, building construction, and proposed occupancy therein. It has been decided to approve the submitted plan and request for variance with the following conditions:

(1) Approval for eliminating the required turnaround options for fire apparatus access roads exceeding 150 feet will only occur this one instance for this development. Specifically, the following roadways:

- Fire apparatus access road [Parcel "E"] for Blocks 7 & 8 exceeds 150 ft (approx. 180 ft)

Barbara Huber
Fire Chief

Chris Harner
Deputy Fire Chief

Fire Inspectors
Erik Duran
Paul Haley

city of PUEBLO colorado

Fire Department

1551 Bonforte Blvd.
Pueblo, CO 81001
Phone (719) 553-2830
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- Fire apparatus access road [Parcel "G"] for Blocks 9 & 10 exceeds 150 ft (approx. 80 ft)
- Fire apparatus access road [Parcel "K"] for Blocks 14 & 15 exceeds 150 ft (approx. 190 ft)

(2) Any future plan submittals for this development shall include roadways designed to meet the requirements within *Appendix D: Fire Apparatus Access Roads* of the International Fire Code (2015 edition or newer) as written and adopted.

Sincerely,

Barbara Huber

Fire Chief
Pueblo City Fire Department

CIVI TAS

January 10, 2022

Barbara Huber
Fire Chief
Pueblo Fire Department

Re: **Exhibit for Fire Access / Public Alley**
Application Number: Z-21-16

Dear Ms. Huber,

Thank you again for you and your team's time discussing the vision for Pikes Peak Park and taking the time to educate our team about your specific needs regarding fire access and safety. One of our priorities is to create an affordable and inclusive neighborhood that prioritizes the health and wellbeing of residents. Fire safety and access is paramount to this goal.

Our design has several 'Green-Courts' which involve clustering small lot single family homes around a common 'green-court' or small park. As such, these homes to not front traditional public rights-of-way or streets. Garages are located at the rear of the home and accessed by a public alley. We believe that the access turn around required by D103.4 for fire access lanes greater than 150' will negatively impact our public park design and add additional costs to these affordable homes.

We are writing to request a variance to Table D103.4 Requirements for Dead-End Fire Apparatus Access Roads. Specifically, we are requesting a variance for the required turnaround for dead-end access roads that are greater than 150'. We believe we have developed creative solutions that will fulfil Pueblo Fire Departments' access requirements while maintaining the overarching design intent for the Pikes Peak Park Neighborhood. These design elements are as follows.

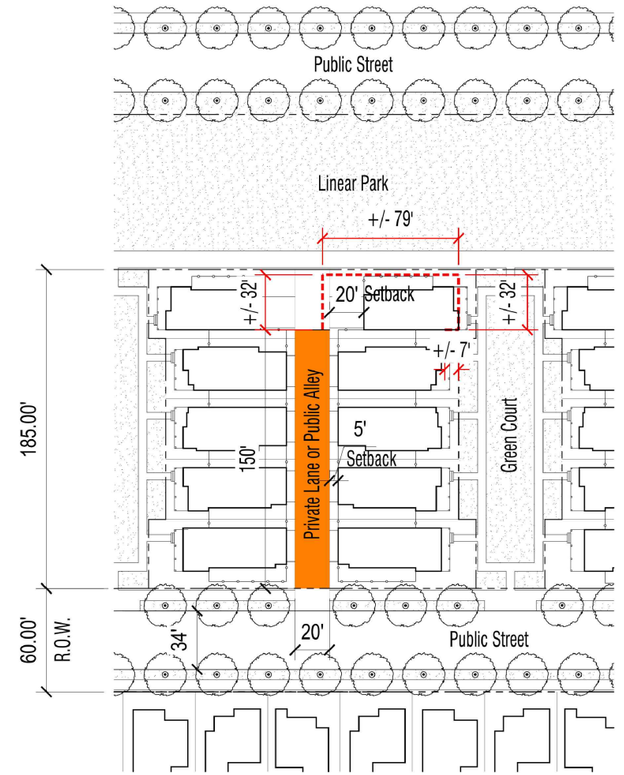
- Structures that do not front on a traditional public right-of-way or street will be serviced by a 20' wide paved public alley which will also serve as a fire access lane for the first 150' of the alley.
- Garages will be set-back 5' from the edge of the alley/fire access lane.
- All points of the structure on the last lot at the end of the 150' fire access lane will be reachable within the required 150' hose pull length.
- Fire hydrants will be located within 400' of the last structure, along the fire access route.

Please see the Fire Access Exhibit attached that diagrams the points above.
We appreciate your willingness to review this variance request.
Please feel free to reach out with any further questions.

Sincerely,

Chris Parezo
Principal

303.571.0053
CIVITASINC.COM
1200 BANNOCK ST.
DENVER, CO



- Total hose pull length: +/- 150' from private lane or public alley.

PIKES PEAK PARK | Fire Access Exhibit

N

1/10/2022

CIVI TAS

CIVI TAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: VARIANCES		
SCALE:	DRAWN BY: S.C.	PAGE 13 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

v

MINUTES OF PLANNING AND ZONING COMMISSION PUBLIC HEARING AND WORKSESSION

City of Pueblo, Colorado
Wednesday, March 23, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:39 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: Alexandra Aznar

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Danielle Baxter, Planner; Andrew Hayes, Public Works Director, Melanie Turner, Transportation Engineer.

APPROVAL OF AGENDA

A Motion was made by Spinuzzi to approve the agenda, Seconded by Bailey.

Motion passed 6-0, Aznar Absent

PUBLIC MEETING AND ACTION

Regular Agenda

1a. Z-21-16 Rezoning: Pikes Peak Park PUD Development Guide.

Staff report Beritt Odom, Principal Planner

BACKGROUND:

NeighborWorks of Southern Colorado purchased the Foothills Subdivision and is requesting to rezone, vacate rights-of-way/easements and re-subdivide to facilitate the development of a mixed-use neighborhood that offers a variety of housing options and commercial services to residents. According to NeighborWorks, the Pikes Peak Park community will offer "permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities to support a walkable, ten-minute neighborhood." Pikes Peak Park PUD, proposes to introduce small residential lots accessed by private drives that face green-spaces, intermixed with more traditional larger-lot residential development, multifamily development, and commercial nodes along W. 24th Street and Sun Mountain Blvd. The previous Foothills Subdivision (approved in 2000) was intended for development of manufactured homes and one commercial node west of what was previously Spaulding Ave and is now Sun Mountain Blvd.

Per the Planned Unit Development Zone District Regulations, a development guide has been submitted which contains information as required by Section 17-8-6, of the Pueblo Municipal Code.

According to the Pikes Peak Park PUD Development Guide, the proposed development will be a "social, economic, and environmentally Resilient Community." The Development Guide goes on to state that a variety of complimentary uses "within walking and cycling distance from one another" "will decrease reliance on the automobile." Therefore, the PUD contains provisions for single-family development on narrow and shallow lots creating a dense residential fabric with a maximum of 619 residential dwelling units and 446 Commercial Mixed-Use dwelling units. The maximum gross density is 12 dwelling units per acre and 20 commercial mixed-use units per acre.

Residential Development Standards:

Pikes Peak Park proposes six types of residential development, multifamily, and accessory dwelling units:

1. Single-family attached;
2. Single-family detached, rear-loaded, shallow lot;
3. Single-family detached rear-loaded, deep lot;
4. Single-family detached front loaded;.
5. Multifamily with three or more units; and
6. Accessory dwelling units

Single-Family Attached

The smallest proposed lots, 20-foot width and a total area of 1,400 square feet, must be developed with attached single-family homes and be rear-loaded (garage or surface parking for the home will be provided adjacent to the rear lot line). Single-family attached homes allow a maximum lot coverage of 75-percent, minimum 15-foot front yard setbacks, minimum 10-foot side-yard setbacks adjacent to a public right-of-way; 5-foot side-yard setbacks when not adjacent

to a public right-of-way: and five-foot rear-yard setback. All single-family attached structures must provide one on-site parking space per dwelling unit.

Single-Family Detached Rear-Loaded Shallow and Deep Lots

Yard and bulk standards for single-family detached, rear-loaded shallow and deep lots are the same. Single-family detached structures on 35-foot-wide lots allow 60-percent lot coverage, require a minimum front-yard setback of 15-feet, five-foot side-yard setback; 10-foot side-yard setback, adjacent to a public right-of-way; and a 5-foot rear-yard setback. Single-family detached structures located on 35-foot-wide lots may face a "green-court" and are accessed by a 20-foot wide dead-end "alley," adjacent to the rear lot line. All structures have a maximum height of two-stories. All detached single-family dwelling units must provide two on-site parking spaces, covered, or uncovered, per dwelling unit.

Single-Family Detached Front-Loaded

Lots with a minimum width of 45-feet are front-loaded from the street and allow for 50-percent lot coverage. Setbacks on 45-foot-wide lots include a minimum 15-foot front-yard setback, 5-foot side-yard setback, 10-foot side yard setback adjacent to a street; and a 15-foot rear-yard setback for the principal structure. All dwelling units must provide two on-site parking spaces, covered, or uncovered, per dwelling unit. All structures have a maximum height of two-stories.

Multifamily (three of more units)

Multifamily residential standards include a 20-foot front-yard setback, 20-foot side-yard setback for the principal structure, 10-foot side-yard setback for garages, and a 10-foot rear-yard setback. The maximum height for multifamily residential structures is three stories. Each multifamily residential structure, to include mixed-use structures must provide 1.25 on-site parking spaces per dwelling unit.

Accessory Dwelling Units

Accessory dwelling units, (ADU) are allowed "over separated parking garages located along private lanes or alleys," and must be developed according to guidelines established by the PUD development guide. The guidelines state that the ADU cannot be sold separately from the principal structure, must be architecturally compatible with the principal structure, have a minimum living area of 400 square feet, meet a minimum ceiling height, and have a covered stair landing. Mobile homes, recreational vehicles/trailers, and sheds may not serve as an ADU. All ADU structures must have one on-site parking space per unit.

All residential development must follow development design guidelines established by the PUD that require, specific building materials, and front porches (on single-family developments). The PUD states that residential development will allow a mixture of housing designs and should follow best practices in architectural design and construction technology; however, specifics of design are not provided within the PUD.

Fire Station/Schools:

The proposed PUD includes provisions for the development of a fire station along the western boundary of the development. No new school sites are proposed for the development, the PUD states that the Chavez-Huerta Preparatory Academy is conveniently located within walking distance of Pikes Peak Park and "work with school district to allow for preferred enrollment status for Pikes Peak Park children." It is unclear who is responsible for working with Chavez-Huerta and whether "preferred enrollment" is a possibility.

Land Uses:
The Pikes Peak Park lists land uses for the two designated planning areas, the Residential Planning Area, and the Commercial Mixed-Use Planning Area. The Residential Planning Area is located within the northern portion of the site, east and west of Sun Mountain Blvd. The Commercial Mixed-Use Planning Area is located adjacent to W. 24th Street, east and west of Sun Mountain Blvd.

Proposed land uses withing the Residential Planning Area include permitted, conditional, and restricted uses. The PUD states that conditional uses must meet applicable conditions contained within the City Municipal Ordinances as determined by the Design Review Board and the Land Use Administrator. The PUD further states that the Design Review Board is required to send a letter of recommendation to the Land Use Administrator recommending approval.

Permitted uses within the Residential Planning Area generally include, single-family residential, paired housing (duplexes), co-housing, community center, parking lot solar array, triplex, fourplex, townhomes, childcare homes, and accessory dwelling units. The conditional uses include, bed and breakfast homes and inns, childcare center, food trucks, home based business, mobile food unit. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Permitted uses within the Commercial Mixed-Use Planning Area generally include retail, service, office, multifamily residential and mixed-use (multifamily residential and commercial uses located within the same structure). Permitted and conditional uses within the Commercial Mixed-Use Planning Areas, follow the same approval process as those within the Residential Planning Area. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Development Design Guidelines:
The PUD Development Guide includes general architectural requirements for multifamily and mixed-use structures, commercial, and single-family residential development.
<u>Design Guidelines for Multifamily, mixed-use, and commercial design guidelines include the following provisions:</u>

1. Site Design-regulations pertaining to the location of parking lots, screening of mechanical and service functions, and landscaping.
2. Building Character-regulations for projections and recesses, windows, entries, awnings, color, texture, materials, etc.
3. Relationship of Buildings to Street-regulations encouraging the entry of structures to be oriented to the street (with the exception of residential units that front a green-space).
4. Massing, Form/Scale-requirements for façade articulation.
5. Signage-multifamily and mixed use must follow the R-5 and R-6 sign regulations for non-commercial development. Signage for commercial development must follow the R-5 and R-6 non-residential sign standards.
6. Open Space-multifamily, mixed use, and commercial development must have common landscaped outdoor space that generally includes pedestrian connections, lighting, street furniture.

<u>Design Guidelines for Single-Family Residential Development:</u>

1. Architectural Design-provisions for quality architecture and a range of architectural styles while insuring attainable housing.
2. Porches and Front Doors-requirements for columns, railings, and other details; encouragement of wrap-around porches.
3. Front Loaded Lots (garages accessed from streets)-encouragement for garage doors to be stepped back and paved on-site parking.
4. Building Materials-regulations pertaining to allowable materials (stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels), where material changes may occur, and the prohibition of vinyl, EIFS and tilt up concrete panels.
5. Roof Design-allowance of sloping, gable, hip, pyramid hip, mansard, gambrel/butterfly, or flat; materials consisting of asphalt shingle, slate, tile, or metal.

Landscaping:
All landscaping will conform to the municipal code, Section 17-4-7, with the additional requirements related to plant size, coverage calculations and low water/maintenance plantings.

Signs:
Signs for multifamily residential and mixed-use development will follow the Pueblo Municipal Code regulations for residential and non-residential uses in the R-6, Multiple-residential and Commercial District. Signs for commercial development will follow the Pueblo Municipal Code regulations for commercial zone districts (B-1, B-2, B-3, B-4, B-P…). Signs for single family residential will follow the Pueblo Municipal Code regulations for residential signs.

Park:
The Pikes Peak Park PUD Development Guide states that a minimum of eight percent of the land area, in a residential subdivision, is dedicated for use as parks and recreational facilities according to section 12-4-7, (e), of the Pueblo Municipal Code. According to the PUD, park land will be dedicated to the Metro District and be developed and maintained by the Metro District. Section 12-4-7, (e), also allows the subdivider to make a cash payment in lieu of land dedication. According to the Municipal Code, the cash payment is made to the City.

Street and Alley/Private Drive Standards:
Pikes Peak Park PUD includes standards for three types of street development, Future Neighborhood Connector Street, Neighborhood Local Street, and Neighborhood Park Street.

1. Neighborhood Connector Street provides three to five additional feet in sidewalk width and greater emergency access than the City's standard Neighborhood Collector roadway classification.
2. Neighborhood Local Street provides two additional feet of roadway width and one additional foot in sidewalk width compared to the City's standard Neighborhood Local Street.
3. Neighborhood Park Street is similar to the Neighborhood Local Street and the City's standard Neighborhood Local Street with the exception that the sidewalk and landscape zone may be located on one side of the street opposite of a park.

Pikes Peak Park also allows for single-family attached and detached homes to be accessed from a public alley or private lane. Both the alley and private lane have a 20-foot width, the alley requires a 12-foot-wide paved surface, and the lane requires the full width to be paved. The Pikes Peak Park, Filing No. 1 Subdivision proposes multiple instances of residential structures being

accessed only from a private lane with a dead end and no provisions for vehicle turn arounds; therefore, the residential lots located at the end of a dead-end alley must provide a 20-foot setback to allow vehicles to turn around and exit the alley or lane without backing into traffic. The City of Pueblo Fire Department granted a variance to the vehicle turn-around requirements for Parcels E, G, and K of the Pikes Peak Park, Filing No. 1 Subdivision. Future residential development accessed by alleys or private lanes will have to provide a turnaround or request additional variances from the Fire Code.

Refuse Collection:
The Pikes Peak Park PUD Development guide states that the Pikes Peak Park Metro District will work directly with a private trash collection company to establish trash collection protocol for "Green court residential products with Private Lanes". The PUD states further that solid waste collection points will be provided within the street right-of-way where dead end alleys or private lanes intersect with public streets. This will reduce congestion within the narrow private lanes and prevent trash trucks from backing into the right of way.

Parking:
Pikes Peak Park proposes reduced parking standards for multifamily residential, retail, restaurant/bar, professional/medical office, and community center uses. The reduction is intended to be no more than 50-percent of what the Municipal Code requires. However, the parking standard for Restaurant/Bar does not meet the 50-percent of municipal code standard. Staff recommends a condition of the PUD approval that the parking space requirement for restaurant/bar be increased by 1.5 spaces totaling 7.5 spaces per 1,000 gross square feet of seating area. The applicant justifies the parking reduction, by stating that the Pikes Peak Park Development is a mixed-use and mixed-income community that co-locates permanently affordable housing with access to services and goods within a "walkable, ten-minute neighborhood." Parking requirements for single-family residential structures is higher than the municipal code because the PUD allows residences to have reduced front-yard setbacks and lot widths; therefore, each residence is limited in its capacity to park vehicles. All single-family residences must provide two off-street parking spaces as opposed to one.

FINDINGS OF FACT REQUIRED PER §17-8-11 OF THE PUEBLO MUNICIPAL CODE

Municipal Code specifies five (5) criteria to be evaluated in conjunction with a PUD application. The Planning and Zoning Commission, before recommending that any property be zoned to a PUD Zone District, shall make the findings concerning the following:

(1) The PUD and Development Guide are compatible with the surrounding neighborhood and the proposed uses are not incompatible to the uses to which the surrounding area is restricted.

Staff Analysis of Finding #1
The proposed Pikes Peak Park PUD Development guide allows for high density residential and a comingling of commercial uses that serve the neighborhood. Adjacent residential development to the south consists of manufactured homes of an average density between 4-7 units per acre. Development further to the south along Westview Drive is approximately 5.4 units per acre. Development Commercial uses within the PUD are restricted to the areas north of W. 24th Street and on either side of the future Sun Mountain Blvd. A detailed listing of the

specific land uses, which are allowed by right and by conditional review, are found in the Development Guide.

(2) The PUD and Development Guide are in accord and in harmony with the Comprehensive Land Use Plan and are being done for the public good; that is, to serve one (1) or more goals of the Comprehensive Plan and enable legislation and thereby bear a relationship to the public health, safety, or general welfare.

Staff Analysis of Finding #2

The proposed Pikes Peak Park includes a mixture of residential and commercial uses. Residential uses include single-family detached, single-family attached, multifamily residential and mixed use residential. The PUD allows a maximum of 1,065 dwelling units, with a total density of 13.48 units per acre, which is much higher than the maximum density of 7 units per acre as recommended by the Comprehensive Plan amended in 2014. The proposed Pueblo Regional Comprehensive Plan, 2022, also designates the subject site as Urban Neighborhood but allows for densities between 6-16 units per acre. Proposed commercial uses are located adjacent to W. 24th Street and Sun Mountain Blvd. West 24th Street is a Principal Arterial, and the future Sun Mountain Blvd is classified as a Minor Arterial, which conforms to the Comprehensive Plan.

The proposed Pikes Peak Park PUD Development Guide is consistent with the provisions for neighborhood commercial servicing the surrounding residential neighborhood. The proposed density within the PUD is significantly higher than what is stated as an appropriate density within the current Comprehensive Plan, but the proposed density is within the range proposed in the 2022 Comprehensive Plan that has been recommended for approval by the Planning & Zoning Commission.

(3) The PUD and Development Guide would encourage an appropriate use of land.

Staff Analysis of Finding #3

According to the Pikes Peak Park PUD Development Guide the proposed development will provide a range of "affordable and attainable housing products." The development will also include ample open space and trail corridors for residents to enjoy. The intent of the parks and trails is to provide a network of space that connect neighborhoods to the regional open space corridors and preserve view corridors. Finally, the southern portion of the development will allow for commercial development to service the residents of the community. All of the aforementioned uses are compatible with the Urban Residential Comprehensive Plan Designation.

(4) The PUD and Development Guide would not be so injurious to surrounding properties to the extent of depriving neighboring property owners of any reasonable use of their property.

Staff Analysis of Finding #4

The proposed mixed-use neighborhood is not anticipated to deprive neighboring property owners of any reasonable use of their property.

(5) All land contained in the PUD District is within the City, proper notice was sent to surrounding property owners, and the required public hearing was held.

Staff Analysis of Finding #5
All of the land area is within the City of Pueblo and proper notice has been sent by the Department of Land Use Administration to surrounding property owners and the public hearing is scheduled with the Planning and Zoning Commission and posted appropriately.

RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED** with conditions. Documents addressing the following conditions must be submitted for review and approval by Planning Department staff prior to recommending the PUD amendment to City Council for approval:

1. Provide a full legal description of the rezoning area in a digital word document.
2. Amend Restaurant/Bar parking requirement to "7.5/1,000 gsf" to meet, the agreed upon, 50-percent of Municipal Code parking standards in the Pikes Peak Park PUD (p. 9, Section H. Parking Standards).
3. Amend, Section A, p. 11, "Function" to read, "Primary collector roadway within the neighborhood."

Commissioner Castellucci, asked how many 20-foot lots are located in the proposed Pikes Peak Park Subdivision, Filing No. 1? Beritt Odom explained that the minimum 22-foot lots are reserved for single-family attached residences (townhomes) and are located south of Tahosa Lane and north of Chavanaux Lane on the proposed subdivision. Castellucci asked approximately how many 22-foot lots will be located in this subdivision? Odom stated close to 20-percent of the lots will be the smaller 22-foot lots. Castellucci asked how a two-car garage would fit on these lots and the maximum height to achieve the intended density. Odom stated that the maximum height for single-family is two-stories or 30-feet.

Spinuzzi asked if Parcel Q would be green space. Odom stated that Parcel Q is reserved for future development and that the commission should inquire with the applicant what the interim plans are for the parcel.

Bailey asked if the 20-90 lots would have side easements? Castellucci stated that they are attached townhomes. Each home is accessed from an alley and that is where the green space is that sits adjacent. Odom stated that she is not sure that they sit adjacent to greens space and to inquire with the applicant.

Castellucci asked Andrew Hayes, Public Works Director, asked about the narrow roadways and limited parking. Hayes stated that Public Works and Transportation worked with the applicant to mitigate some circulation and parking concerns. Hayes stated that there are some functional concerns related to dead end alleys fronting green space. Concerns stem from the possibility of large vehicles backing out of the private lanes such as delivery and garbage trucks with limited sight distance. Compromise is to provide garbage collection points at the ends of alleys to limit daily activity in the private lanes. The PUD also includes provisions for the Metropolitan District to contract with a single-service solid waste provider to limit daily activities in the private lanes.

The Fire Department provided a variance to allow the dead-ends with a length of over 150-feet. Sun Mountain classification, a mixed-use collector on the transportation plan. Three lane facility with parking on both sides and a center turn lane. The City and NeighborWorks have agreed upon a striping plan for Sun Mountain, that will allow it to stay two lanes until traffic increases warrant changes in striping and parking. Melanie Turner stated that the applicants requested a 30-foot roadway width; however, the City and NeighborWorks compromised on a 34-foot roadway width to seven-feet of parking on both sides of the road. Public Works will continue to work with the applicant to ensure livability of the neighborhood through the Part II subdivision phase.

HEARING:

Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants testified in favor of the rezoning request.

Castellucci asked Mike Cuppy why high density single-family on small lots was chosen as the preferred development in this area? How will the delivery trucks and parking be accommodated? Ashleigh Winans stated that NeighborWorks hired Civitas to develop the PUD and partner with NorthStar Engineering and Surveying to complete the vacation and subdivision request. Winans stated that the proposed Pikes Peak Park is modeled after the Painted Prairie Community in Aurora. Civitas Master Planned Painted Prairie, which won the National Neighborhood of the Year for the subdivision. They are pairing the small lot single-family development with shared equity, which is a new way to look at affordability. The smaller lots require less infrastructure costs. The Metro District shares the equity in the homes. The housing crisis has spurred innovative ways to develop housing. NeighborWorks has raised over $5 million in private money to develop the Pikes Peak Park community. Horizontal infrastructure costs are less with single-family residences on small lots. Winans went on to state that NeighborWorks has significant experience with development, they are currently developing Cruz Court on the westside with 24 new homes.

Castellucci expressed concerns that the small lot development with reduced parking availability may not appreciate in a similar fashion to other residential developments withing the City. Winans stated that future phases of residential development within Pikes Peak Park will include more traditional single-family development at market rate on larger lots. This will attract a mix of incomes into the neighborhood. Parcel Q will include front-loaded single-family residential development. Castellucci is concerned if there is a crisis similar to 2007, the loans on the homes may be more than they are worth, and the homes will fall into foreclosure leading to blight. Tamara Plesck stated, shared equity takes extreme measures with deed restrictions and consulted with leading experts on deed restrictions to make sure the program will not fail. NeighborWorks also has mitigating measures to help prevent foreclosure for individual homeowners. The Metro District will prevent blight.

The Planning Commission and NeighborWorks continue the discussion on shared equity and affordable housing.

Castellucci asked if the PUD rezoning is coupled with the subdivision. Scott Hobson stated that the rezoning and subdivision are separate.

Mike Cuppy stated that the initial plat covers the southeast corners of the property. The big lots will allow apartment development, which transitions to the townhomes, then small lot residential

(cluster) development fronting the green court, which saves on infrastructure costs. Finally, there will be traditional single-family on larger lots. The purpose was to include all housing types within the first subdivision filing. The PUD allows flexibility for housing types and design, it does not mean that all development will be very dense on small lots. If the small lots and townhomes do not sell the lots may be rearranged to create larger lots and larger homes. The PUD allows flexibility. Castellucci stated that he understands the intent of the walkable neighborhood; however, there are not enough opportunities for employment within walking distance of the neighborhood, therefore people will be driving cars. Discussion regarding the number of cars that homeowners may have followed.

Avalos stated that he likes the mixed income shared equity approach. He asked about the construction of the homes, will the homes have back doors, garages. Tamara stated that the houses will have back doors and garages. Avalos stated that previous affordable housing projects did not work well along Pueblo Blvd. Avalos stated that he anticipates the shared equity model will have a positive affect on home ownership and housing in Pueblo.

Spinuzzi asked if there will be regulations to limit the number of unrelated individuals living in a single-family residence. Tamara stated that the deed restrictions will limit the number of unrelated individuals living in a single-family residence.

Martinez asked if other communities with small lot single-family development have issues with EMR and solid waste accessing the communities? NeighborWorks and NorthStar stated that they were not aware of issues. Tamar stated that they visited Painted Prairie, and Central Park, neither one, seemed to have parking issues. Sarah asked if there would be public transportation service to the Pikes Peak Park development. Tamara stated that they have met with transportation, and they hope to have public transportation service in the community. Martinez asked how much the metro district fee would be? Ashleigh stated that it would be between $75 and $90 per lot, they are hoping that it will be less than mortgage insurance. Martinez asked if the Pikes Peak Park might be a future Urban Renewal District. Ashleigh stated that they are aware of the opportunity, but they have not explored the district yet.

Castellucci asked if the PUD contains regulations for Accessory Dwelling Units. Beritt Odom read the PUD Accessory Dwelling Unit regulations to the commission. Odom stated that the PUD will most likely be interpreted that the ADU is only located above the garage. The PUD states that both the principal structure and ADU have to be under single ownership; however, it does not prevent both units from being rented. The way the PUD is written it is unlikely that they will be allowed on front-loaded traditional single-family homes. The deed restrictions will not allow the principal structure from renting the unit. Additional ADU discussion followed.

No one spoke in support or opposition of this case.

COMMISSION ACTION:
Motion to **APPROVE** Z-21-16 with staff conditions made by Bailey, second by Avalos.

MOTION:

MOTION PASSED 5-1 (Castellucci dissenting, Aznar Absent)

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-21-16

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Beritt Odom, Principal Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	March 23, 2022
SUBJECT:	Pikes Peak Park Planned Unit Development
APPLICANT:	Ashleigh Winans, NeighborWorks of Southern Colorado
PROPERTY OWNER:	Neighborhood Housing Services, DBA NeighborWorks of Southern Colorado
LOCATION:	Generally located north of W. 24th Street and east N. Pueblo Blvd.
EXISTING ZONE:	R-8, Manufactured Home Residential District and B-3, Highway and Arterial Business District.
PROPOSED ZONE:	Pikes Peak Park Planned Unit Development
CONCURRENT REQUESTS:	S-21-12 Pikes Peak Park Filing No. 1 V-21-04 Foothills Subdivision Street and Easement Vacation

REQUEST:
The applicant is requesting to rezone 73.93 79.01 acres to Pikes Peak Park PUD to facilitate a mixed-use community offering diverse residential housing options and commercial services for residents. The site is located east of N. Pueblo Blvd, north of W. 24th Street and is currently subdivided and zoned for manufactured home and commercial uses.

STAFF REVIEW AND BACKGROUND:

NeighborWorks of Southern Colorado purchased the Foothills Subdivision and is requesting to rezone, vacate rights-of-way/easements and re-subdivide to facilitate the development of a mixed-use neighborhood that offers a variety of housing options and commercial services to residents. According to NeighborWorks, the Pikes Peak Park community will offer "permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities to support a walkable, ten-minute neighborhood." Pikes Peak Park PUD, proposes to introduce small residential lots accessed by private drives that face green-spaces, intermixed with more traditional larger-lot residential development, multifamily development and commercial nodes along W. 24th Street and Sun Mountain Blvd. The previous Foothills Subdivision (approved in 2000) was intended for development of manufactured homes and one commercial node west of what was previously Spaulding Ave and is now Sun Mountain Blvd.

Analysis of the Pikes Peak Park Planned Unit Development:
Per the Planned Unit Development Zone District Regulations, a development guide has been submitted which contains information as required by Section 17-8-6, of the Pueblo Municipal Code.

According to the Pikes Peak Park PUD Development Guide, the proposed development will be a "social, economic, and environmentally Resilient Community." The Development Guide goes on to state that a variety of complimentary uses "within walking and cycling distance from one another" "will decrease reliance on the automobile." Therefore, the PUD contains provisions for single-family development on narrow and shallow lots creating a dense residential fabric with a maximum of 619 residential dwelling units and 446 Commercial Mixed-Use dwelling units. The maximum gross density is 12 dwelling units per acre and 20 commercial mixed-use units per acre.

Residential Development Standards:
Pikes Peak Park proposes six types of residential development, multifamily, and accessory dwelling units:

1. Single-family attached;
2. Single-family detached, rear-loaded, shallow lot;
3. Single-family detached rear-loaded, deep lot;
4. Single-family detached front loaded;.
5. Multifamily with three or more units; and
6. Accessory dwelling units

Single-Family Attached
The smallest proposed lots, 20-foot width and a total area of 1,400 square feet, must be developed with attached single-family homes and be rear-loaded (garage or surface parking for the home will be provided adjacent to the rear lot line). Single-family attached homes allow a maximum lot coverage of 75-percent, minimum 15-foot front yard setbacks, minimum 10-foot side-yard setbacks adjacent to a public right-of-way; 5-foot side-yard setbacks when not adjacent to a public right-of-way: and five-foot rear-yard setback.. All single-family attached structures must provide one on-site parking space per dwelling unit.

Single-Family Detached Rear-Loaded Shallow and Deep Lots
Yard and bulk standards for single-family detached, rear-loaded shallow and deep lots are the same. Single-family detached structures on 35-foot-wide lots allow 60-percent lot coverage, require a minimum front-yard setback of 15-feet, five-foot side-yard setback; 10-foot side-yard setback, adjacent to a public right-of-way; and a 5-foot rear-yard setback. Single-family detached structures located on 35-foot-wide lots may face a "green-court" and are accessed by a 20-foot wide dead-end "alley," adjacent to the rear lot line. All structures have a maximum height of two-stories. All detached single-family dwelling units must provide two on site parking spaces, covered or uncovered, per dwelling unit.

Single-Family Detached Front-Loaded
Lots with a minimum width of 45-feet are front-loaded from the street and allow for 50-percent lot coverage. Setbacks on 45-foot-wide lots include a minimum 15-foot front-yard setback, 5-foot side-yard setback, 10-foot side yard setback adjacent to a street; and a 15-foot rear-yard setback for the principal structure. All dwelling units must provide two on-site parking spaces, covered or uncovered, per dwelling unit. All structures have a maximum height of two-stories.
Multifamily (three of more units)

Multifamily residential standards include a 20-foot front-yard setback, 20-foot side-yard setback for the principal structure, 10-foot side-yard setback for garages, and a 10-foot rear-yard setback. The maximum height for multifamily residential structures is three stories. Each multifamily residential structure, to include mixed-use structures must provide 1.25 on-site parking spaces per dwelling unit.

Accessory Dwelling Units
Accessory dwelling units, (ADU) are allowed "over separated parking garages located along private lanes or alleys," and must be developed according to guidelines established by the PUD development guide. The guidelines state that the ADU cannot be sold separately from the principal structure, must be architecturally compatible with the principal structure, have a minimum living area of 400 square feet, meet a minimum ceiling height, and have a covered stair landing. Mobile homes, recreational vehicles/trailers, and sheds may not serve as an ADU. All ADU structures must have one on-site parking space per unit.

All residential development must follow development design guidelines established by the PUD that require, specific building materials, and front porches (on single-family developments). The PUD states that residential development will allow a mixture of housing designs and should follow best practices in architectural design and construction technology; however, specifics of design are not provided within the PUD.

Fire Station/Schools:
The proposed PUD includes provisions for the development of a fire station along the western boundary of the development. No new school sites are proposed for the development, the PUD states that the Chavez-Huerta Preparatory Academy is conveniently located within walking distance of Pikes Peak Park and "work with school district to allow for preferred enrollment status for Pikes Peak Park children." It is unclear who is responsible for working with Chavez-Huerta and whether "preferred enrollment" is a possibility.

Land Uses:
The Pikes Peak Park lists land uses for the two designated planning areas, the Residential Planning Area and the Commercial Mixed-Use Planning Area. The Residential Planning Area is located within the northern portion of the site, east and west of Sun Mountain Blvd. The Commercial Mixed-Use Planning Area is located adjacent to W. 24th Street, east and west of Sun Mountain Blvd.

Proposed land uses withing the Residential Planning Area include permitted, conditional, and restricted uses. The PUD states that conditional uses must meet applicable conditions contained within the City Municipal Ordinances as determined by the Design Review Board and the Land Use Administrator. The PUD further states that the Design Review Board is required to send a letter of recommendation to the Land Use Administrator recommending approval.

Permitted uses within the Residential Planning Area generally include, single-family residential, paired housing (duplexes), co-housing, community center, parking lot solar array, triplex, fourplex, townhomes, childcare homes, and accessory dwelling units. The conditional uses include, bed and breakfast homes and inns, childcare center, food trucks, home based business, mobile food unit. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Permitted uses within the Commercial Mixed-Use Planning Area generally include retail, service, office, multifamily residential and mixed-use (multifamily residential and commercial uses located within the same structure). Permitted and conditional uses within the Commercial Mixed-Use Planning Areas, follow the same

approval process as those within the Residential Planning Area. Restricted uses include short-term, 3rd party rentals and uses not expressly permitted or allowed by conditional use permit.

Development Design Guidelines:

The PUD Development Guide includes general architectural requirements for multifamily and mixed-use structures, commercial, and single-family residential development.

Design Guidelines for Multifamily, mixed-use, and commercial design guidelines include the following provisions:

1. Site Design-regulations pertaining to the location of parking lots, screening of mechanical and service functions, and landscaping.
2. Building Character-regulations for projections and recesses, windows, entries, awnings, color, texture, materials, etc.
3. Relationship of Buildings to Street-regulations encouraging the entry of structures to be oriented to the street (with the exception of residential units that front a green-space).
4. Massing, Form/Scale-requirements for façade articulation.
5. Signage-multifamily and mixed use must follow the R-5 and R-6 sign regulations for non-commercial development. Signage for commercial development must follow the R-5 and R-6 non-residential sign standards.
6. Open Space-multifamily, mixed use, and commercial development must have common landscaped outdoor space that generally includes pedestrian connections, lighting, street furniture.

Design Guidelines for Single-Family Residential Development:

1. Architectural Design-provisions for quality architecture and a range of architectural styles while insuring attainable housing.
2. Porches and Front Doors-requirements for columns, railings and other details; encouragement of wrap-around porches.
3. Front Loaded Lots (garages accessed from streets)-encouragement for garage doors to be stepped back and paved on-site parking.
4. Building Materials-regulations pertaining to allowable materials (stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels), where material changes may occur, and the prohibition of vinyl, EIFS and tilt up concrete panels.
5. Roof Design-allowance of sloping, gable, hip, pyramid hip, mansard, gambrel/butterfly, or flat; materials consisting of asphalt shingle, slate, tile, or metal.

Landscaping:

All landscaping will conform to the municipal code, Section 17-4-7, with the additional requirements related to plant size, coverage calculations and low water/maintenance plantings.

Signs:

Signs for multifamily residential and mixed-use development will follow the Pueblo Municipal Code regulations for residential and non-residential uses in the R-6, Multiple-residential and Commercial District. Signs for commercial development will follow the Pueblo Municipal Code regulations for commercial zone districts (B-1, B-2, B-3, B-4, B-P…). Signs for single family residential will follow the Pueblo Municipal Code regulations for residential signs.

Park:
The Pikes Peak Park PUD Development Guide states that a minimum of eight percent of the land area, in a residential subdivision, is dedicated for use as parks and recreational facilities according to section 12-4-7, (e), of the Pueblo Municipal Code. According to the PUD, park land will be dedicated to the Metro District and be developed and maintained by the Metro District. Section 12-4-7, (e), also allows the subdivider to make a cash payment in lieu of land dedication. According to the Municipal Code, the cash payment is made to the City.

Street and Alley/Private Drive Standards:
Pikes Peak Park PUD includes standards for three types of street development, Future Neighborhood Connector Street, Neighborhood Local Street, and Neighborhood Park Street.

1. Neighborhood Connector Street provides three to five additional feet in sidewalk width and greater emergency access than the City's standard Neighborhood Collector roadway classification.
2. Neighborhood Local Street provides two additional feet of roadway width and one additional foot in sidewalk width compared to the City's standard Neighborhood Local Street.
3. Neighborhood Park Street is similar to the Neighborhood Local Street and the City's standard Neighborhood Local Street with the exception that the sidewalk and landscape zone may be located on one side of the street opposite of a park.

Pikes Peak Park also allows for single-family attached and detached homes to be accessed from a public alley or private lane. Both the alley and private lane have a 20-foot width, the alley requires a 12-foot-wide paved surface and the lane requires the full width to be paved. The Pikes Peak Park, Filing No. 1 Subdivision proposes multiple instances of residential structures being accessed only from a private lane with a dead end and no provisions for vehicle turn arounds; therefore, the residential lots located at the end of a dead-end alley must provide a 20-foot setback to allow vehicles to turn around and exit the alley or lane without backing into traffic. The City of Pueblo Fire Department granted a variance to the vehicle turn-around requirements for Parcels E, G, and K of the Pikes Peak Park, Filing No. 1 Subdivision. Future residential development accessed by alleys or private lanes will have to provide a turnaround or request additional variances from the Fire Code.

Refuse Collection:
The Pikes Peak Park PUD Development guide states that the Pikes Peak Park Metro District will work directly with a private trash collection company to establish trash collection protocol for "Green court residential products with Private Lanes". The PUD states further that solid waste collection points will be provided within the street right-of-way where dead end alleys or private lanes intersect with public streets. This will reduce congestion within the narrow private lanes and prevent trash trucks from backing into the right of way.

Parking:
Pikes Peak Park proposes reduced parking standards for multifamily residential, retail, restaurant/bar, professional/medical office and community center uses. The reduction is intended to be no more than 50-percent of what the Municipal Code requires. However, the parking standard for Restaurant/Bar does not meet the 50-percent of municipal code standard. Staff recommends a condition of the PUD approval that the parking space requirement for restaurant/bar be increased by 1.5 spaces totaling 7.5 spaces per 1,000 gross square feet of seating area. The applicant justifies the parking reduction, by stating that the Pikes Peak Park Development is a mixed-use and mixed-income community that co-locates permanently affordable housing with access to services and goods within a "walkable, ten-minute neighborhood." Parking requirements for single-family residential structures is higher than the municipal code because the PUD allows residences to have reduced

front-yard setbacks and lot widths; therefore, each residence is limited in its capacity to park vehicles. All single-family residences must provide two off-street parking spaces as opposed to one.

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The property is currently vacant, undeveloped land, with native grasses.

- **Neighborhood Compatibility:**

North	• A-1, County Agricultural One, undeveloped
East	• R-2, Single-Family Residential, undeveloped
South	• R-8, Manufactured Home Residential, manufactured homes • A-2, Agricultural Two District, undeveloped
West	• R-4, Mixed Residential District, undeveloped • B-3, Highway and Arterial Business District

- **Comprehensive Plan Compliance:**
  The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan states that *Urban Residential* neighborhoods are found predominantly within the city limits of Pueblo and the urbanizing areas in the City's immediate periphery. These neighborhoods have a mixture of housing types and neighborhood commercial services. The Comprehensive Plan states further that "zoning for duplexes, garden apartments and small office buildings may be allowed along collector and arterial roads." According to the Comprehensive Plan, densities within the Urban Neighborhoods are generally 4-7 units per acre.

  The proposed Pikes Peak Park includes a mixture of residential and commercial uses. Residential uses include single-family detached, single-family attached, multifamily residential and mixed use residential. The PUD allows a maximum of 1,065 dwelling units, with a total density of 13.48 units per acre, which is much higher than the maximum density of 7 units per acre as recommended by the Comprehensive Plan. The proposed Pueblo Regional Comprehensive Plan, 2022, also designates the subject site as Urban Neighborhood but allows for densities between 6-16 units per acre. Proposed commercial uses are located adjacent to W. 24th Street and Sun Mountain Blvd. West 24th Street is a Principal Arterial, and the future Sun Mountain Blvd is classified as a Minor Arterial, which conforms to the Comprehensive Plan.

  The proposed Pikes Peak Park PUD Development Guide is consistent with the provisions for neighborhood commercial servicing the surrounding residential neighborhood. The proposed density within the PUD is significantly higher than what is stated as an appropriate density within the current Comprehensive Plan, but the proposed density is within the range proposed in the 2022 Comprehensive Plan that has been recommended for approval by the Planning & Zoning Comission. The Urban Neighborhood future land use classification in the proposed 2022 Comprehensive Plan applies to centrally-located neighborhoods in the City of Pueblo, but may also apply to newer neighborhoods with a mix of housing types and/or a traditional neighborhood character.

FINDINGS OF FACT REQUIRED PER §17-8-11 OF THE PUEBLO MUNICIPAL CODE

Municipal Code specifies five (5) criteria to be evaluated in conjunction with a PUD application. The Planning and Zoning Commission, before recommending that any property be zoned to a PUD Zone District, shall make the findings concerning the following:

(1) The PUD and Development Guide are compatible with the surrounding neighborhood and the proposed uses are not incompatible to the uses to which the surrounding area is restricted.

Staff Analysis of Finding #1
The proposed Pikes Peak Park PUD Development guide allows for high density residential and a comingling of commercial uses that serve the neighborhood. Adjacent residential development to the south consists of manufactured homes of an average density between 4-7 units per acre. Development further to the south along Westview Drive is approximately 5.4 units per acre. Development Commercial uses within the PUD are restricted to the areas north of W. 24th Street and on either side of the future Sun Mountain Blvd. A detailed listing of the specific land uses, which are allowed by right and by conditional review, are found in the Development Guide.

(2) The PUD and Development Guide are in accord and in harmony with the Comprehensive Land Use Plan and are being done for the public good; that is, to serve one (1) or more goals of the Comprehensive Plan and enable legislation and thereby bear a relationship to the public health, safety or general welfare.

Staff Analysis of Finding #2
The proposed Pikes Peak Park includes a mixture of residential and commercial uses. Residential uses include single-family detached, single-family attached, multifamily residential and mixed use residential. The PUD allows a maximum of 1,065 dwelling units, with a total density of 13.48 units per acre, which is much higher than the maximum density of 7 units per acre as recommended by the Comprehensive Plan amended in 2014. The proposed Pueblo Regional Comprehensive Plan, 2022, also designates the subject site as Urban Neighborhood but allows for densities between 6-16 units per acre. Proposed commercial uses are located adjacent to W. 24th Street and Sun Mountain Blvd. West 24th Street is a Principal Arterial, and the future Sun Mountain Blvd is classified as a Minor Arterial, which conforms to the Comprehensive Plan.

The proposed Pikes Peak Park PUD Development Guide is consistent with the provisions for neighborhood commercial servicing the surrounding residential neighborhood. The proposed density within the PUD is significantly higher than what is stated as an appropriate density within the current Comprehensive Plan, but the proposed density is within the range proposed in the 2022 Comprehensive Plan that has been recommended for approval by the Planning & Zoning Comission.

(3) The PUD and Development Guide would encourage an appropriate use of land.

Staff Analysis of Finding #3
According to the Pikes Peak Park PUD Development Guide the proposed development will provide a range of "affordable and attainable housing products." The development will also include ample open space and trail corridors for residents to enjoy. The intent of the parks and

trails is to provide a network of space that connect neighborhoods to the regional open space corridors and preserve view corridors. Finally, the southern portion of the development will allow for commercial development to service the residents of the community. All of the aforementioned uses are compatible with the Urban Residential Comprehensive Plan Designation.

(4) The PUD and Development Guide would not be so injurious to surrounding properties to the extent of depriving neighboring property owners of any reasonable use of their property.

Staff Analysis of Finding #4
The proposed mixed-use neighborhood is not anticipated to deprive neighboring property owners of any reasonable use of their property.

(5) All land contained in the PUD District is within the City, proper notice was sent to surrounding property owners, and the required public hearing was held.

Staff Analysis of Finding #5
All of the land area is within the City of Pueblo and proper notice has been sent by the Department of Land Use Administration to surrounding property owners and the public hearing is scheduled with the Planning and Zoning Commission and posted appropriately.

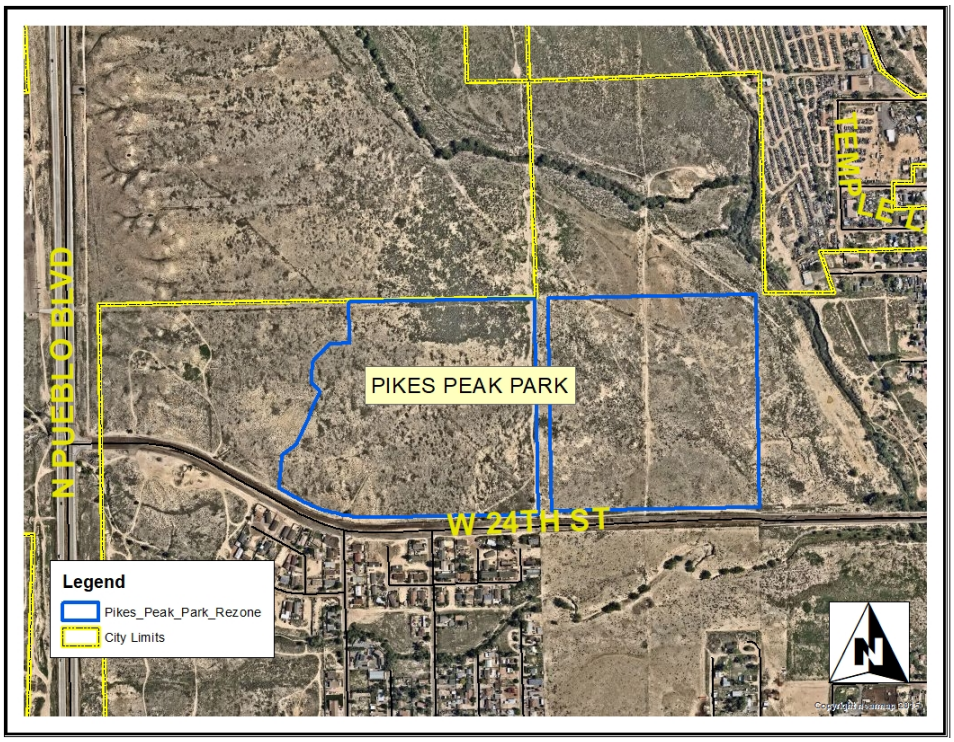
RECOMMENDED ACTION:

Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED** with conditions. Documents addressing the following conditions must be submitted for review and approval by Planning Department staff prior to recommending the PUD amendment to City Council for approval:

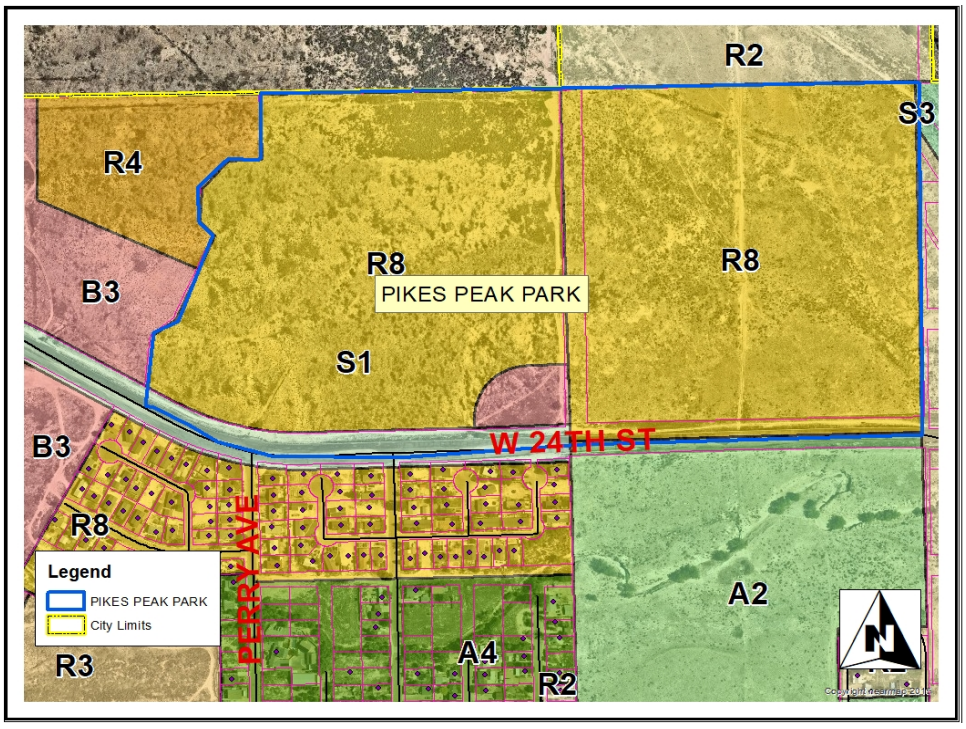
1. Provide a full legal description of the rezoning area in a digital word document.
2. Amend Restaurant/Bar parking requirement to "7.5/1,000 gsf" to meet, the agreed upon, 50-percent of Municipal Code parking standards in the Pikes Peak Park PUD (p. 9, Section H. Parking Standards).
3. Amend, Section A, p. 11, "Function" to read, "Primary collector roadway within the neighborhood."

ATTACHMENTS:

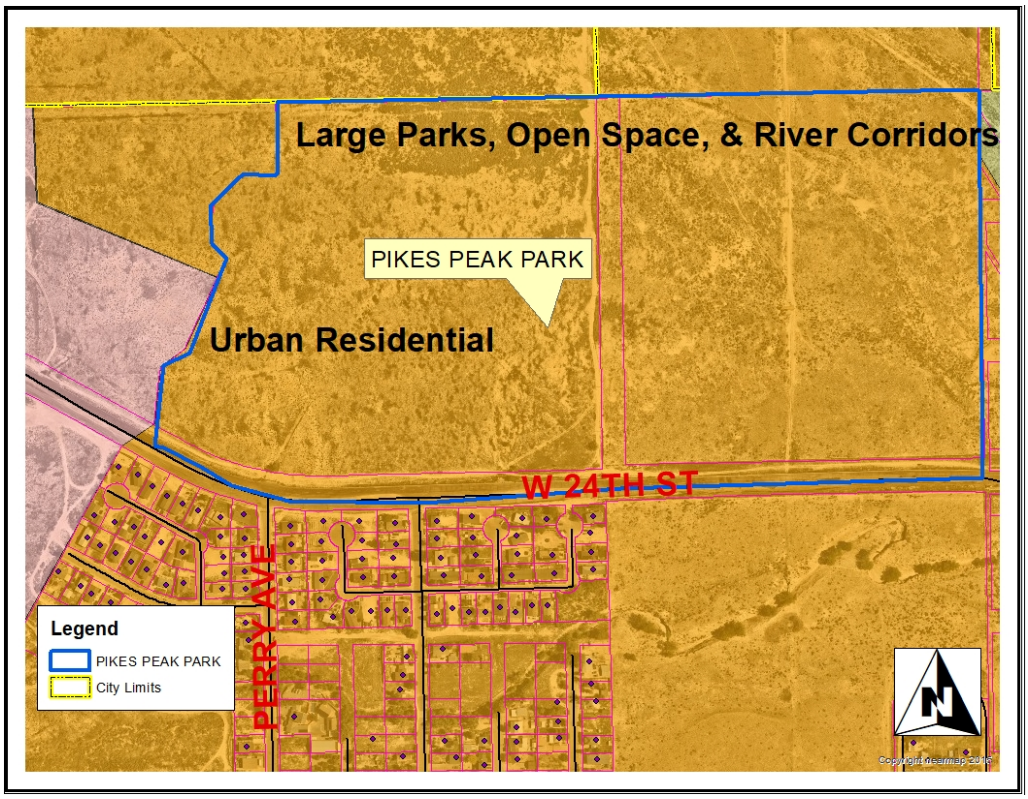
A. Aerial Map
B. Zoning Map
C. Comprehensive Plan Map
D. Site Photograph
E. Application
F. Development Guide



Aerial Map



Zoning Map



Comprehensive Plan Map



Pikes Peak Park looking north from W. 24th Street



Public Hearing Notice Posters and Site Photographs

city of PUEBLO colorado

Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Planning & Zoning Map Amendment Application (Rezoning)

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Property Owner	
Name: Ashleigh Winans	
Company: NeighborWorks of Southern Colorado	
Address: 1241 E Routt Ave, Pueblo, CO	Zip: 810004
Phone: ( )(719) 544-8078	Email: awinans@nwsoco.org
Applicant	
Name: Same as above	
Company:	
Address:	Zip:
Phone: ( )	Email:
Person or Firm Representing (If Different From) Owner or Applicant	
Name: Drew Brice	
Company: Northstar Engineering and Surveying, Inc	
Address: 111 E. 5th st	Zip: 81003
Phone: ( )719-544-6823	Email: dbrice@northstar-co.com
*The **applicant** will be the primary contact unless otherwise noted.*	

Project Location: North of 24th st, West of Wildhorse Creek and East of Pueblo Blvd.
(address or general description)

Parcel# 0522430217, 0522310230

Legal Description: See Attached

Subdivision: Foothills Subdivision Acreage: 75.0

Existing Zone District: City R-8 and B-3

Proposed Zone District: City PUD

Purpose of this Application:

- ☑ To permit development of the property not allowed under the existing zone district.
- ☐ To provide proper zone district in conjunction with the subdivision plan for the area.
- ☐ In conjunction with the Annexation petition to annex the property in a use different than the existing Pueblo County Zoning.
- ☐ Other (specify): _____

(Continued from previous page)

Statement of Facts:
Justifying the zone change request. Be specific; use additional sheets if necessary.

The purpose of the application is to rezone the two parcels into PUD to permit the development of the site.

Description of area surrounding proposed development:

To the north, west, and east is undeveloped property. To the south is 24th st; on the other side of 24th st. is a mix of undeveloped property and residential properties.

A general description of the proposed development to the distance which will be affected; such description including subjects of environmental effect, economic effect and traffic effect, if any; and such description carried out in scope and detail to the extent needed to support the requested amendment and as may be required by the Planning and Zoning Commission.

This development will be primarily be a mix of single family and multi-family. There will also be a limited amount of retail zoned as mixed use. This type of development is consistent with the other existing development in the adjacent area.

☑ A tentative site plan showing proposed structures, uses, open spaces, facilities for parking and loading and arrangements for pedestrian and vehicular circulation.

Estimated date for beginning project: Spring 2022

Estimated date for completion of project: 2031

A statement reasonably indicating the applicant's economic responsibility and capability of accomplishing the development for which a zoning amendment is requested.

Neighborworks is economically responsible and capable of accomplishing this development. Neighborworks has worked on many different projects in Pueblo throughout their history.

☑ CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted. (**if applicable**)

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.

Office Use Only

Zoning Compliance (Completed by City Staff)	
Application received by:	Date:
Application checked for completeness by:	Date:
Case Manager:	Fee Paid:
Hearing date: ☐ Approved ☐ Denied ☐ Approved w/conditions	

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.

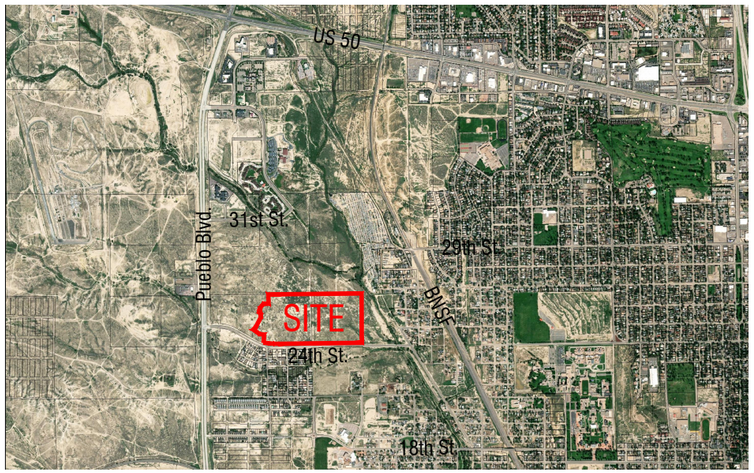
Property Owner		
Print Name:	Ashleigh Winans, as CEO of NeighborWorks SO. Colorado	
Signature:	Ashleigh Winans	Date: 9/7/2021
Applicant, if different from Property Owner		
Print Name:		
Signature:		Date:

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
2nd submittal: November 30, 2021
3rd submittal: December 23, 2021
4th submittal: February 14, 2022
5th submittal: March 14, 2022

VICINITY MAP ::



N

not to scale (N.T.S)

I. LEGAL DESCRIPTION ::

LOTS 1 THRU 224 + 226 BLK 1 FOOTHILLS SUB + PARCELS D, E, F, G + H FORMERLY #05-223-10-001 THRU 229 and LOTS 1 THRU 213 BLK 2 FOOTHILLS SUB + PARCELS A, B, C + J FORMERLY #05-224-30-001 THRU 216.

II. INTRODUCTION ::

The primary purpose of this PUD is to allow this property to develop in a manner that aligns with NeighborWorks Southern Colorado(NWSoCo) Vision and Urban Design Concept Plan for Pikes Peak Park Neighborhood. This site is currently designated as R-8 with a small portion designated as B-3. This PUD establishes a set of land uses, street sections, and development guides intended to create a walkable, mixed residential community with neighborhood serving retail primarily located at the intersection of 24th Street and a future north/south street.

This PUD will allow the site to develop in a logical, efficient manner that integrates with the surrounding land use and provide mixed-income affordable housing, attract services and increase the self-sufficiency of the organization through earned income opportunities.

III. PROJECT NARRATIVE ::

Pikes Peak Park is envisioned to become a horizontally mixed-use and mixed-income community that co-locates permanently affordable housing with access to childcare, healthcare services, food access services, small grocery/farmers market, restaurants, offices, and cultural facilities, among other uses, to support a walkable, ten-minute neighborhood.
Through community engagement, diverse expertise and the right partnerships; the Pikes Peak Park Neighborhood is a critical first step that will positively impact the entire west side of Pueblo community by linking diverse developments together, raising home values, connecting people to nature, amenities and each other, and ultimately become more integrated into the City. This project aims to provide 'proof-of-concept' for community design in Pueblo and become a catalyst for public and private investment for the westside of Pueblo, creating a community with significant housing available for low-moderate income families otherwise locked out of home ownership.

IV. GUIDING PRINCIPLES ::

- Provide a range of **Affordable and Attainable housing** products that caters to a variety of income levels and family sizes.
- Create a distinct neighborhood that includes a variety of open spaces, nodes, destinations and third places, connected by a web of links that will encourage human interaction necessary to develop the personal bonds that grows a strong **Community and Culture** and inclusive social network.
- Create a **Sense of place**, through urban design, landscape and built form, that is authentic to Pueblo, future residents, and the communities' time and place in the world.
- Create a **Healthy and Vibrant** community that values a balanced lifestyle by enabling active living, increased mobility, reduced stress, and social interaction.
- Create a **Connected** network of streets and open spaces systems that links the Pikes Peak Park neighborhood to the surrounding community.
- Pikes Peak Park strives to be a social, economic and environmentally **Resilient Community**. This starts with creating a cohesive and interconnected master plan that co-locates a variety of complimentary uses with-in walking and cycling distance from one another as a means to decrease reliance on the automobile.

V. PUD ZONE DISTRICT APPLICATION AMENDMENT PROCESS ::

The Pikes Peak Park Metro District #1 Board shall have the sole authority to initiate amendments to the PUD. Any amendment to this PUD shall be subject to the City of Pueblo amendment process per PMC section 17-8-8 (a), as amended.

VI. PUD SITE PLAN APPROVAL PROCESS ::

- PUD Site Plan for Multi-family and Commercial development submittals shall include all information required by applicable sections of the Pueblo Municipal Code and Site Development Plan Checklist, and meet the intent of this PUD.
- PUD Site Plans and Site Plan Amendments for single-family detached and single-family attached projects developed on individual lots will be administratively reviewed and approved by the City in accordance with the PUD. Site Plan Amendments may be filed, processed and scheduled concurrently for staff review if required.

VII. DESIGN GUIDELINES ::

In order to implement the vision for Pikes Peak Park, private Architectural and Site Design Standard and Guidelines(D.S.G.) will be prepared to guide the overall look, feel and character of the neighborhood. These will be administered by the Design Review Board.

Private Design Standard and Guidelines will supplement the Development Guide established by this PUD and shall be in lieu of Sec. 17-4-11 Residential Placement Standards, and any subsequent revisions, as identified by the Pueblo Municipal Code.

The Pikes Peak Park Metro District #1 Board will appoint five (5) Board Members to the Design Review Board (DRB). Three (3) members shall constitute a quorum. All DRB members shall be real estate or design professionals. The Director of Planning and Community Development may appoint a 6th DRB member. This member is an ex officio member who does not have voting rights.

The DRB will have the responsibility of reviewing, approving, approving with conditions, or denying all site plans, architecture, landscape plans, lighting plans, signage plans and signs, for all physical improvements to individual Lots or Blocks based upon PUD criteria and Pikes Peak Park Design Standard and Guidelines. The DRB will meet with applicants in a timely manner and will provide written comments, conditions and approvals in writing to the Applicant and the Director of Planning and Community Development. Any PUD site plan amendment shall require a DRB letter of recommendation of approval before the final approval from P&Z or Technical Advisory Committee.

Site Plans may be submitted to the DRB and City of Pueblo concurrently. Architectural building plans may be submitted to the Building Department concurrently with DRB review. Any changes made to civil or architectural construction documents subsequent to final DRB approval shall be submitted to DRB for review. Upon DRB approval, the DRB will provide an approval letter to the City of Pueblo. Upon receipt of the approval letter, the City of Pueblo will administratively review Site Development Plans for individual Lots using the City of Pueblo's review process provided that the requirements of the PUD have been met. DRB approval and Metro District authorization is required prior for final City Site Plan approval and issuance of building permits.

PAGE INDEX ::

PAGE 1: COVER SHEET AND INTRODUCTION
PAGE 2: CONTEXT MAPS AND ZONING
PAGE 3: LAND USE PLAN
PAGE 4: CIRCULATION
PAGE 5: PARK AND TRAIL PLAN
PAGE 6: PERMITTED / RESTRICTED USES
PAGE 7: DEVELOPMENT GUIDE
PAGE 8: DEVELOPMENT GUIDE
PAGE 9: DEVELOPMENT GUIDE
PAGE 10: SINGLE-FAMILY LOT CONFIGURATIONS
PAGE 11: STREET SECTIONS / DESIGN STANDARDS
PAGE 12: STREET SECTIONS / INTERSECTION
PAGE 13: VARIANCES

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Denver, CO 80204
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Fax 303 425.0438

TITLE: COVER SHEET AND INTRODUCTION		
SCALE: N.T.S.	DRAWN BY: S.C.	PAGE 1 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

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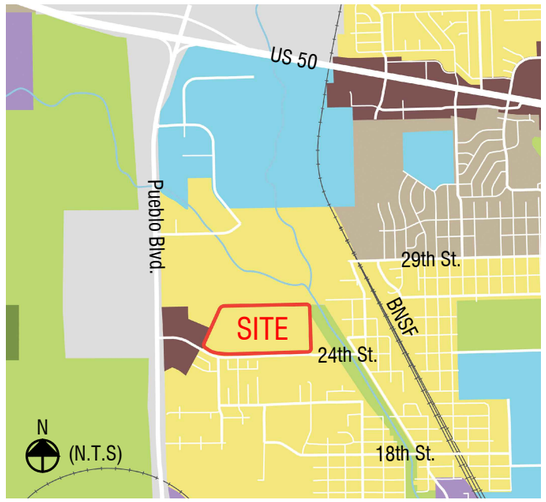
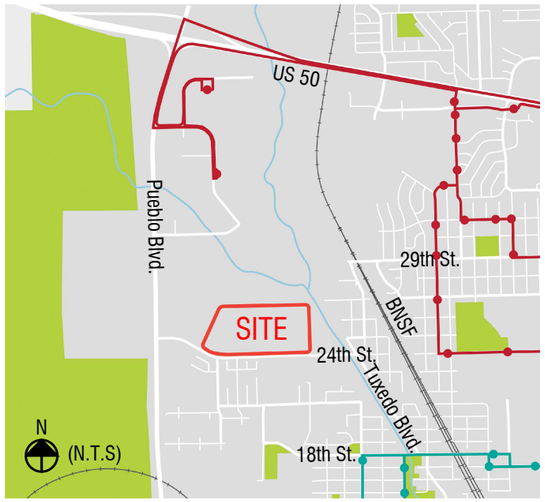
ZONING CONTEXT::



The site is bordered by 24th Street, and low density existing residential to the South. No other development is adjacent to the site. Future open space corridor expansion along the Wild Horse Creek is planned to the east per Pueblo's Comprehensive plan, 2002.

- Arterial commercial
- Institutional mixed-use
- Suburban residential
- Light industry
- Urban residential
- Park and open space

PUBLIC TRANSPORTATION CONTEXT::



There are two bus routes that access the west side of Pueblo. The applicant will work with the city to extend one or both bus routes to the site.

- Route 3
- Route 8

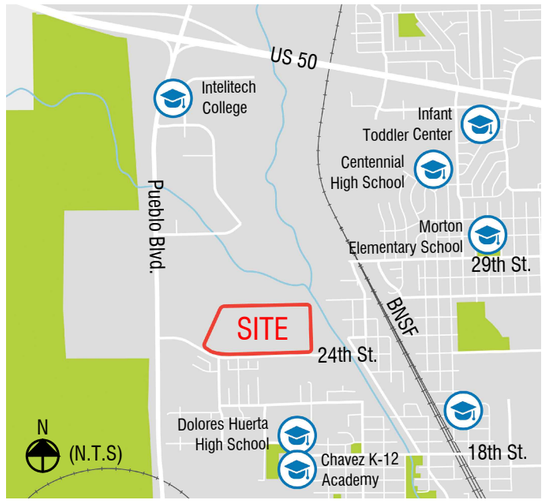
OPEN SPACE AND BIKE NETWORK CONTEXT::



The site is located directly west of Wild Horse Creek which will provide access to future regional trails. Pikes Peak Park open space and street network will be designed to allow for safe, comfortable bicycle and pedestrian connections that connect to future open space facilities as planned by the City of Pueblo.

- Multi-use trail
- Bike route
- Future open space corridor

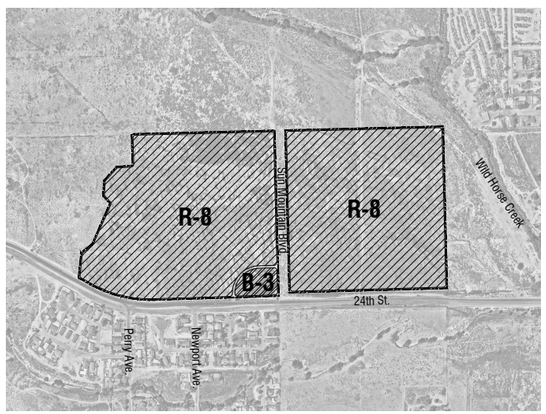
SCHOOLS CONTEXT::



Currently, the designated schools for this area are Morton Elementary School, Centennial High School. Chavez Huerta Charter School is a convenient walking and bicycle distance for residents. Work with school district to allow for preferred enrollment status for Pikes Peak Park children.

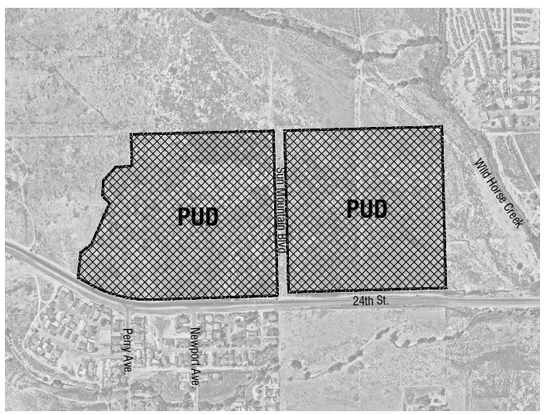
EXISTING ZONING ::

R-8 zoning exists on the majority of site, and B-3 exists at the corner of 24th St. and Sun Mountain Blvd.



PROPOSED ZONING ::

PUD zoning on the entire site.



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TITLE: CONTEXT MAPS AND ZONING		
SCALE: N.T.S	DRAWN BY: S.C.	PAGE 2 OF 13
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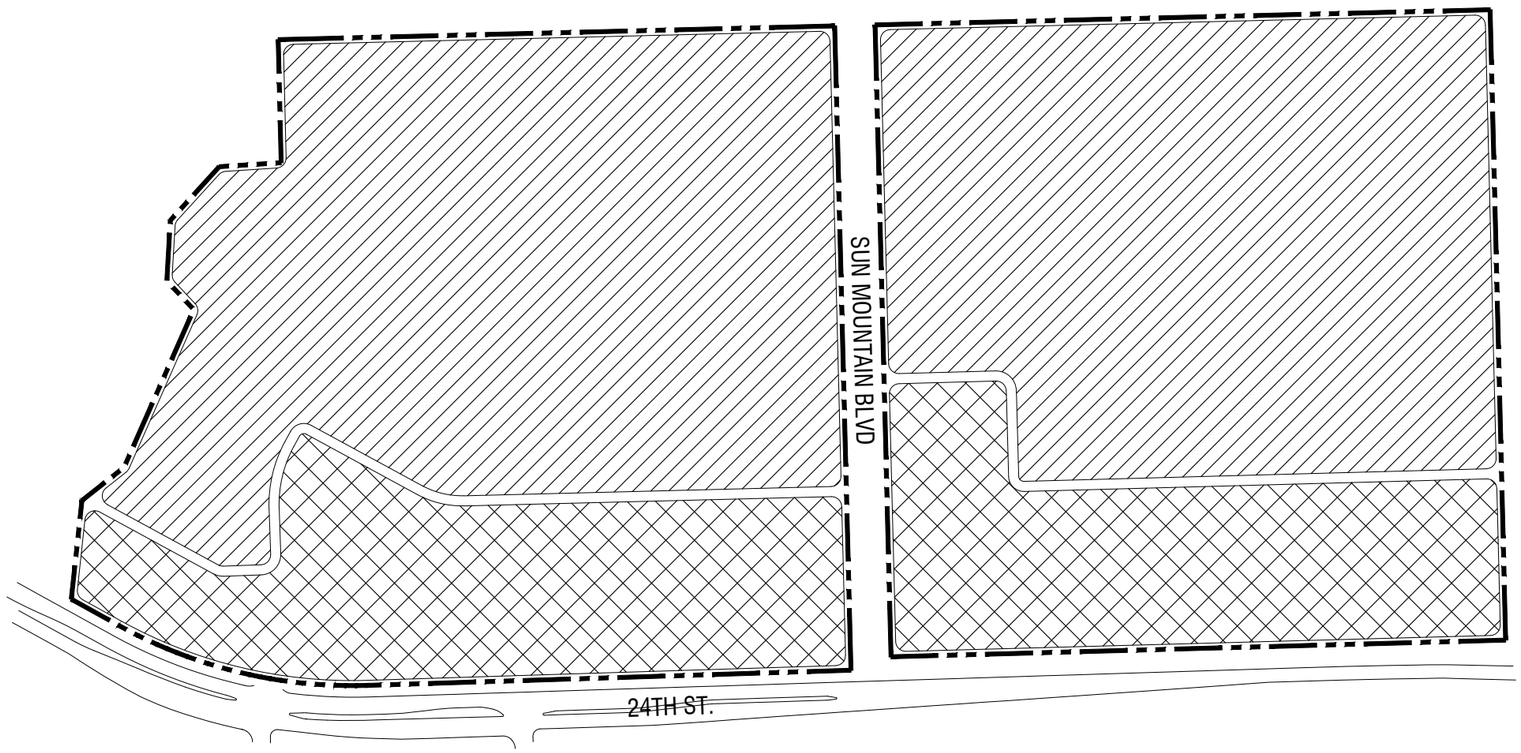

SUMMARY LAND USE TABLE ::

Land Use	Land Area		Max. Gross Density (du/ac)	Max. Dwelling Units (du)	Max. Commercial /Community area (sq.ft.)
	Acres	%			
Residential	51.61	70	12	619	8,000
Commercial Mixed-Use	22.32	30	20	446	80,000
Total	73.93	100	14	1,065	88,000

* Fire station does not count towards maximum commercial square footage count.

LEGEND ::

- PUD BOUNDARY
- RESIDENTIAL
- COMMERCIAL MIXED-USE

NOTE ::

1. Residential use is characterized by primarily single family attached(duplex, triplex, fourplex, rowhomes and townhomes), single family detached housing with variety of product mix including single-family green court cluster.
2. The intent of commercial mixed-use planning area is to allow for denser multifamily, vertically mixed-use multifamily, restaurant and neighborhood serving retail to develop along 24th Street. Single-family attached are allowed where transitioning from a denser multifamily development to single-family residential area.

CIVITAS
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TITLE: LAND USE PLAN
SCALE: 1"=300'
DRAWN BY: S.C.
PAGE 3 OF 13
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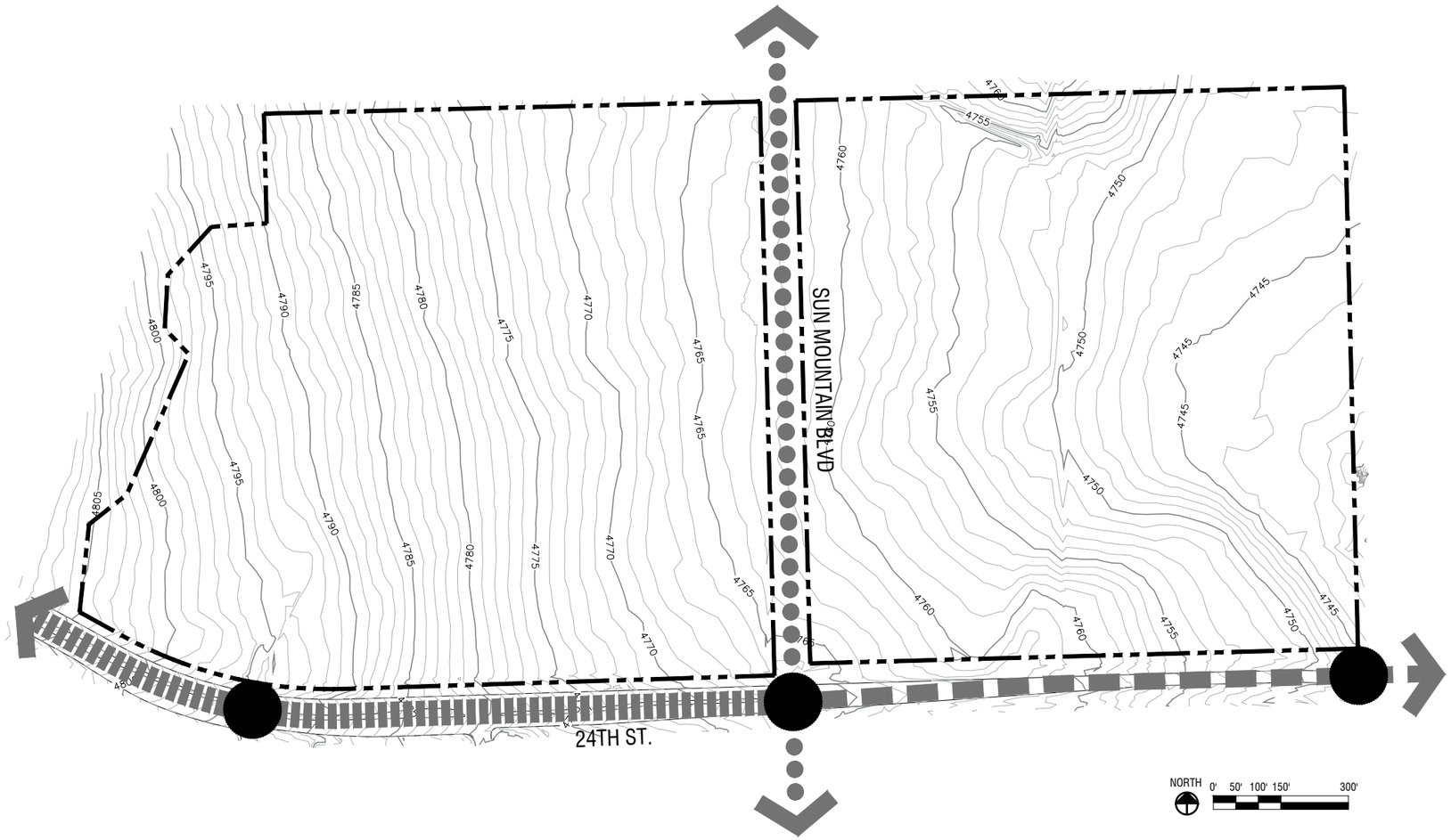

NOTE ::

1. The eastern portion of 24th St. is currently a 2 lane street and may be expanded to a four-lane street in the future by the City of Pueblo. The developer will coordinate planning efforts with the City.
2. Final location of intersections will be determined by the Plat.

LEGEND ::

- PUD BOUNDARY
- EXISTING 24TH STREET (4 LANE)
- EXISTING 24TH STREET (2 LANE)
- SUN MOUNTAIN BLVD
- FULL MOVEMENT INTERSECTION
- MAJOR CONTOUR
- MINOR CONTOUR

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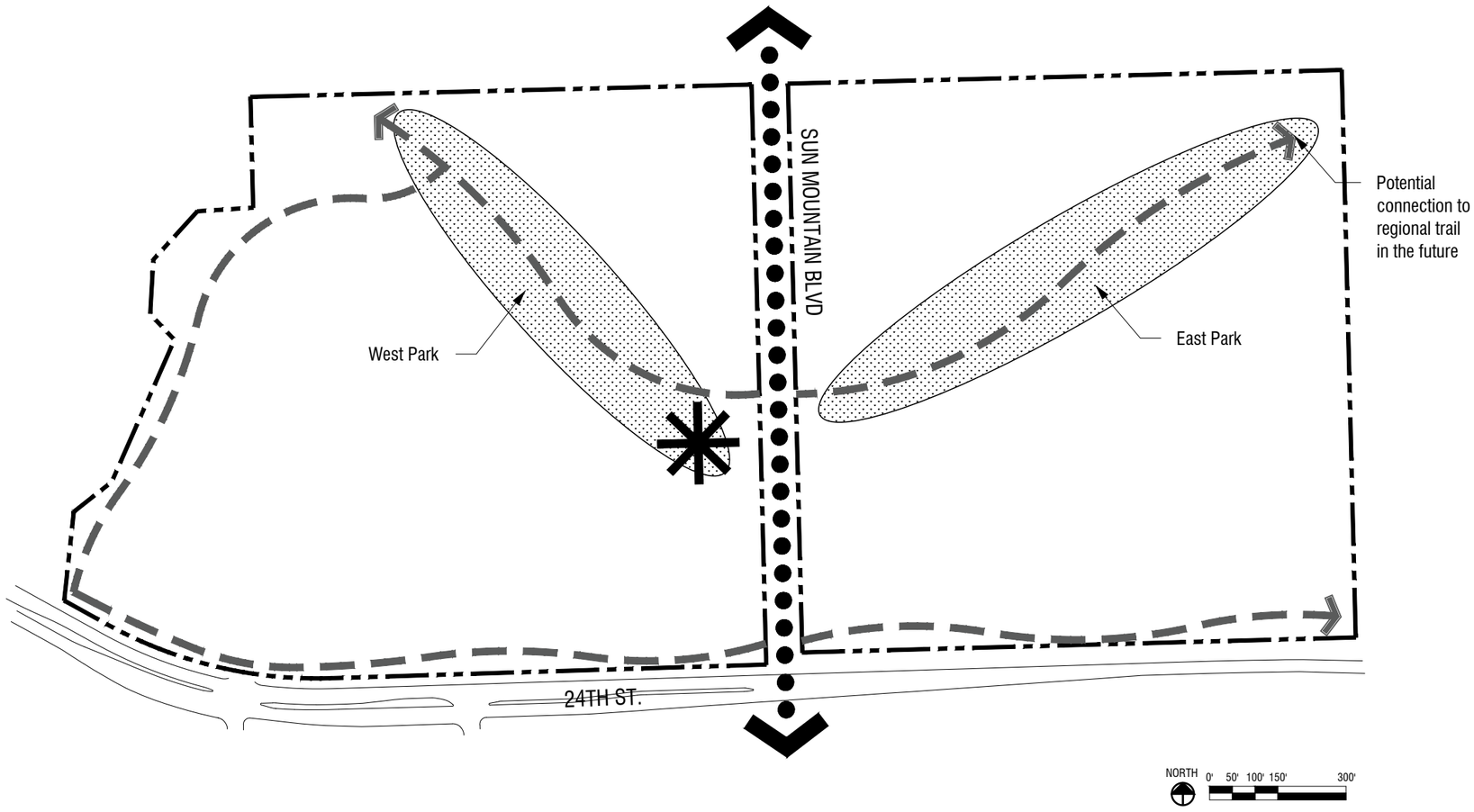


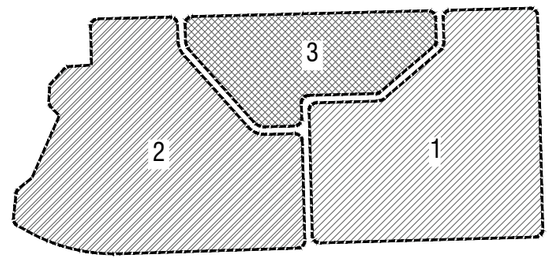
NOTE ::

1. The intent of the park and trail plan is to provide a network of space that connect neighborhoods to the regional open space corridors, and preserve view corridors to the Pikes Peak and Green Horn Mountain.
2. A minimum of 8% of the land area shall be dedicated to the Metro District for use as parks and recreational facilities per the PMC section 12-4-7(e). Parks and recreational facilities will be developed, owned and maintained by the Metro District.

PHASING ::

1. Southern part of Sun Mountain Blvd and South-east portion of site.
2. South-west portion of site.
3. Northern part of Sun Mountain Blvd and Northern portion of site.

Keymap



* East Park will be constructed as part of Phase 1, and West Park will be constructed as Part of Phase 2.

LEGEND ::

- PUD BOUNDARY
- POTENTIAL LOCATION OF PARK AND OPEN SPACE
- POTENTIAL MULTI-USE TRAIL
- BICYCLE LANE OR OFF-STREET BICYCLE FACILITY
- POTENTIAL LOCATION FOR CENTRAL GATHERING AREA

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RESIDENTIAL PLANNING AREA ::

Residential use is characterized by primarily single family attached(duplex, triplex, fourplex, rowhomes and townhomes), single family detached housing with variety of product mix including single-family green court cluster.

A. Uses by Right

- Accessory Dwelling Unit
- Accessory Uses
  - Drainage facilities
  - Outdoor exercise
  - Temporary art installations
- Child Care Home
- Co-housing, Common house
- Community Center
- Community garden
- Home, elderly
- Home, foster
- Manufactured Home
- Parking lot solar array
- Parks, Trails, Open Space
- Residence, Single Family Detached - alley and front loaded
- Residence, Single-Family Green Court Cluster
- Residence, Paired Housing (duplex) - alley and front loaded
- Residence, Three and Four family - alley and front loaded
- Residence, Townhouse - alley loaded
- Roof mount solar array

B. Conditional Uses

A conditional use may be permitted if certain minimum conditions, contained in the applicable City Ordinances are satisfied as determined by the DRB and the Land Use Administrator. The DRB is required to send a letter of recommendation to the Land Use Administrator.

- Food trucks
  a. Shall comply with conditions in the applicable City Ordinances.
  b. Limited to public right-of-way adjacent public parks, community center and other ground floor commercial.
- Home based business
- Mobile food unit
- Model home
- Temporary farmers/art/craft market
  a. Limited to public right-of-way adjacent public parks, community center and other ground floor commercial.

C. Restricted Uses

- All uses not expressly permitted as use by right or conditional use.
- Short term rental through third party applications.

COMMERCIAL MIXED-USE PLANNING AREA ::

The intent of this planning area is to allow for denser multifamily, vertically mixed-use multifamily, restaurant and neighborhood serving retail to develop along 24th Street. Single-family attached are allowed where transitioning from a denser multifamily development to single-family residential area.

A. Uses by Right

- Accessory Uses
  - Beer gardens
  - Dining patios
  - Drainage facilities
  - Entertainment district
  - Food Trucks
  - Home based business
  - Ice cream stand
  - Outdoor exercise
  - Temporary art installations
- Adult day service center
- Art Gallery
- Bar/Tavern
- Brewery/Cidery
- Childcare Center
- Community Center
- Community garden
- Dog care facility
- Hotel
- Library
- Municipal buildings
- Neighborhood serving commercial
  - art gallery
  - beauty salon/barber shop
  - butcher
  - convenience store
  - dry cleaner
  - financial institution
  - laundromat
  - personal and professional service
  - pet grooming
- Office, general
- Office, medical
- Office, professional
- Parking Lot
- Parking lot solar canopy
- Parking Structure
- Parks, Trails, Open Space
- Pharmacy
- Religious institution
- Restaurant (sit-down, fast casual)
- Roof mount solar array
- Residential, Multifamily (includes mixed-use, co-housing, age-targeted, age-restricted, market rated, and affordable).
- Residence, Paired Housing (duplex) - alley and front loaded
- Residence, Three and Four family - alley and front loaded
- Residence, Townhouse - alley loaded
- Schools, public and private
- Health club, less than 3,200 sq.ft of gross floor area
- Temporary farmers/art/craft market
- Urban agriculture

B. **Conditional Uses**

A conditional use may be permitted if certain minimum conditions, contained in the applicable City Ordinances are satisfied as determined by the DRB and the Land Use Administrator. The DRB is required to send a letter of recommendation to the Land Use Administrator.

- Health club
- Mobile food unit
- Model home
- Rental shop, general

C. Restricted Uses

- All uses not expressly permitted as use by right or conditional use.
- Short term rental through third party applications.

DEFINITIONS ::

- Accessory Dwelling Unit: An accessory dwelling unit (ADU) is a secondary dwelling unit on a single-family residential lot, and generally situated above a detached garage. ADU shall be owned and maintained under the same ownership of the primary structure.
- Co-housing, Common House: Co-housing is a community intentionally designed with common areas surrounded by private homes. Common House generally include a large kitchen, lounges, meeting rooms, recreation facilities, library, workshops, or childcare. Common areas are owned and maintained by community members.
- Food trucks: A non-permanent food truck or food cart that operates at a fixed location for a period of time.
- Pet grooming: An establishment engaged in a business of grooming of a domestic animal, including bathing, cutting of hair, trimming of nails, but does not include any associated outdoor kennel, veterinary service, breeding, boarding and overnight accommodation.
- Residence, Single-Family Green Court Cluster: Four or more single-family homes are arranged with front doors or porches facing a common green space with an alley for garage access. The Common green space is designed to provide amenities for adjacent homes, and encouraging pedestrian connectivity to a neighborhood.
- Temporary farmers/art/craft market: Temporary market is an event that operates at a fixed location for a periodic sale of goods no more than 14 consecutive days. Temporary market does not include regularly scheduled events. These are limited to public parks, community center, and festival street.
- Urban agriculture: Generally involved in low-impact farming methods such as professionally managed garden hydroponics, vertical farms, and rooftops used for crop production.

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TITLE: PERMITTED / RESTRICTED USES		
SCALE:	DRAWN BY: S.C.	PAGE 6 OF 13
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VIII. DEVELOPMENT GUIDE ::

A. STREETS, ACCESS AND SIGNALIZATION

24th Street is the only existing street and is located along the southern edge of the site. It is currently a 4-lane road along the western portion of the site and a 2-lane road along the eastern portion. It is understood that the eastern portion may be expanded to a four-lane street in the future by the City of Pueblo. The developer will coordinate planning efforts with the City. 24th Street is a front door to the neighborhood for residents. A 10' wide ADA-accessible detached multi-use trail or path will be designed and built by individual multi-family developer within the R.O.W along north side of 24th Street providing a bicycle and pedestrian connection from the neighborhoods to a future Wild Horse Creek regional trail. Multifamily and commercial buildings should be located in designated parcels along 24th Street to create an urban edge and identity for the neighborhood. Parking lots along 24th St. should be screened from view with landscape. Small, pocket parks associated with multifamily should connect to the regional trail along 24th Street.

Sun Mountain Blvd with +/- 80' wide R.O.W. bi-sects the site. It is characterized by well-designed pedestrian zones with wide sidewalks, landscape zone, on-street parking, and bicycle facilities. The installation of curb extensions(bump-outs) are allowed at intersections to facilitate speed calming as well as safety for pedestrian crossing. Buildings should front the street with primary facade and primary pedestrian entries. Where ground floor retail is anticipated, shallow setbacks may be used to allow for outdoor patio and storefront space. Commercial buildings along these streets should be designed with facade articulation and ground floor transparency in order to create a human scale street environment. Surface parking should not be located between buildings and the street.

Neighborhood Local Streets characterize residential districts and create a walkable network of streets and blocks that are connected to the open space network. The streets include sidewalks, landscape zone with street trees, and on-street parking on both sides of street. There will be three full movement access points to W. 24th St. as indicated in Circulation plan, page 4.

Neighborhood Design

The design of the neighborhood should consider topography, drainage, water quality, connectivity, and a contemporary housing program. Special care should be taken to create a highly connected neighborhood pattern that includes a variety of housing types and sizes organized around a hierarchy of open spaces. Several design strategies should shape the neighborhood plan; all residences should be located within 1/4 mile of a park or open space; the parks should provide a variety of program elements to encourage use persons of diverse interests and ages that may include: tot lots, picnic and seating areas, outdoor cooking areas, community gardens and flexible lawn space.

The single family residential community is primarily located on the northern two thirds of the site, and multifamily and mixed-use development is located at the southern portion of the site along 24th Street. The residential program should reflect a range of single family home sizes, townhomes, paired homes, and three-four family homes, both alley served and front loaded product.

Public Realm

The public realm should be defined by a network of streets, paseos and green corridors, parks and open space that support a high level of mobility and interconnected neighborhoods. The plan should offer multiple routes or loops for people to walk, run, and bike; to their favorite park, to the mail box, to the regional trail system, to each other's houses and to other neighborhood and community destinations. While the design for the various environments may vary, there should be a thread or 'DNA' that ties them all together to unify the neighborhood. It is foundational to the plan that the Public Realm serve to both create a strong sense of place but it also serves to support a strong community.

B.MULTIFAMILY AND MIXED-USE DESIGN GUIDELINES

Multifamily and Mixed-use Design Guideline is intended to apply to a residential structure or mixed residential with ground floor commercial where individual dwelling units are located above one-another and accessed by a common interior corridor or hallway.

Site Design

Buildings should be located in a manner that contributes to the creation of a pedestrian oriented and walkable community. This is done by fronting buildings close to the property line along streets, open spaces and trails.

- Parking lots shall not be located between a building's primary facade and the street.
- Services including trash and recycling center, loading docks, utility connections, including gas and electric meters, and rooftop mechanical equipment shall be screened from public view.
- Site landscape should be designed in a sustainable manner by selecting low-water planting and species that are adaptable to an arid environment.
- Parking facilities shall be sized with the intent of promoting efficient use of available land resources. The number of parking spaces provided shall be no less than the number prescribed in Section H, “Parking Standards” associated with each respective type of development.
- Shared use parking should be encouraged between nearby complementary land uses that have opposite peak hour demands.

Building Character

Buildings should be designed in a manner that is authentic to their function and time and place in the community. Building facades should be articulated to create human scale and interest. This may be achieved by the following strategies.

- Facade walls should incorporate horizontal relief through projections and recesses to provide visual interest.
- Ground floor facades should have recessed windows, entry areas, awnings or other such features.
- Building facades may use changes in color, texture and material judiciously to provide visual interest. All facades of a building which are visible from public street, park or open space, or paths should incorporate features similar to the front facade.

Resident entries should be protected from weather by overhead roofs or overhangs, or being recessed. First floor residences should have functional porches and front doors that provide direct access to the exterior and connections to the public realm. Balconies having usable space with a minimum average depth of no less than 3 feet are encouraged on upper levels.

Relationship of Buildings to Streets

Primary facade is a facade that faces a street, park or open space. Primary facades should contain a primary building entry and direct sidewalk connection to a public street, plaza, or park. Side entries may be allowed if an entry statement (e.g: patios, arbor, fence, gate, etc.) is provided on the building side facing the street.

Massing, Form and Scale

The following design elements should be considered:

- Entryway design elements and variations should give orientation and character to the building and contribute to the pedestrian orientation of the project by including some or all of the following features: arcades; canopies or porticoes; overhangs; recesses/projections; or special lighting.
- Express facade components in modules and materiality at a human scale that is meaningful to a person passing by on the sidewalk.
- Building height should transition to be scaled to lower height and density in residential areas.
- Architecture should consider its location and function in the overall neighborhood and be designed to emphasize visual focal points and view termini.
- Vertical and horizontal articulation in facade is encouraged through plane breaks, recessed windows and entries, or balconies.
- Multifamily and mixed-use buildings should be articulated with varied architectural features such as bays, balconies, massing changes, or porches that face the adjacent streets, parks, plazas, open areas.
- Each residential unit should have usable exterior open space in the form of balconies or porches.
- Balconies should be designed to be incorporated into the architecture to avoid a "tacked-on" appearance.
- Ground level residential units should have a front door and porch/stoop that provides direct access to a street, park or walkway.
- Stairways shall be conditioned, interior space.

Building Materials

New buildings should support regional traditions and maintain a level of craft in the process of construction and durability.

- Allowable facade material includes stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS), tilt-up concrete panels or other faux facade treatments should be avoided.

Mechanical Equipment

Rooftop mechanical equipment should be screened from view from the ground and from adjacent buildings of comparable height through the use of screen walls and/or parapets.

Treatment of Residential Open Area

Common areas in the multi-family property should be landscaped and include pedestrian connections to adjacent public streets, trails, open spaces and commercial areas. Pedestrian-scale lighting and street furniture should be included.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (b) and (d) of Pueblo Municipal Code.

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PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
2nd submittal: November 30, 2021
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C. COMMERCIAL DEVELOPMENT DESIGN GUIDELINES

In addition to the Pueblo Municipal Code (PMC) requirements found in Sections 17-4-46 or 17-4-47 or 17-4-48 for small-scale, medium-scale and large-scale; respectively, commercial performance standards and the PUD shall guide the exterior architectural design within the Pikes Peak Park development. Where section 17-4-47 through Section 17-4-48 conflict with the PUD, the PUD shall govern.

Pedestrian Circulation

The following design guideline should be considered:

- Providing sidewalks and walkways of adequate width to allow groups of people to comfortably pass each other. Sidewalks in commercial areas will be no less than six feet wide and conform to all requirements of the Americans With Disabilities Act (ADA).
- Public lobbies and/or primary entry should connect directly to the pedestrian network.
- Provide pedestrian oriented lighting and shade trees along walkways.

Building Character

Buildings should be designed to provide human scale, interest and variety. Examples of techniques may include:

- Variation in the building form such as recessed or projecting bays;
- Expression of architectural or structural module and detail;
- Diversity of window size, shape or patterns that relate to interior functions;
- Emphasis of building entries through projecting or recessed forms, detail, color, or materials;
- Variations of materiality, material modules, expressed joints and details, surface relief, color, and texture to scale;
- Bay column spacing that subdivides the facade into smaller, more human scaled elements.

Relationship of Buildings to Streets

A primary building entry should face a public street, plaza or park. Buildings that are sited between a street and a surface parking area, for example, should have a pedestrian entrance on both the parking area side for employees to gain access from their cars, and along the public street to provide access for visitors, and pedestrians arriving from transit, on-street parking, adjacent neighborhoods and other buildings.

- The long-side of buildings should be generally parallel with the public street.
- Building entry plazas are allowed, but should not disrupt the public realm design.
- Pedestrian oriented signage that identifies building tenants is allowed near a building entry.
- Building entrances facing parking lots should be coordinated with building service areas to avoid conflicts between pedestrians and service vehicle movements.
- Outdoor storage, trash collection, and loading areas shall be screened, recessed or enclosed.
- Service areas should be located in a manner that they are not visible from adjoining neighborhoods, pedestrianways, streets or customer entrances.
- Service area screening should be accomplished by landscape materials and/or architectural treatments with similar or complementary materials to the primary structures.

Massing, Form / Scale

Building form and massing should be used to frame the public realm and create a pedestrian scale, urban environment.

- One story buildings should be designed with a tall first floor minimum 18' height.
- Varied building form and facade articulation should be used to break up long wall faces.
- Building forms should respond to important gateway locations and view terminal.

Building Materials

New buildings should support regional traditions and maintain a level of craft in the process of construction.

- Allowable facade materials include stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS) and tilt-up concrete panels are not allowed.

Mechanical Equipment

Rooftop mechanical equipment should be screened from view from the ground and from adjacent buildings of comparable height through the use of screen walls and/or parapets.

Open Space

Publicly accessible, privately maintained open space such as plazas, courtyards or outdoor rooms are an important part of the overall open space network. Each development block is encouraged to include some form of outdoor space that is connected to the public realm either directly, or by a publicly accessible walkaway.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (f) of Pueblo Municipal Code.

D. SINGLE FAMILY RESIDENTIAL DEVELOPMENT DESIGN GUIDELINES

Single-Family Residential Development Design Guidelines is intended to apply for variety of product mix including single-family detached, duplex, triplex fourplex, rowhomes and townhomes. These guidelines are in lieu of the PMC Section 17-4-11 Residential Placement Standards.

Architecture Design

Residential architecture at Pikes Peak Park will reinforce and add richness to the urbanist design principles that define its streets, parks and public realm. The developer is committed to providing quality architecture and a range of architectural styles that balance the need to create affordable and attainable housing and create a great neighborhood. Our process involves working directly with builders to develop the right mix of housing designs, products and lots for this site. This is an ongoing process and we will update the City as designs progress.

Residential design at Pikes Peak Park should contribute the fabric of Pueblo's memorable neighborhoods by supporting:

- Best practices in architectural design and construction technology.
- Allowing for a range of affordable and attainable homes.
- Strategic insight into market conditions and consumer preferences.
- A balance of individuality and diversity that reinforces community placemaking.

Porches and Front doors

Special attention should be paid to the role that front porches and front doors play in enlivening the streetscape. Stylistically appropriate front porches or front doors are required for houses with garages accessed from the street(front-loaded) and houses with garages accessed from the alley(rear-loaded).

- Front porch details: Columns, railings and other details should support the architectural style of the house.
- Front doors: Front entry doors should be a prominent design feature.
- Front porch: porch width and depth should be usable and furnishable..
- Wrap-around porches: corner lots, lots adjacent to open space and lots with high visibility are encouraged to have porches that address both the front and side elevations.

Front Loaded Lots (garages accessed from streets)

Special attention should be paid to the architectural design for street-accessed (front-loaded) lots to de-emphasize the garage and driveways.

- Street-facing garage doors should be located behind the “front building line” of the main house.
- Paved on-site parking is required outside of setback.

Building Materials

- Allowable facade materials include stucco, natural stone, brick, wood, architectural fiber cement panels, architectural metal panels, or similar combination of material which represents a variation of architectural styles or elements.
- Material changes should not occur at external corners, but may occur at “reverse" or interior corners or as a "return" in an integrated fashion.
- Vinyl, Exterior Insulation Finishing System(EIFS) and tilt-up concrete panels are not allowed.

Roof Design

Acceptable roof types are below.

- Sloping roof with a minimum 2 in 12 slope.
- Gable, Hip, Pyramid Hip, Shed, Mansard, Gambrel or Butterfly
- Flat roof.
- Acceptable roof materials are asphalt shingle, slate roofing, tile roofing(concrete, clay), metal standing seam.

Signage

Sign standards shall be in accordance with the Sec. 17-10-05 (a) and (c.1) of Pueblo Municipal Code.

Trash

The Metro District will work directly with a private trash collection company to establish trash collection protocol for 'Green court residential' products with Private Lanes. Solid waste collection points will be provided within the street right-of-way where dead end alleys or private lanes intersect with public streets. The locations and design will be addressed in the Part 2 phase of the City's Subdivision process.

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Accessory Dwelling Units (ADU)

Accessory Dwelling Units shall be allowed over separated parking garages located along private lanes or alleys. The following guidelines apply.

- Only one Accessory Dwelling Unit is allowed on a same lot as a primary dwelling unit.
- Mobile homes, recreational vehicles, sheds and trailers shall not be used as Accessory Dwelling Unit.
- Accessory Dwelling Units shall be owned and maintained under the same ownership of the primary structure.
- An Accessory Dwelling Unit shall not be sold apart from the primary structure.
- Designed in an architectural style compatible with the primary structure.
- Include a covered stair leading to the unit.
- Minimum of 400 square feet floor area, and living area with a clear ceiling height greater than 4 ft minimum, but where more than half of the space is 7 ft or greater.
- An Accessory Dwelling Units will count as dwelling units for the purpose of determining parking requirements. Parking for ADUs must be provided on the same lot with the primary structure and will not be located in a separate "common" parking lot away from the ADU location.

E. LANDSCAPE DESIGN STANDARDS

Intent

The following standards are intended to establish the framework for a low-water, low-maintenance landscape composed of native and adapted plants which provide year-round color and interest. The landscape design shall adhere to Pueblo Municipal Code unless otherwise noted below.

Streetscape

- Trees shall be 2.5" caliper minimum size spaced at 35' maximum O.C. (or an average of one tree per 35 linear feet)
- Shrubs shall be #3 container minimum size spaced at 5' maximum O.C. (or an average of one shrub per 25 square feet)
- Perennials and Ornamental Grasses shall be #1 container minimum size spaced at 48" maximum O.C. (or an average of one plant per 15 square feet)
- Nonliving Landscape Material such as rock mulch, wood mulch, or gravel shall account for no more than 40% of the required landscape area as measured by the following:
  - 5 gal plants cover 25 square feet
  - 3 gal plants cover 9 square feet
  - 1 gal plants cover 3 square feet

Parking Lots

Planting interior to parking lots shall meet or exceed Pueblo Municipal Code as amended.

Surface parking lots shall be set back a minimum of ten feet from the public right-of-way or property line to provide space for a continuous landscape buffer zone. Parking lots shall be visually screened from the public right-of-way, open space, and adjacent property by one or more of the following methods:

- A continuous landscaped buffer zone consisting of an architectural berm between 18” and 36” high with a maximum slope of 3:1 planted with shrubs or drought tolerant grasses planted at a maximum of 3 feet on center in a triangular pattern.
- A continuous landscaped buffer zone that includes a minimum six-foot wide screening layer consisting of shrubs and grasses planted a maximum of 3 feet on center in a triangular pattern with a mature height of at least 36 inch high. Ornamental, tall grasses may be substituted for up to 30% of the shrubs within the screening layer subject to approval by the DRB.

F. RESIDENTIAL LOT STANDARDS

	Single family Attached/ Rear-loaded[1]	Single family Detached/ Rear-loaded, Shallow lot[1]	Single family Detached/ Rear-loaded, Deep lot[1]	Single family Detached/ Front-loaded[1]	Multi-family Residential
Min. Lot area (square feet)	1,500	2,500	3,100	4,000	n/a
Min. Lot width (feet)	22	35	35	45	n/a
Max. Coverage of Lot (%)[2]	75	60	60	50	n/a
Principal Building Setback (feet) [3]					
Front Yard (min/max) [6]	15/20	15/20	15/20	15/20	15/20
Min. Side Yard	5	5	5	5	20
Min. Rear Yard /from Alley	5	5	5	15	15
Min. Side Yard along a street	10	10	10	10	10
Setback from 24th St.(min/max)	20	20	20	n/a	20
Garage Setback (feet) [3][4]					
Min. Front	n/a	n/a	n/a	20[5]	20
Rear(20' alley/private lane)	5[8]	5[8]	5[8]	n/a	10
Min. Side Yard	5	5	5	5	20
Min. Side Yard along a street	10	10	10	10	10
Max building height (stories)	3 [9]	3 [9]	3 [9]	3 [9]	4 [10]

(1) Conceptual lot layouts of each product type are shown on page 10, Single-family Lot Configurations.
(2) Garage is included in building coverage.
(3) All setbacks shall be measured from property line.
(4) The minimum size for a garage with two parking spaces is 22' wide by 22' depth for all single family homes.
(5) Garage shall be placed minimum of 5' behind principle structure.
(6) 20' setback along the 24th St, and 15' setback for all other neighborhood street.
(7) Front porch is allowed to encroach up to 6' into front setback.
(8) All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.
(9) Single-family detached and single-family attached residences shall have a maximum building height of three stories, not to exceed 30' measured from the grade plane. Refer to 2015 International Fire Code, Section D105.
(10) Multifamily, Commercial, or mixed-use buildings shall have maximum building height of four stories and will need to comply with providing the 26' clear zone adjacent to the building to accommodate fire apparatus. Refer to 2015 International Fire Code, Section D105.

G. BULK STANDARD FOR MIXED-USE RESIDENTIAL OR COMMERCIAL

Max. F.A.R.	0.5
Min. Lot Size	n/a
Min. Lot Depth	n/a
Min. Lot Frontage	n/a
Building Setback (feet)	
Setback from 24th St.	20'
Setback from Sun Mountain Blvd (min/max)[1]	5'/10'
Setback from Park, Plaza or Linear Park (min/max)	0'/10'
Min. Building Height	18'

(1) Amount of setback should be considered in coordination with type of retail space and public realm design to allow potential for outdoor cafe seating or amenity space to create an active streetscape experience.

H. PARKING STANDARDS

Minimum parking requirement	
Townhouse/Paired homes	1.0/du
Single Family Detached	2.0/du
Accessory Dwelling Units (ADU)	1.0/du
Multi-family Residential	1.25/du
Retail	5/1,000 gsf
Restaurant / Bar	6/1,000 gsf
Professional / Medical office	2.5/1,000 gsf
Community Center	5/1,000 gsf

(1) Parking calculations for mixed-use development shall be calculated as the sum of minimum parking requirements for each type of proposed use included in the facility(-ies) being constructed.

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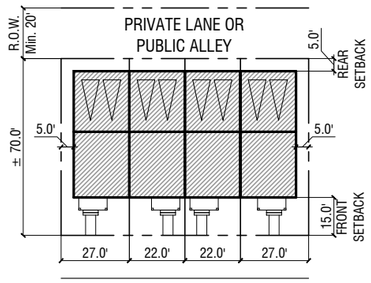
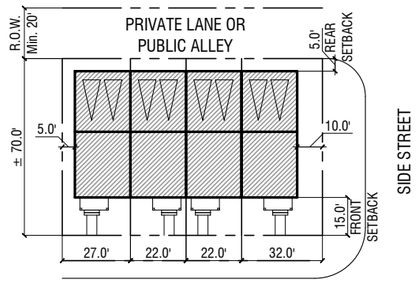
A. SINGLE-FAMILY ATTACHED / REAR-LOADED::

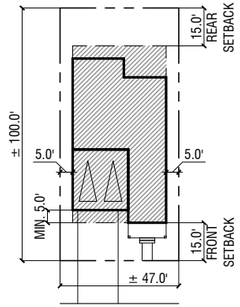


PRIMARY STREET

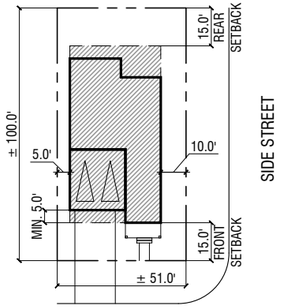


PRIMARY STREET

B. SINGLE-FAMILY DETACHED / FRONT-LOADED::

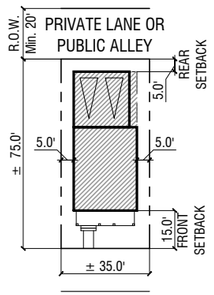


PRIMARY STREET

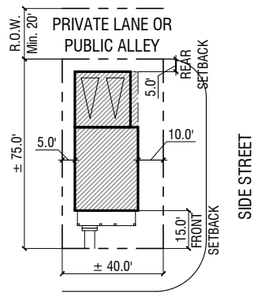


PRIMARY STREET

C. SINGLE-FAMILY DETACHED / REAR-LOADED: SHALLOW LOT::

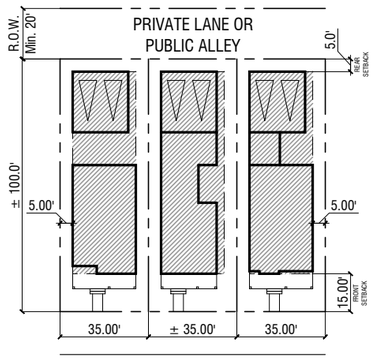


PRIMARY STREET

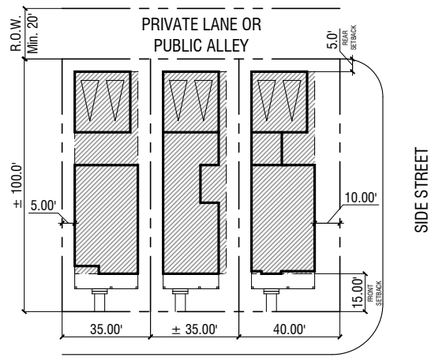


PRIMARY STREET

D. SINGLE-FAMILY DETACHED / REAR-LOADED: DEEP LOT::

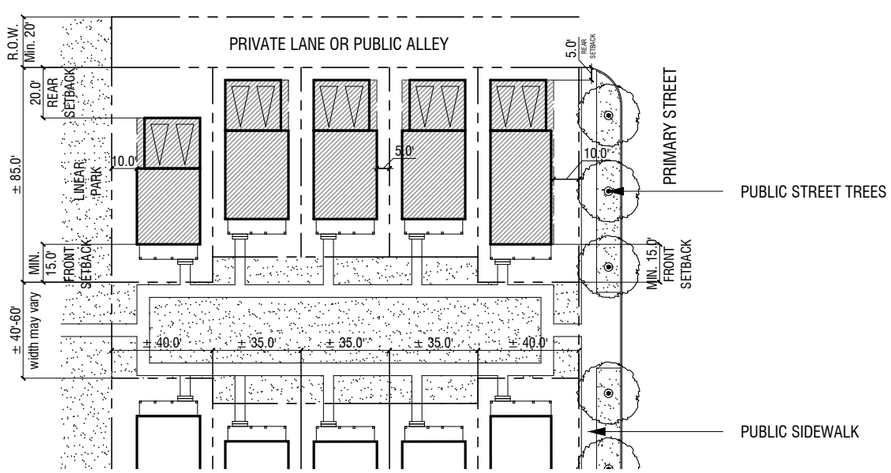


PRIMARY STREET



PRIMARY STREET

E. SINGLE-FAMILY DETACHED / REAR-LOADED: GREEN COURT LOT::



LEGEND ::

- PROPERTY LINE
- CONCEPTUAL CURB LINE
- BUILDABLE AREA
- DETACHED/ATTACHED GARAGE SPACE

NOTE ::

1. Lot configurations represent minimum lot sizes.
2. Front porch is allowed to encroach up to 6' into front setback.
3. The minimum size for a garage with two parking spaces is 22' wide by 22' depth for all single family homes.
4. Building footprints shown are diagrammatic.
5. All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.

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TITLE: SINGLE-FAMILY LOT CONFIGURATIONS		
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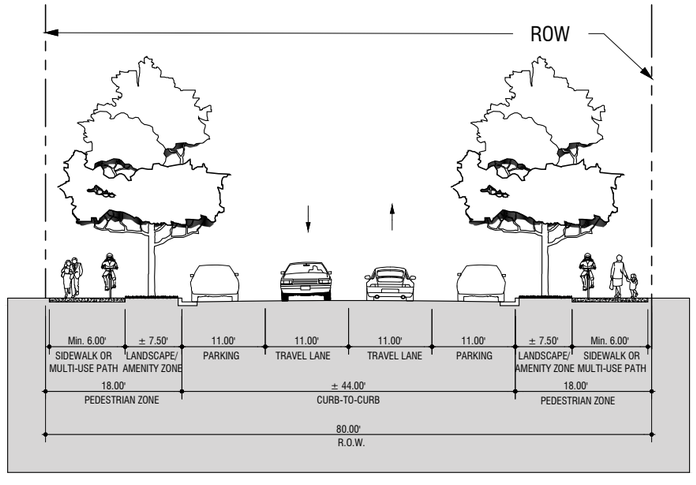
A. SUN MOUNTAIN BLVD ::

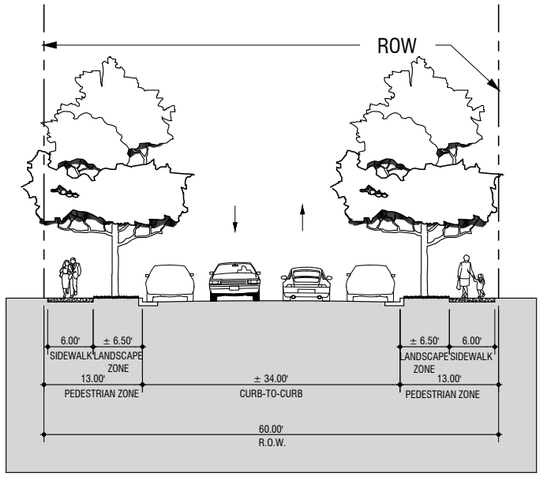
Land Use	Mixed-use, Single-family attached
Function	Designed as a seam through neighborhoods that prioritizes connectivity over throughput.
Speed Limits	25 to 35 mph
Roadway Width	44'
ROW	80'
On-street Parking	On-street parking both sides of street
Off-street Parking	Adjacent properties must comply with zone district regulations
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 1,320' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Rear-loaded single family residences can face Sun Mountain Blvd. Driveway access to individual residential lots are not permitted. When additional space is needed to accommodate additional travel or turn lanes, on-street parking may be prohibited. Sun Mountain Blvd cannot dead end and must intersect with other roadways.



Two travel lanes / On-street parking on both sides of street / Multi-use path on both sides
Curb extensions allowed at pedestrian crossing in lieu of on-street parking at intersections.
*see note 1 on this sheet.

B. NEIGHBORHOOD LOCAL STREET ::

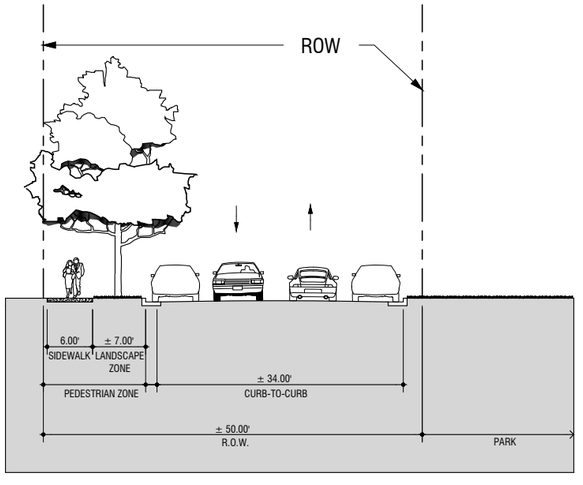
Land Use	Residential
Function	Access to and through residential areas
Speed Limits	20 to 25 mph
Roadway Width	34'
ROW	60'
On-street Parking	On-street parking both sides of street
Off-street Parking	2 spaces per platted lot
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 660' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Street may dead end in a cul-de-sac (maximum cul-de-sac length is 660').



Two travel lanes / On-street parking on both sides of street
*see note 1 on this sheet.

C. NEIGHBORHOOD PARK STREET ::

Land Use	Residential
Function	Access to and through residential areas
Speed Limits	20 to 25 mph
Roadway Width	34'
ROW	60'
On-street Parking	On-street parking both sides of street
Off-street Parking	2 spaces per platted lot
Sidewalk	6' minimum detached sidewalk
Curb	Vertical curb
Road Segment Length	125' minimum, 660' maximum
Emergency Access	Must retain min. 20' wide clearance for fire access. Min. 26' wide clearance shall be required where adjacent buildings' height are greater than 30' per 2015 IFC, Section 105D.
Allowable Design	Street may dead end in a cul-de-sac (maximum cul-de-sac length is 660'). Neighborhood Park street to provide sidewalk and landscape zone on one side of street opposite of a park.



Two travel lanes / On-street parking on both sides of street
*see notes 1 and 2 on this sheet.

NOTES ::

1. All street sections are conceptual. Final design and lane configuration will be determined during the Part 2 phase of the City's Subdivision process.
2. A 50' park street is only allowed adjacent to a linear park. A combined sidewalk/multi-use trail will be located within the park tract in lieu of sidewalk along the street. ADA access to be provided that connects intersection curb ramps to multi-use trail.

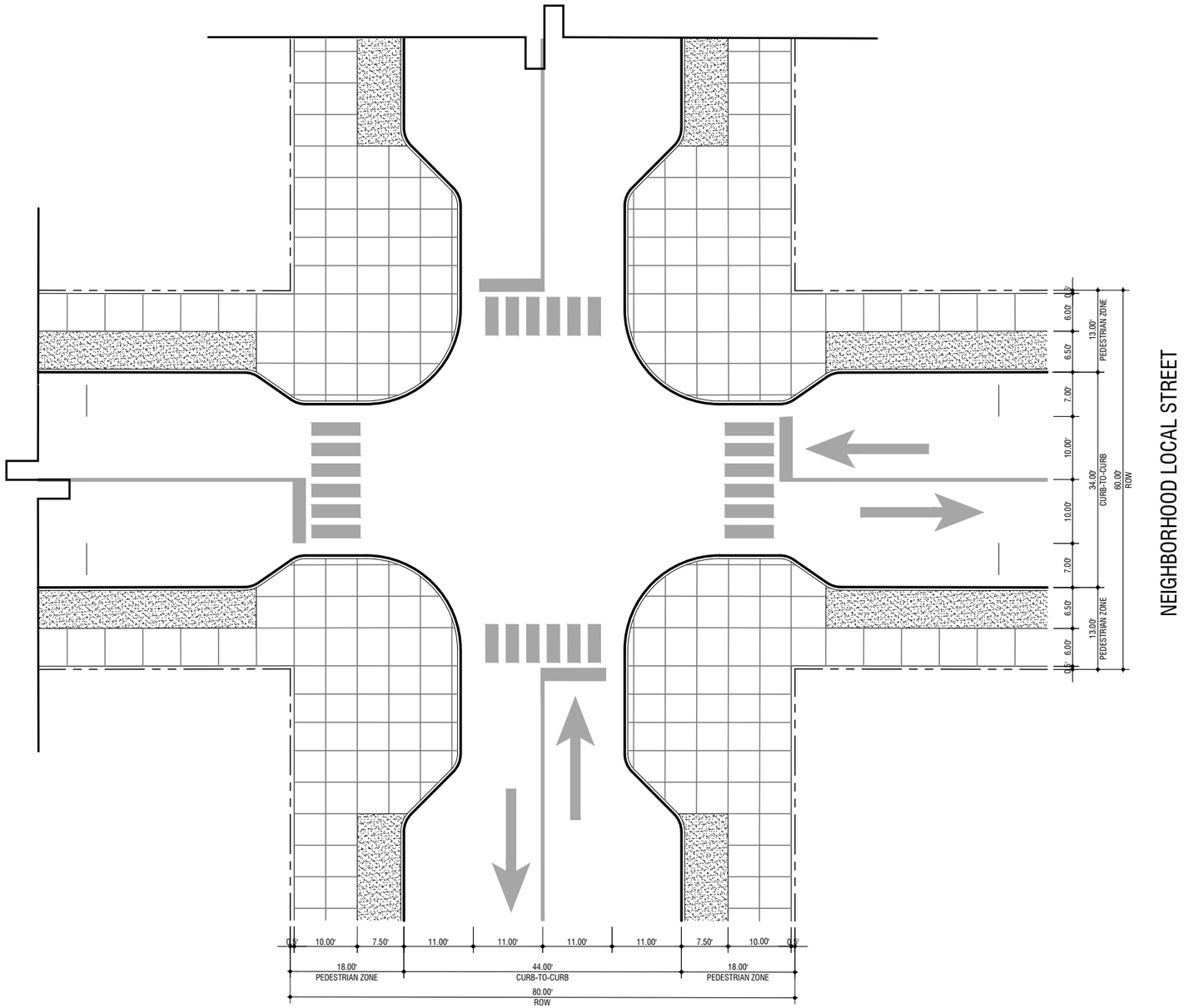
CIVITAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: STREET SECTIONS / DESIGN STANDARDS
SCALE: 1"=20'
DRAWN BY: S.C.
PAGE 11 OF 13
DATE: 3-14-22
CHECKED BY: C.W.P.
JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

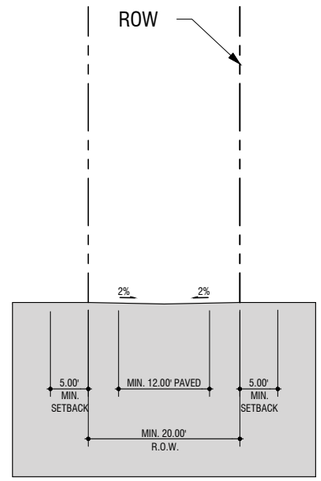
1st submittal:	September 7, 2021
2nd submittal:	November 30, 2021
3rd submittal:	December 23, 2021
4th submittal:	February 14, 2022
5th submittal:	March 14, 2022



SUN MOUNTAIN BLVD

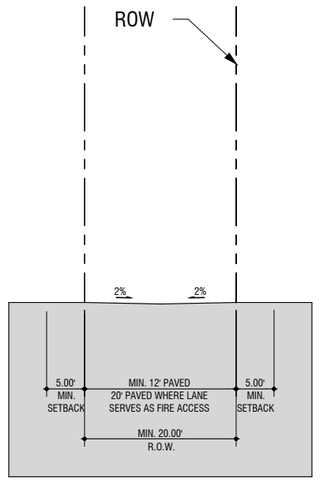
D. CONCEPTUAL SUN MOUNTAIN BLVD AND LOCAL STREET INTERSECTION::

Two travel lanes / On-street parking on both sides of street / Multi-use path on both sides
*see note 1 on this sheet.



E. PUBLIC ALLEY::

*see note 1 on this sheet.



F. PRIVATE LANE::

*see notes 1 on this sheet.

NOTES ::

1. All street sections are conceptual. Final design and lane configuration will be determined during the Part 2 phase of the City's Subdivision process.
2. All lots adjacent to the dead end of an alley or private lane must provide a 20' rear-yard setback for all structures on the lot.

CIVITAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: STREET SECTIONS / INTERSECTION		
SCALE: 1"=20'	DRAWN BY: S.C.	PAGE 12 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

PIKES PEAK PARK PLANNED UNIT DEVELOPMENT

CITY OF PUEBLO, STATE OF COLORADO

1st submittal: September 7, 2021
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Barbara Huber
Fire Chief

Chris Harner
Deputy Fire Chief

Fire Inspectors
Erik Duran
Paul Haley

city of PUEBLO colorado

Fire Department

1551 Bonforte Blvd.
Pueblo, CO 81001
Phone (719) 553-2830
www.pueblo.us/fire

January 14, 2022

Chris Parezo
Principal
Civitas, Inc.
1200 Bannock Street
Denver, CO 80204

RE: Request for Variance to Table D103.4 Requirements for Dead-End Fire Apparatus Access Roads, associated with Pikes Peak Park PUD. [Application Number: Z-21-16]

To Whom it may concern,

A written document and site plan exhibit have been received from Civitas, Inc., dated January 10, 2022. It requests that the Pueblo Fire Department grant a variance of the International Fire Code requirements, as adopted by the Pueblo Municipal Code. Specifically, a variance to not provide the required turnaround options for dead-end access roads that are greater than 150 feet in length for this development.

2015 IFC - Appendix D

D103.4 Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.

TABLE D103.4
REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0-150	20	None required
151-500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501-750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750		Special approval required

For SI: 1 foot = 304.8 mm.

The Pueblo Fire Department has taken the above indicated documents into consideration as well as the site development, building construction, and proposed occupancy therein. It has been decided to approve the submitted plan and request for variance with the following conditions:

(1) Approval for eliminating the required turnaround options for fire apparatus access roads exceeding 150 feet will only occur this one instance for this development. Specifically, the following roadways:

- Fire apparatus access road [Parcel "E"] for Blocks 7 & 8 exceeds 150 ft (approx. 180 ft)

Barbara Huber
Fire Chief

Chris Harner
Deputy Fire Chief

Fire Inspectors
Erik Duran
Paul Haley

city of PUEBLO colorado

Fire Department

1551 Bonforte Blvd.
Pueblo, CO 81001
Phone (719) 553-2830
www.pueblo.us/fire

- Fire apparatus access road [Parcel "G"] for Blocks 9 & 10 exceeds 150 ft (approx. 80 ft)
- Fire apparatus access road [Parcel "K"] for Blocks 14 & 15 exceeds 150 ft (approx. 190 ft)

(2) Any future plan submittals for this development shall include roadways designed to meet the requirements within *Appendix D: Fire Apparatus Access Roads* of the International Fire Code (2015 edition or newer) as written and adopted.

Sincerely,

Barbara Huber

Fire Chief
Pueblo City Fire Department

CIVI TAS

January 10, 2022

Barbara Huber
Fire Chief
Pueblo Fire Department

Re: **Exhibit for Fire Access / Public Alley**
Application Number: Z-21-16

Dear Ms. Huber,

Thank you again for you and your team's time discussing the vision for Pikes Peak Park and taking the time to educate our team about your specific needs regarding fire access and safety. One of our priorities is to create an affordable and inclusive neighborhood that prioritizes the health and wellbeing of residents. Fire safety and access is paramount to this goal.

Our design has several 'Green-Courts' which involve clustering small lot single family homes around a common 'green-court' or small park. As such, these homes to not front traditional public rights-of-way or streets. Garages are located at the rear of the home and accessed by a public alley. We believe that the access turn around required by D103.4 for fire access lanes greater than 150' will negatively impact our public park design and add additional costs to these affordable homes.

We are writing to request a variance to Table D103.4 Requirements for Dead-End Fire Apparatus Access Roads. Specifically, we are requesting a variance for the required turnaround for dead-end access roads that are greater than 150'. We believe we have developed creative solutions that will fulfil Pueblo Fire Departments' access requirements while maintaining the overarching design intent for the Pikes Peak Park Neighborhood. These design elements are as follows.

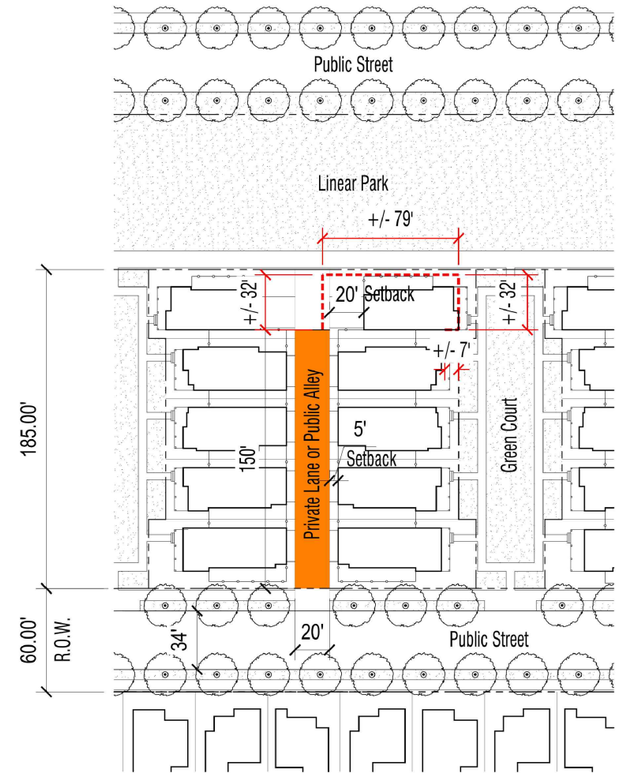
- Structures that do not front on a traditional public right-of-way or street will be serviced by a 20' wide paved public alley which will also serve as a fire access lane for the first 150' of the alley.
- Garages will be set-back 5' from the edge of the alley/fire access lane.
- All points of the structure on the last lot at the end of the 150' fire access lane will be reachable within the required 150' hose pull length.
- Fire hydrants will be located within 400' of the last structure, along the fire access route.

Please see the Fire Access Exhibit attached that diagrams the points above.
We appreciate your willingness to review this variance request.
Please feel free to reach out with any further questions.

Sincerely,

Chris Parezo
Principal

303.571.0053
CIVITASINC.COM
1200 BANNOCK ST.
DENVER, CO



- Total hose pull length: +/- 150' from private lane or public alley.

PIKES PEAK PARK | Fire Access Exhibit

N

1/10/2022

CIVI TAS

CIVI TAS
1200 Bannock St.
Denver, CO 80204
Tel. 303 571.0053
Fax 303 425.0438

TITLE: VARIANCES		
SCALE:	DRAWN BY: S.C.	PAGE 13 OF 13
DATE: 3-14-22	CHECKED BY: C.W.P.	JOB NO. 2-20-32

December 27, 2021

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Ashleigh Winans, NeighborWorks of Southern Colorado** for approval of the following application:

Z-21-16 Rezoning: Pikes Peak Park PUD: proposal to rezone 75 acres generally located North of 24th St., west of Wildhorse Creek and east of Pueblo Blvd. to PUD allowing mixed-use residential and commercial development.

The Planning and Zoning Commission meeting will be held on January 12, 2022, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). 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 contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

December 27, 2021

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER Z-21-16

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the proposed Zoning Map Amendment of the property located at PIKES PEAK PARK PUD 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 Zoning Map Amendment 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.

2-18-22
_____
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Zoning Map Amendment of the property located at PIKES PEAK PARK PUD, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

____2-18-221_____
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Ow	OwnerZip
LISCOTT CUSTOM HOMES LTD	1160 CAPRICE DR STE A	CASTLE RO	CO	80109-1501
NEIGHBORHOOD HOUSING SERVICES OF PUEB	1241 E ROUTT AVE	PUEBLO	CO	81004-2908
SKWAREK FRANK JOHN + SIU PING	13195 HIGHLINE DR	COLORADC	CO	80908-3331
SANTISTEVAN CARYN ROSANN + BILLINGS BR	1433 TORCHEY WAY	PUEBLO	CO	81006-9758
NORTH PUEBLO BOULEVARD LLC + C/O BASSI I	2046 LAKE AVE	PUEBLO	CO	81004-3536
PINELLE JAMES P + SHIRLEY A + PINELLE JACK	2205 CLIFF LOMBARD ST	PUEBLO	CO	81003-3877
VILLALOBOS CORRAL URIEL	2221 NEWPORT AVE	PUEBLO	CO	81003-3811
ANDERSON JASON MICHAEL + ANDERSON DE	2307 SUNBURST CT	PUEBLO	CO	81003-3848
BARNES JAMES ALLEN	2308 CANYON RIVER CT	PUEBLO	CO	81003-3847
MONTOYA YVONNE M	2308 NEWPORT AVE	PUEBLO	CO	81003-3840
ALLISON AMY J + MICHAEL T	2308 PERRY AVE	PUEBLO	CO	81003-3845
TSOSIE SHIRLEY J	2309 CANYON RIVER CT	PUEBLO	CO	81003-3847
TURPEN LINDA L	2309 NEWPORT AVE	PUEBLO	CO	81003-3850
PAYNE WILLIAM S / PAYNE JANET S	2309 PERRY AVE	PUEBLO	CO	81003-3849
LAWSON MARY E	2310 CANYON RIVER CT	PUEBLO	CO	81003
ORTEGA CRUZ C + ANN M	2310 NEWPORT AVE	PUEBLO	CO	81003-3840
KIRKMAN GERTIE	2311 CANYON RIVER CT	PUEBLO	CO	81003-3847
DEHERRERA ROBERT + PATRICIA A	2311 MOUNTAIN VALLEY	PUEBLO	CO	81003-3844
KNABE WAYNE L	2311 NEWPORT AVE	PUEBLO	CO	81003-3850
TREFETHEN ROBERT A + TREFETHEN CYNTHIA	2311 SUNBURST CT	PUEBLO	CO	81003-3848
GILMORE MALIA ASHLEY	2312 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
STONE ROBYN K	2312 NEWPORT AVE	PUEBLO	CO	81003-3840
EVANS JAMES W + JACQUELINE M	2312 SUNBURST CT	PUEBLO	CO	81003-3848
ORR MICHAEL	2313 PERRY AVE	PUEBLO	CO	81003-3849
ROGERS KENNETH WADE	2314 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
HARRISON ROBERT L + SUSAN E	2318 MOUNTAIN VALLEY	PUEBLO	CO	81003
HAMILTON FRANK R	2319 MOUNTAIN VALLEY	PUEBLO	CO	81003-3844
DEVE HEATHER M + JACKSON JEFFREY A	2320 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
TREECE JOHN	2321 MOUNTAIN VALLEY	PUEBLO	CO	81003-3844
HANLEY NATHAN	2322 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
CUYPERS MICHEL + CUYPERS JUDITH	2324 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
MARSHALL AMANDA M	2325 MOUNTAIN VALLEY	PUEBLO	CO	81003-3844
TORRES ROBERT	2326 MOUNTAIN VALLEY	PUEBLO	CO	81003-3841
GARCIA MOLLY A	2409 CLIFFMOOR LN	PUEBLO	CO	81008-2353
PORTER LARRY W + NORAH E	2831 TEMPLE LN	PUEBLO	CO	81003-1061
SUAZO GLORIA	364 W PIN HIGH DR	PUEBLO W	CO	81007-6042
C M H HOMES INC	3912 N FREEWAY RD	PUEBLO	CO	81008-9615
BAMBER EMMA RUBERSON TR, WILLIAMS RU	4016 RIDGE DR	PUEBLO	CO	81008-1720
BATEMAN TERRIE L	4150 COUNTY LN 17	ORDWAY	CO	81063-9720
CMH HOMES INC	5000 CLAYTON RD	MARYVILLE	TN	37804-5550
REGALADO PATRICK	903 E B ST	PUEBLO	CO	81003-3507
MCKINNEY ROSE MARY	909 W PITKIN AVE	PUEBLO	CO	81004-1142
ELENGA MERLE / HANCHANA NUCHANART	999 FORTINO BLVD LOT	PUEBLO	CO	81008-2070
GUTTNER MICHELLE	PO BOX 11135	PUEBLO	CO	81001-0135
CITY OF PUEBLO A MUNICIPAL CORPORATION	PO BOX 1427	PUEBLO	CO	81002-1427
SOCO ENTERPRISES LLC	PO BOX 18132	COLORADC	CO	80935-8132

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE VACATING STREETS AND EASEMENTS IN THE FOOTHILLS SUBDIVISION, A SPECIAL AREA PLAN AND PORTIONS OF OAKLAND BOULEVARD, COLUMBIA AVENUE, EMERSON AVENUE AND THE ENTIRE ALLEY IN BLOCK 11, IRVING PARK SUBDIVISION

SUMMARY:

The applicant is requesting to vacate all of the streets and easements in the Foothills Subdivision, A Special Area Plan, and to vacate a portion of Oakland Boulevard, Columbia Avenue, Emerson Avenue and the entire alley in Block 11, Irving Park Subdivision.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to rezone the area to Pikes Peak Park PUD and is also requesting to resubdivide the property for future development sites.

BACKGROUND:

The applicant is requesting to vacate all the streets and easements in the Foothills Subdivision, A Special Area Plan, which was subdivided in 2000. The purpose of the street and easement vacation within the Foothills Subdivision is to facilitate the Pikes Peak Park, Filing No. 1 Subdivision. Vacation of a portion of Oakland Boulevard, Columbia Avenue, Emerson Avenue, and the entire alley in Block 11, Irving Park Subdivision, which is located directly east of the Foothills subdivision, is necessary to accommodate stormwater drainage and infrastructure for the Pikes Peak Park, Filing No. 1 Subdivision. None of the streets proposed to be vacated have been improved or utilized as right-of-way by the public. None of the easements proposed to be vacated contain public utilities.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 23, 2022, Public Hearing, voted 6 to 0 recommend approval. (Commission Aznar absent)

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.

A Public Notice poster was placed on the subject property 15 days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, the streets and easements will remain and will impede the applicant's ability to develop the property.

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:
Proposed Ordinance
Minutes of the Planning and Zoning Commission March 23, 2022 Public Hearing
Memorandum from the Department of Public Works Dated March 29, 2022
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. 10164

ORDINANCE VACATING STREETS AND EASEMENTS IN THE FOOTHILLS SUBDIVISION, A SPECIAL AREA PLAN AND PORTIONS OF OAKLAND BOULEVARD, COLUMBIA AVENUE, EMERSON AVENUE AND THE ENTIRE ALLEY IN BLOCK 11, IRVING PARK SUBDIVISION

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

SECTION 1.

The following described streets and easements:

All of the public and private street right-of-way being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.
and
All of the public and private street right-of-way being in Irving Park Subdivision blocks 10 and 11.

All of the 9' Drainage Easement, 10' Drainage Easement, 20' Drainage Easement, Drainage Easement, Truck Turning Easement, 1' Sidewalk Easement, 10' Water Line Easement, 10' Sanitary Sewer Easement, and Private Sanitary Sewer Easement, being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.

are hereby vacated.

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 be approved but shall not become effective until the final vacation plat is recorded in the office of the Pueblo County Clerk and Recorder. If the vacation plat is not recorded within one (1) year after of this Ordinance, or within any extended period granted by Ordinance 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 applicant. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022.

☐ 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.

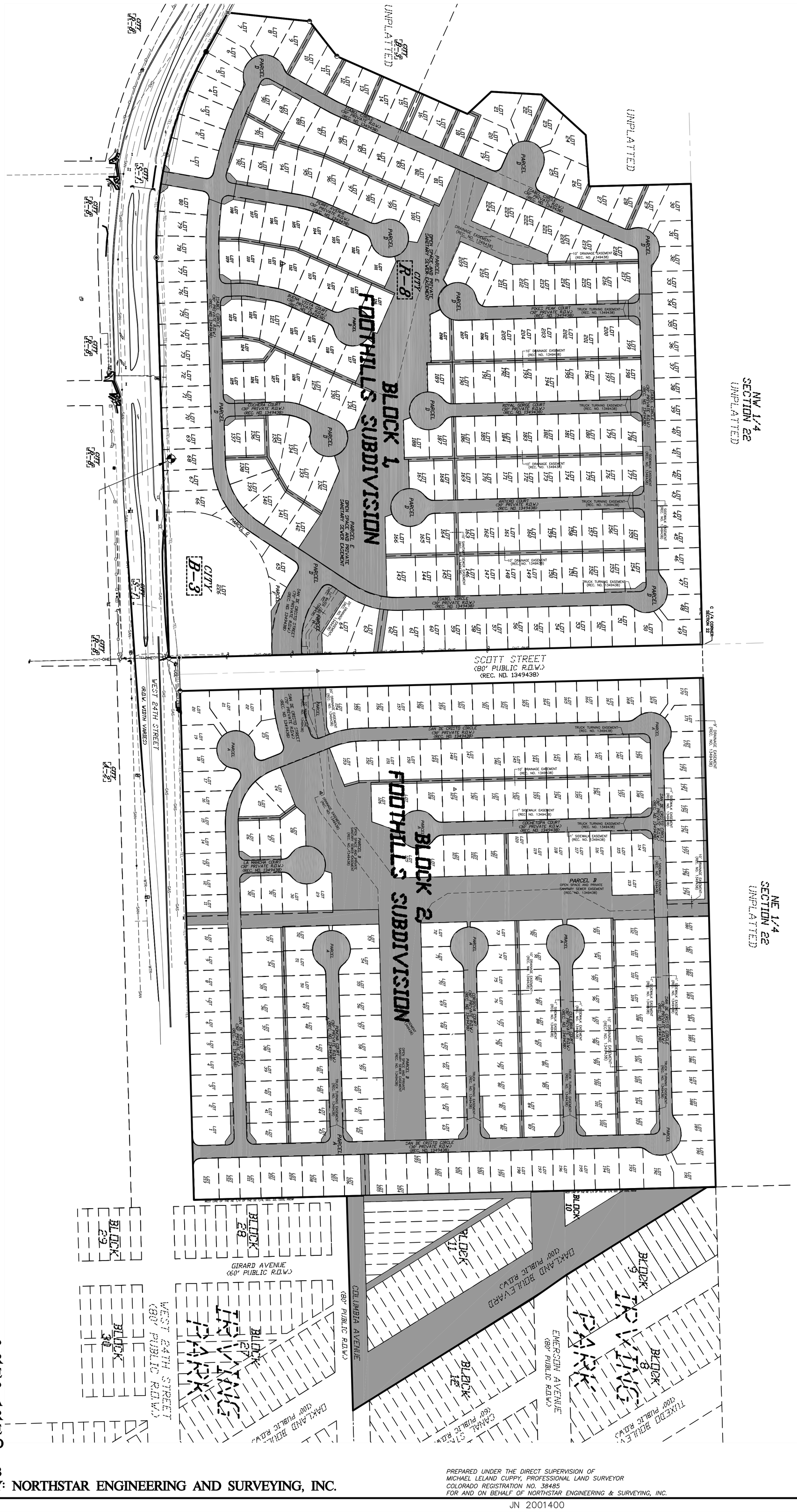
_____
President of City Council

ATTEST

_____
City Clerk

FOOTHILLS SUBDIVISION
STREET AND EASEMENT VACATION

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



SCALE: 1" = 120'

0 60' 120' 240'

LEGEND

= PROPOSED VACATION

EASEMENT VACATION DESCRIPTION:

All of the 9' Drainage Easement, 10' Drainage Easement, 20' Drainage Easement, Drainage Easement, Truck Turning Easement, 1' Sidewalk Easement, 10' Water Line Easement, 10' Sanitary Sewer Easement, and Private Sanitary Sewer Easement, being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.

STREET VACATION DESCRIPTION:

All of the public and private street right-of-way being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.
And
All of the public and private street right-of-way being in Irving Park Subdivision blocks 10 and 11

RESERVATIONS:

NONE

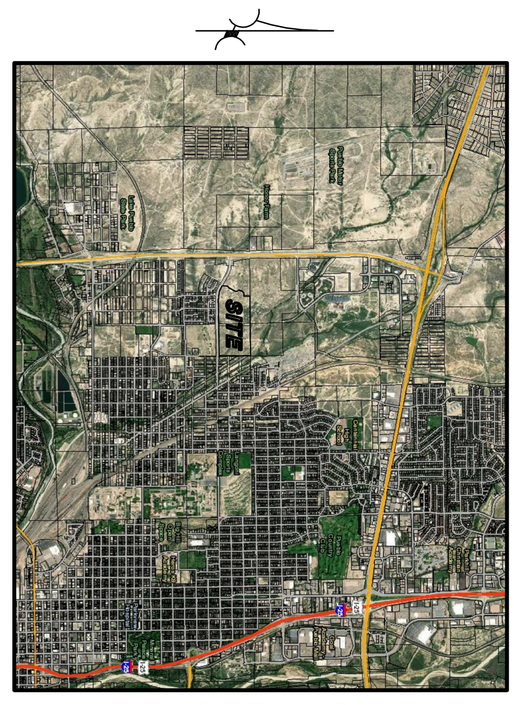
PURPOSE:

Resubdivision

PREPARED BY:

NorthStar Engineering and Surveying, Inc.
111 E. 5TH STREET
PUEBLO, COLORADO, 81003

BY: _____
Michael L. Cuppy
Colorado Registered Professional
Land Surveyor No. 38485
For and on Behalf of NorthStar Engineering and Surveying, Inc.



VICINITY MAP
NOT TO SCALE

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY, PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 38485
FOR AND ON BEHALF OF NORTHSTAR ENGINEERING & SURVEYING, INC.

JN 2001400

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

v

MINUTES OF PLANNING AND ZONING COMMISSION PUBLIC HEARING AND WORKSESSION

City of Pueblo, Colorado
Wednesday, March 23, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:39 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: Alexandra Aznar

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Danielle Baxter, Planner; Andrew Hayes, Public Works Director, Melanie Turner, Transportation Engineer.

APPROVAL OF AGENDA

A Motion was made by Spinuzzi to approve the agenda, Seconded by Bailey.

Motion passed 6-0, Aznar Absent

PUBLIC MEETING AND ACTION

Regular Agenda

1b. V-21-04 Foothills Subdivision Street and Easement Vacation

Staff report Beritt Odom, Principal Planner

BACKGROUND:

The applicant is requesting to vacate all the streets and easements in the Foothills Subdivision, A Special Area Plan, which was subdivided in 2000. The purpose of the Foothills Street and easement vacation is to facilitate the Pikes Peak Park, Filing No. 1 Subdivision. Vacation of a portion of Oakland Blvd., Columbia Ave., Emerson Ave., and the entire alley in Block 11, Irving Park Subdivision, which is located directly east of the Foothills subdivision, is necessary to accommodate stormwater drainage and infrastructure for the Pikes Peak Park, Filing No. 1 Subdivision. None of the streets proposed to be vacated have been improved or utilized as right-of-way by the public. None of the easements proposed to be vacated contain public utilities.

Recommended Action:

The Subdivision Review Committee recommends that the Street and Easement Vacation be recommended for **APPROVAL.**

HEARING

Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants stated that they did not have additional testimony regarding the vacation request.

COMMISSION ACTION:

Motion to approve V-21-04 with staff conditions made by Bailey, second by Spinuzzi.

MOTION PASSED: 6-0 (Aznar Absent)

city of PUEBLO colorado

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: V-21-04 Foothills Subdivision, Street and Easement Vacation
S-21-12 Pikes Peak Park, Filing No. 1

DATE: March 29, 2022

Please place the above referenced submittals on the City Council Agenda.

Per our meeting with Mike Cuppy this morning, we are allowing this be placed on the agenda prior to mylars being submitted. In the event mylars are not submitted as soon as practical, the agenda items will be pulled from council agenda.

Also, please note that this vacation & plat will not be recorded until the signed offsite easement, for construction of Sawatch Way, is submitted as part of the Part II requirements.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

V-21-04

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Beritt Odom, Principal Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	March 23, 2022
SUBJECT:	Foothills Subdivision Street and Easement Vacation
APPLICANT:	Ashleigh Winans, NeighborWorks Southern Colorado Drew Brice, NorthStar Engineering
OWNER:	Ashleigh Winans, NeighborWorks Southern Colorado
LOCATION:	Generally located north of W. 24th Street and east of N. Pueblo Blvd.
CONCURRENT REQUESTS:	Z-21-16, Rezoning, Pikes Peak Park PUD S-21-12 Pikes Peak Park, Filing No. 1

Request:
Vacation of all streets and easements in the Foothills Subdivision, A Special Area Plan; and a vacation of a portion of Oakland Blvd., Columbia Ave., Emerson Ave., and the entire alley in Block 11, Irving Park Subdivision.

Staff review and findings:
The applicant is requesting to vacate all the streets and easements in the Foothills Subdivision, A Special Area Plan, which was subdivided in 2000. The purpose of the Foothills street and easement vacation is to facilitate the Pikes Peak Park, Filing No. 1 Subdivision. Vacation of a portion of Oakland Blvd., Columbia Ave., Emerson Ave., and the entire alley in Block 11, Irving Park Subdivision, which is located directly east of the Foothills subdivision, is necessary to accommodate stormwater drainage and infrastructure for the Pikes Peak Park, Filing No. 1 Subdivision. None of the streets proposed to be vacated have been improved or utilized as right-of-way by the public. None of the easements proposed to be vacated contain public utilities.

Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:
The Subdivision Review Committee recommends that the Street and Easement Vacation be recommended for APPROVAL.

PUBLIC WORKS AND ENGINEERING COMMENTS

- **None**

WASTEWATER

- **None**

STORMWATER

- **None**

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

- **None**

TRANSPORTATION COMMENTS

- **None**

PARKS AND RECREATION COMMENTS

- **None**

REGIONAL BUILDING COMMENTS

- **None**

BOARD OF WATER WORKS COMMENTS

- **None**

COLORADO DEPARTMENT OF TRANSPORTATION COMMENTS

- **None**

COMCAST COMMENTS

- **None**

EXCEL ENERGY COMMENTS

- **None**

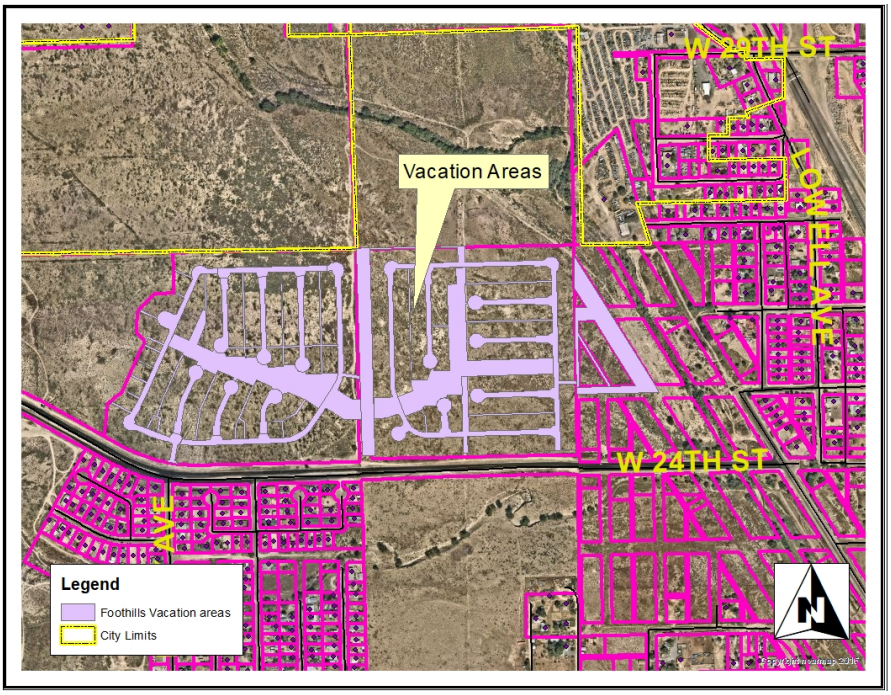
QWEST COMMENTS

- **None**

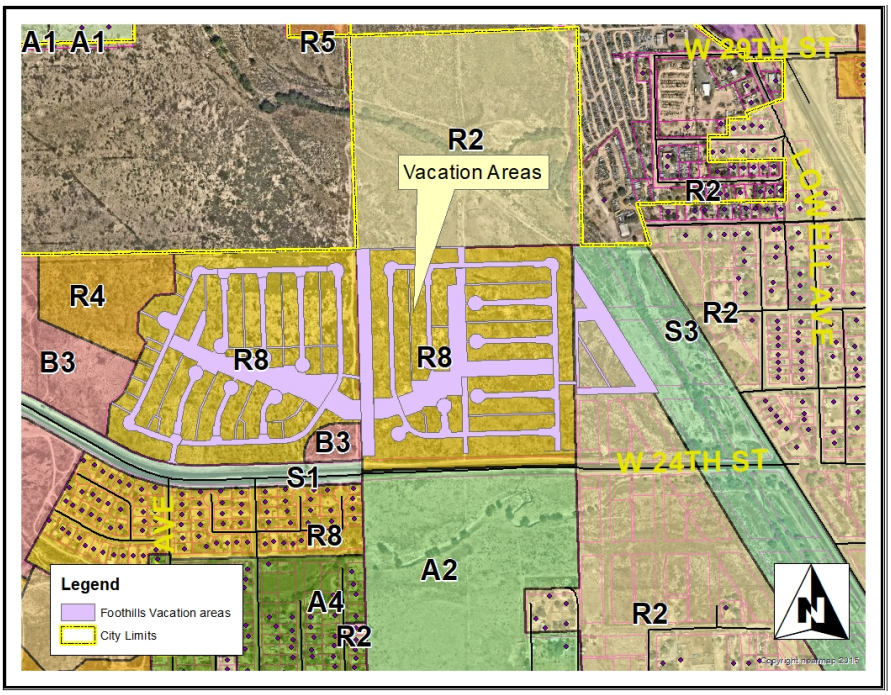
ATTACHMENTS:

A. Aerial Map
B. Zoning Map
C. Site Photographs
D. SRC Memo, March 17, 2022
E. Vacation Plat
F. Vacation Application

ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map

Attachment D. Site Photos



Public Notice Poster


Pikes Peak Park looking north from W. 24th Street



Looking north from S. Portland Ave.

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation

city of PUEBLO colorado
Subdivision Review Committee

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 17, 2022

Subject: V-21-04 Foothills Street and Easement Vacation and S-21-12 Pikes Peak Park, Filing No. 1

V-21-04 Foothills Street and Easement Vacation:
The subdivision review committee recommends that the street and easement vacation be recommended to City Council for approval.

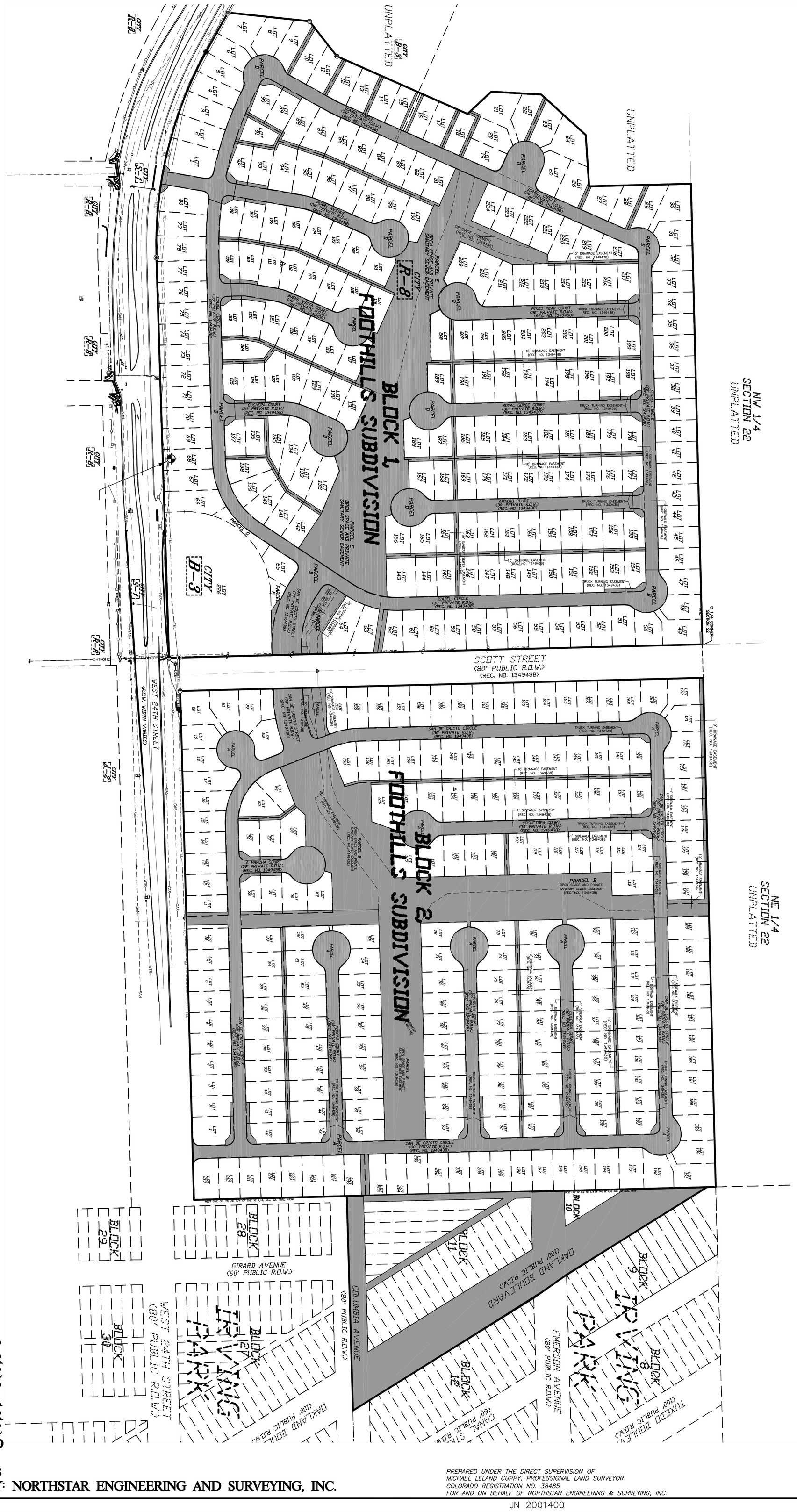
S-21-12 Pikes Peak Park, Filing No. 1:
The subdivision review committee recommends that the Planning and Zoning Commission recommend approval to City Council with the following conditions:

1. Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes, the plat must be amended to dedicate the parcels as “Private Lane” not “Private Alley,” to insure adequate drive width for residents and emergency services.
2. Dedication of Parcel D must be amended to either a “Public Alley” or “Private Lane.”
3. Dedication of Parcels B and C must be amended to either a “Public Alley” or “Private Lane.”
4. Amend the Stormwater Facility Maintenance Agreement, as noted in the “redlined” draft agreement and memorandum from John Sakariason, Stormwater Coordinator, March 16, 2022.
5. Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.

All conditions must be satisfied prior to City Council review.

FOOTHILLS SUBDIVISION
STREET AND EASEMENT VACATION

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



SCALE: 1" = 120'

0 60' 120' 240'

LEGEND

= PROPOSED VACATION

EASEMENT VACATION DESCRIPTION:

All of the 9' Drainage Easement, 10' Drainage Easement, 20' Drainage Easement, Drainage Easement, Truck Turning Easement, 1' Sidewalk Easement, 10' Water Line Easement, 10' Sanitary Sewer Easement, and Private Sanitary Sewer Easement, being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.

STREET VACATION DESCRIPTION:

All of the public and private street right-of-way being in Foothills Subdivision according to the recorded plat thereof as filed for record at Reception No. 1349348 in the Pueblo County Records.
And
All of the public and private street right-of-way being in Irving Park Subdivision blocks 10 and 11

RESERVATIONS:

NONE

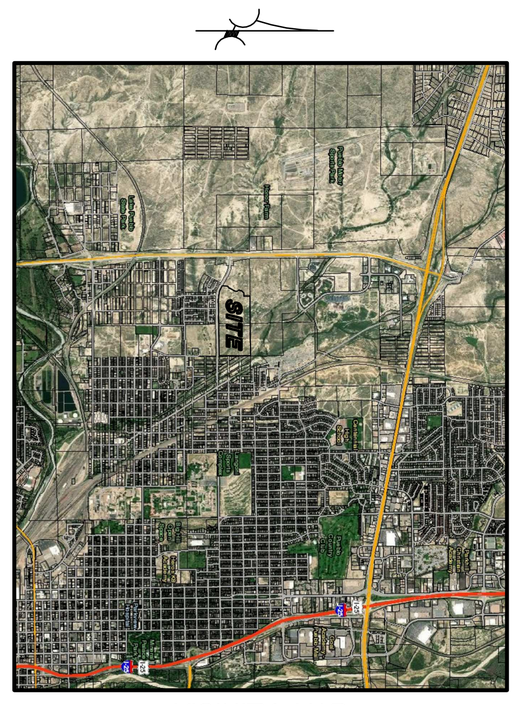
PURPOSE:

Resubdivision

PREPARED BY:

NorthStar Engineering and Surveying, Inc.
111 E. 5TH STREET
PUEBLO, COLORADO, 81003

BY: _____
Michael L. Cuppy
Colorado Registered Professional
Land Surveyor No. 38485
For and on Behalf of NorthStar Engineering and Surveying, Inc.



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COLORADO REGISTRATION NO. 38485
FOR AND ON BEHALF OF NORTHSTAR ENGINEERING & SURVEYING, INC.

JN 2001400

city of PUEBLO colorado

Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Planning & Zoning Application

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Contact Info

Property Owner		**Applicant**	
Name: Ashleigh Winans		Name: SAME AS OWNER	
Company NeighborWorks Southern Colorado		Company:	
Address: 1241 E Routt Ave, Pueblo, CO	Zip: 81004	Address:	Zip:
Phone: (719) 544-8078		Phone: ( )	
Email: awinans@nwsoco.org		Email:	
Engineer		**Surveyor**	
Name: Drew Brice		Name: SAME AS ENGINEER	
Company: NORTHSTAR ENGINEERING		Company:	
Address: 111 E. 5TH ST	Zip: 81003	Address:	Zip:
Phone: (719) 544-6823		Phone: ( )	
Email: DBRICE@NORTHSTAR-CO.COM		Email:	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location: North of 24th st, West of Wildhorse Creek and East of Pueblo Blvd.
(address or general description)

Parcel No(s): 0522430217, 522310230

Existing Zone: PUD | Proposed Zone (if applicable):

PUD Name (if applicable): PIKE PEAKS PARK

Project Scope

Project Name: Pikes Peak Park, Filing No. 1

- ☐ Rearrangement of Property Boundaries:
  - # of existing lots: _____ Total acres: _____
- ☐ Overall Development Plan
- ☐ Site Plan Review: Building area: _____ sf
  - ○ HARP ○ Development Plan ○ PUD ○ Student Housing
- ☐ Special Area Plan
- ☐ Street Name Change: Existing Name: _____ Proposed Name: _____
- ☐ Subdivision: # of lots: _____ Total acres: _____
- ☐ Text Amendment
- ☒ Vacation: ☒ Street ○ Alley ☒ Easement ○ Other: _____
- ☐ Other: _____

(Continue Next Page)

(Continued from previous page)

Project Information

Provide a brief description of the proposed request:
Vacate all roads and easements in the Foothills Subdivision.

What is the total acreage included in the project? 73.925

What is the proposed use of the property?

☒ Commercial ☒ Multi-family ☒ Residential ☐ Industrial ☐ Other

Are there any other pending or recently approved Land Use applications regarding this property? ☒ Yes ☐ No

If yes, please list: Rezone to PUD (Pikes Peak Park), Pikes Peak Park, Filing No. 1 Subdivsion

Attachments

Attachment Checklist

The following list of attachments are required to accompany all applications:

- ☐ A. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted.
- ☐ B. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us)
- ☐ C. Additional information as required by the **P&Z Submittal Requirements Sheet.**

Terms

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.
2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.
5. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.

Signatures

Property Owner

Print Name:	Ashleigh Winans	
Signature:	Ashleigh Winans	Date: 12/7/2021

Applicant, if different from Property Owner

Print Name:		
Signature:		Date:

Office Use Only

Zoning Compliance (Completed by City Staff)

Application checked for completeness by:	Date:	Fee Paid:

January 24, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Ashleigh Winans, NeighborWorks Southern Colorado** for the approval of the following application(s):

V-21-04; Foothills Street and Easement Vacation. Vacation of the streets and easements dedicated within the Foothills Subdivision. Generally located north of W. 24th Street and east of N. Pueblo Blvd.

S-21-12; Pikes Peak Park, Filing 1 Subdivision. Subdivision of approximately 73.92 acres into multiple lots facilitating residential and commercial mixed-use development. Generally located north of W. 24th Street and east of N. Pueblo Blvd.

The Planning and Zoning Commission meeting will be held on February 9, 2022, at 3:30 p.m., by Zoom: Meeting ID:927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston)) or in-person at 1 City Hall Pl (3rd Floor City Council Chambers). 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 contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER V-21-04

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the Easement Vacation: Pikes Peak Park Street and Easement Vacation to be sent to the attached list of owners of the property lying within hundred (300) feet of the said property on which the vacation 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.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Pikes Peak Park Street and Easement vacation, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Ow	OwnerZip
BUTCHER JAMES H	1 JUDYS DREAM LN	PUEBLO	CO	81005-8703
NEIGHBORHOOD HOUSING SERVICES OF F	1241 E ROUTT AVE	PUEBLO	CO	81004-2908
SKWAREK FAMILY TRUST + SKWAREK FRAI	13195 HIGHLINE DR	COLORADC	CO	80908-3331
PINELLE JAMES P/PINELLE SHIRLEY A	2205 CLIFF LOMBARD ST	PUEBLO	CO	81003-3877
VILLALOBOS CORRAL URIEL	2221 NEWPORT AVE	PUEBLO	CO	81003-3811
ALVAREZ CLAUDIA	2306 SKYMESA CT	PUEBLO	CO	81003
ANDERSON JASON MICHAEL + ANDERSON	2307 SUNBURST CT	PUEBLO	CO	81003-3848
ALLISON AMY J	2308 PERRY AVE	PUEBLO	CO	81003-3845
PAYNE WILLIAM S / PAYNE JANET S	2309 PERRY AVE	PUEBLO	CO	81003-3849
CERVANTES JOHN A / CERVANTES SHA	2309 SKYMESA CT	PUEBLO	CO	81003
KIRKMAN GERTIE	2311 CANYON RIVER CT	PUEBLO	CO	81003-3847
KNABE WAYNE L	2311 NEWPORT AVE	PUEBLO	CO	81003-3850
TREFETHEN ROBERT A + TREFETHEN CYN	2311 SUNBURST CT	PUEBLO	CO	81003-3848
GILMORE MALIA ASHLEY	2312 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
STONE ROBYN K	2312 NEWPORT AVE	PUEBLO	CO	81003-3840
RAMIREZ EDWARD	2312 SKYMESA CT	PUEBLO	CO	81003
EVANS JAMES W/EVANS JACQUELINE M	2312 SUNBURST CT	PUEBLO	CO	81003-3848
ORR MICHAEL	2313 PERRY AVE	PUEBLO	CO	81003-3849
ROGERS KENNETH WADE	2314 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
HARRISON ROBERT L/HARRISON SUSAN	2318 MOUNTAIN VALLEY CT	PUEBLO	CO	81003
DEVE HEATHER M + JACKSON JEFFREY A	2320 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
HANLEY NATHAN	2322 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
CUYPERS MICHEL + CUYPERS JUDITH	2324 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
TORRES ROBERT	2326 MOUNTAIN VALLEY CT	PUEBLO	CO	81003-3841
GARCIA MOLLY A	2409 CLIFFMOOR LN	PUEBLO	CO	81008-2353
PORTER LARRY W/PORTER NORAH E	2831 TEMPLE LN	PUEBLO	CO	81003-1061
C M H HOMES INC	3912 N FREEWAY RD	PUEBLO	CO	81008-9615
BAMBER EMMA RUBERSON TRUST + HAY	4016 RIDGE DR	PUEBLO	CO	81008-1720
BATEMAN TERRIE L	4150 COUNTY LN 17	ORDWAY	CO	81063-9720
REGALADO PATRICK	903 E B ST	PUEBLO	CO	81003-3507
MCKINNEY ROSE MARY	909 W PITKIN AVE	PUEBLO	CO	81004-1142
GUTTNER MICHELLE	PO BOX 11135	PUEBLO	CO	81001-0135
CITY OF PUEBLO A MUNICIPAL CORPORAT	PO BOX 1427	PUEBLO	CO	81002-1427
SOCO ENTERPRISES LLC	PO BOX 18132	COLORADC	CO	80935-8132

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE APPROVING THE PIKES PEAK PARK, FILING NO. 1 SUBDIVISION

SUMMARY:

The applicant is requesting to resubdivide 79.01-acres into 114 single-family residential lots, four commercial/mixed use and multifamily residential lots, one lot for a possible future fire station site, and multiple parcels dedicated to easements, access, park amenities and future development sites.

PREVIOUS COUNCIL ACTION:

The applicant is concurrently requesting to rezone the property to Pikes Peak Park Planned Unit Development (PUD) zone district and is also requesting to vacate all the streets and easements in the Foothills subdivision.

BACKGROUND:

The proposed Pikes Peak Park, Filing No. 1 Subdivision is intended to create a walkable, mixed residential community with neighborhood serving retail and includes lots and parcels designed for single-family residential, multifamily residential, commercial/mixed use, public facilities, park amenities, and private access to residential units. This is a resubdivision of the Foothills Subdivision, A Special Area Plan, 2000, which was approved for manufactured home development and a commercial node along West 24th Street. The subdivision will create 114 single-family lots with varying sizes to accommodate the three types of single-family residential structures proposed within the Pikes Peak Park PUD, single-family attached, single-family detached rear-loaded, single-family detached front-loaded.

Pikes Peak Park PUD Development Guide establishes right-of-way standards for a “Public Alley” and a “Private Lane.” The Public Alley requires a 12-foot paved drive-lane and the Private Lane requires a 20-foot paved drive-lane, “where lane serves as fire access.” The Pueblo Fire Department issued a variance to allow “dead-end fire apparatus access roads in excess of 150-feet for Parcel E, blocks 7&8. Single-family detached residential, front-loaded lots have a minimum lot width of 45-feet, minimum lot area of 4,000 square feet, and maximum lot coverage of 50-percent. Commercial, multifamily residential, and commercial mixed-use lots are located along West 24th Street and Sun Mountain Boulevard Park, trail and open space amenities are provided within Parcel M. Drainage, detention, and utilities will be provided in Parcel L, Parcels Q and R are “Non-Buildable” and are reserved for future resubdivision prior to development. Lot 1, Block 11, located north of West 24th Street and adjacent to the western property line, may be developed as a City of Pueblo Fire station in the future.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their March 23, 2022 Public Hearing, voted 6 to 0 recommend approval. (Commission Aznar absent)

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:
Proposed Ordinance.
Minutes of the Planning and Zoning Commission Public Hearing dated March 23, 2022
Memorandum from the Department of Public Works Dated March 29, 2022
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. 10165

AN ORDINANCE APPROVING THE PIKES PEAK PARK, FILING NO. 1 SUBDIVISION

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

SECTION 1.

The final plat of the Pikes Peak Park, Filing No. 1 being a subdivision of land legally described as:

Parcels of land located in the South one-half of Section 22, Township 20 South, Range 65 West of the 6th P.M. in the County of Pueblo and State of Colorado and being more particularly described as follows:

All of Blocks 1 and 2 of Foothills Subdivision, A Special Area Plan as filed for record at Reception No. 1349438 in the office of the Pueblo County Clerk and Recorder.

And

All of Blocks 10 and 11 of Irving Park Subdivision and adjacent vacated right-of-way.

Containing 79.01 acres, (3,441,687 sf) more or less.

attached hereto, is hereby approved. All dedicated streets, utility and drainage easements, rights-of-way and land set aside for public sites, parks and open spaces shown and dedicated on said plat are hereby accepted for public use.

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-l0-l0l, 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 and 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022 .

☐ 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.

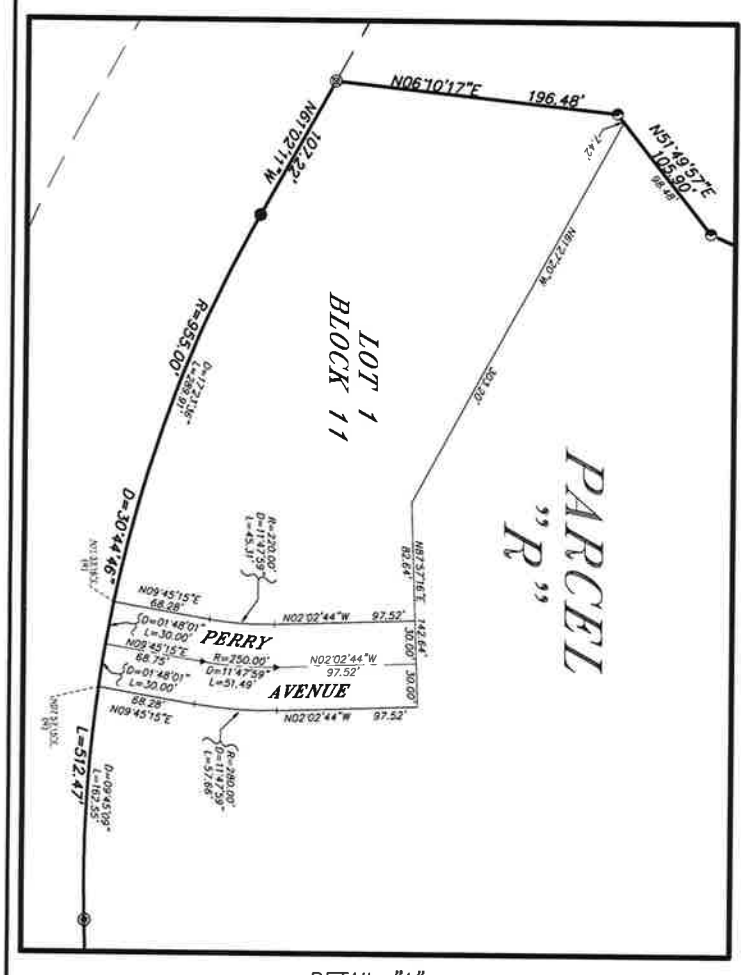
_____
President of City Council

ATTEST

_____
City Clerk

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



DETAIL "A"
SCALE: 1"=60'

SCALE: 1" = 120'

0 60' 120' 240'

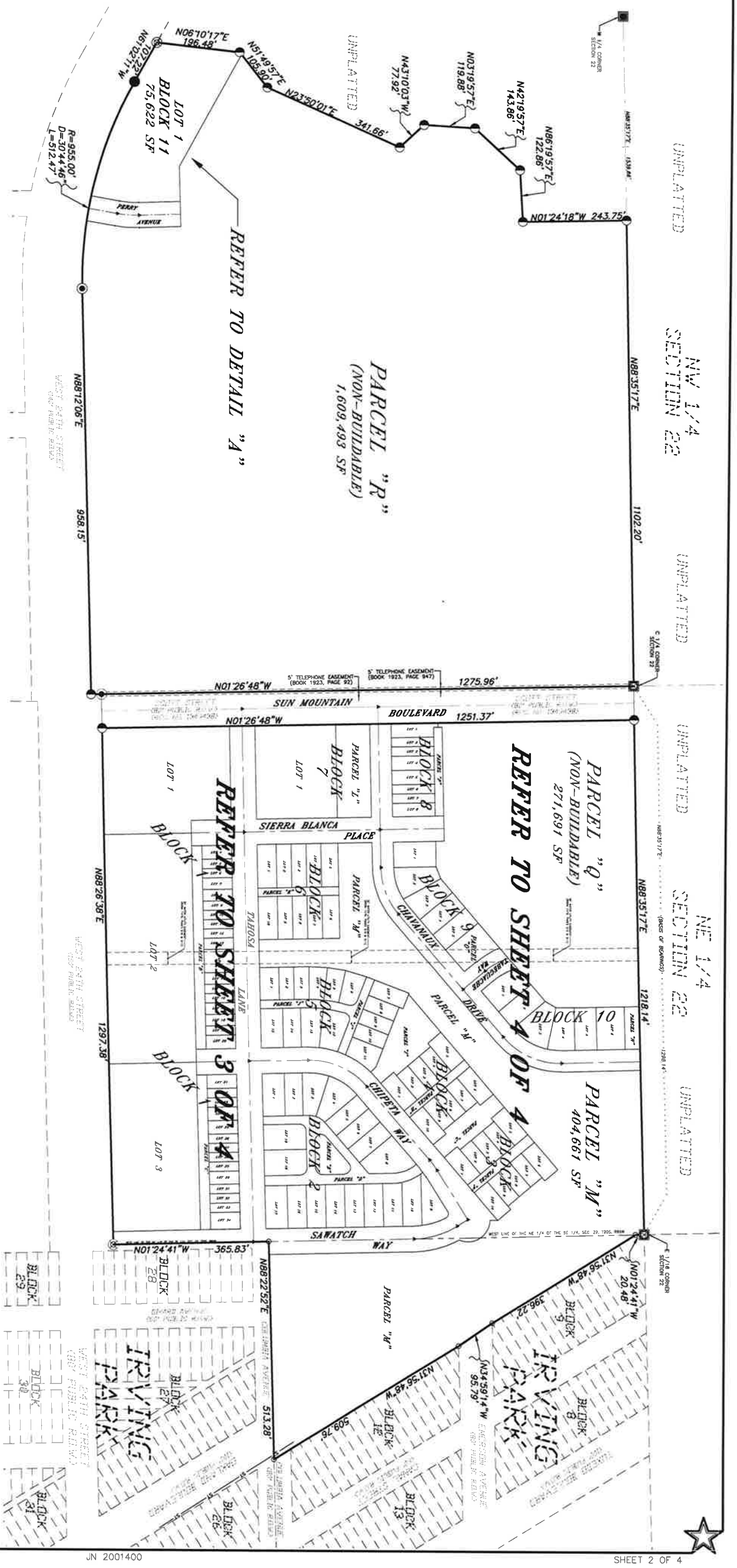
LEGEND

- FOUND 3 1/4" DIAMETER BRASS CAP BLM
- FOUND 3 1/4" DIAMETER ALUMINUM CAP WITH NO. 6 REBAR, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS – ILLEGIBLE
- FOUND NO. 4 REBAR – NO CAP
- FOUND NO. 5 REBAR WITH GREEN PLASTIC CAP, PLS 38245
- MONUMENT TO BE ESTABLISHED TO MEET CITY OF PUEBLO REQUIREMENTS

P.U.E.	PUBLIC UTILITIES EASEMENT
R.O.W.	RIGHT-OF-WAY
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
(R)	RADIAL

BASIS OF BEARINGS

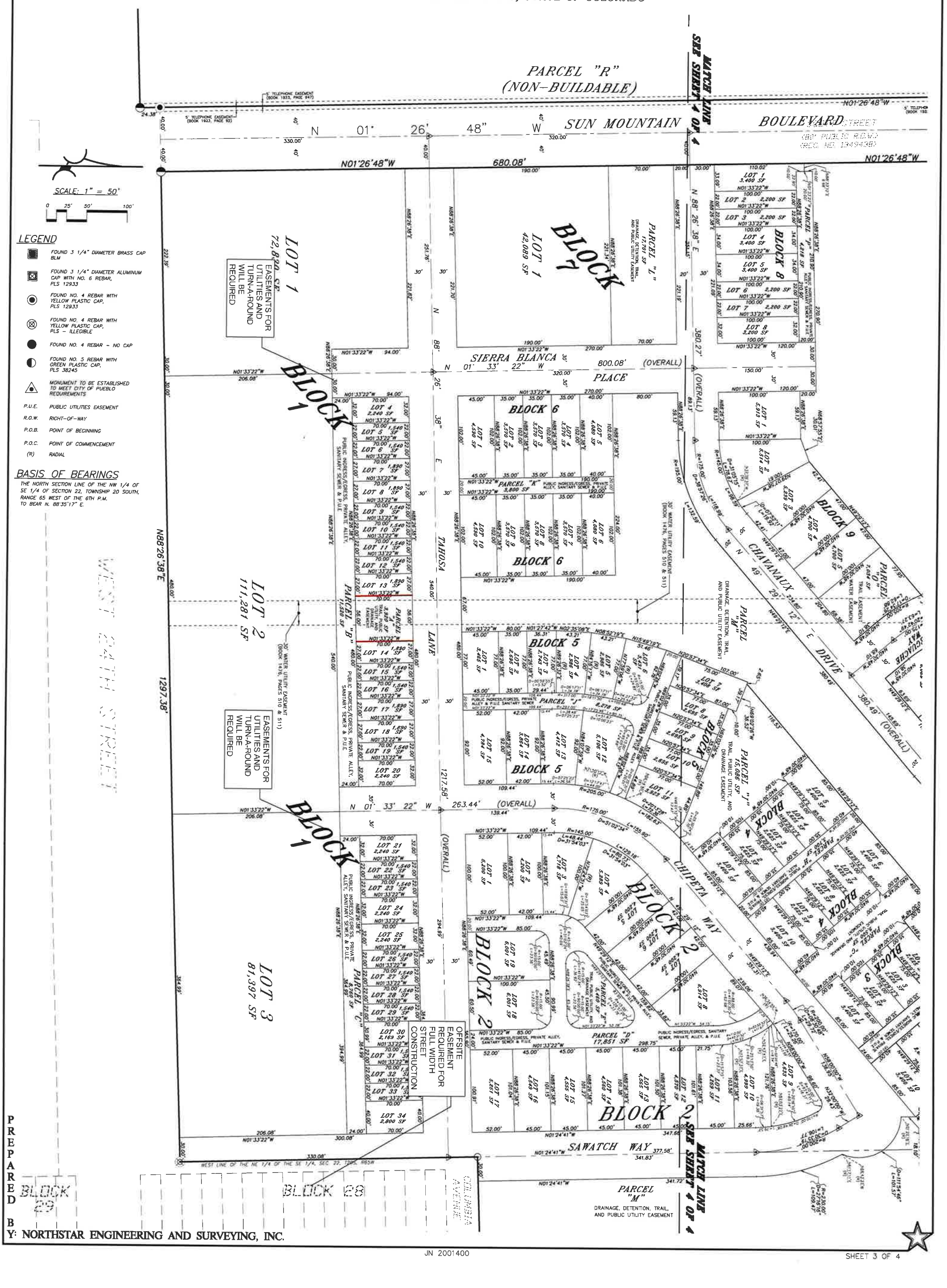
THE NORTH SECTION LINE OF THE NW 1/4 OF SE 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. TO BEAR N. 88°35'17" E.



PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



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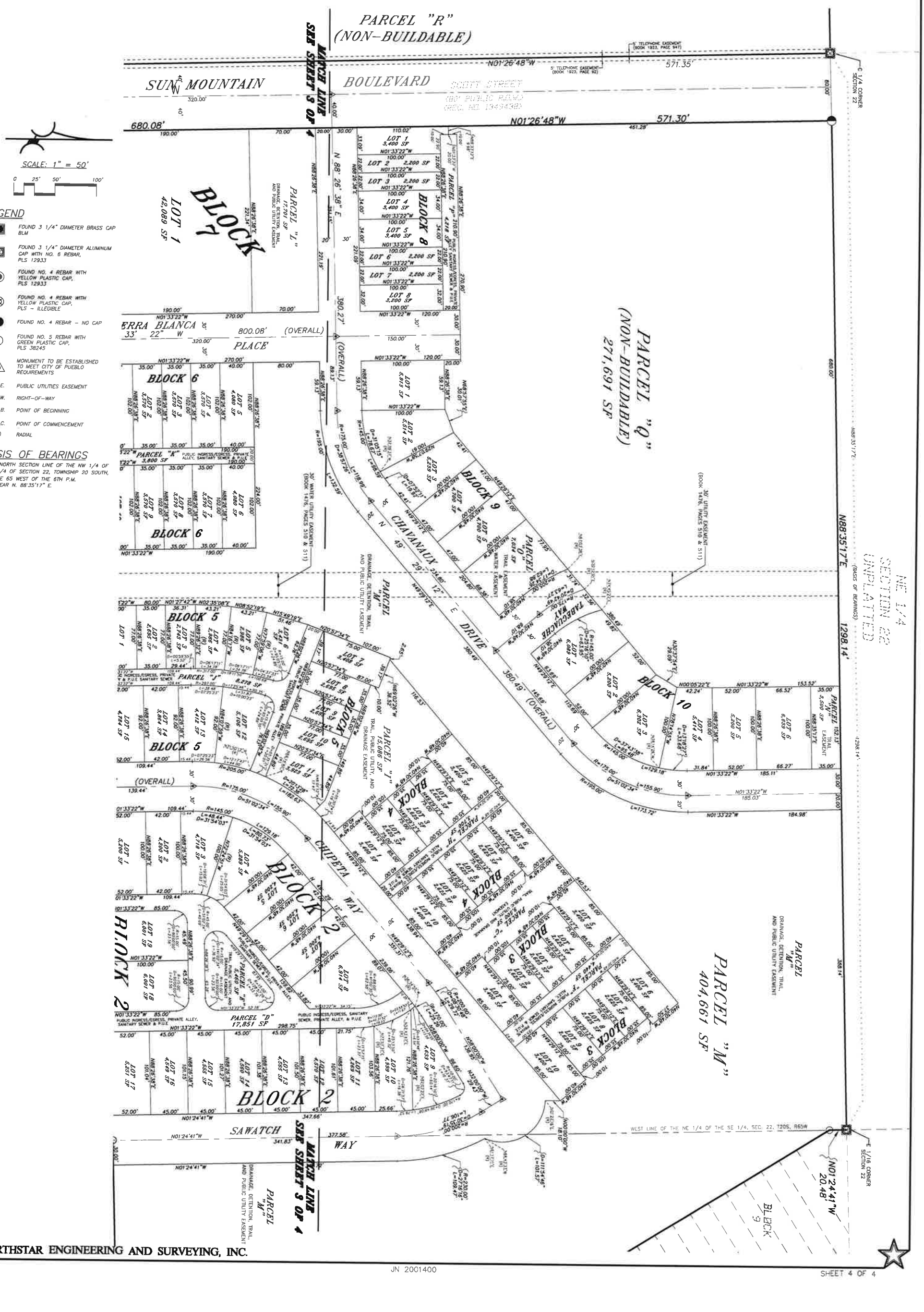


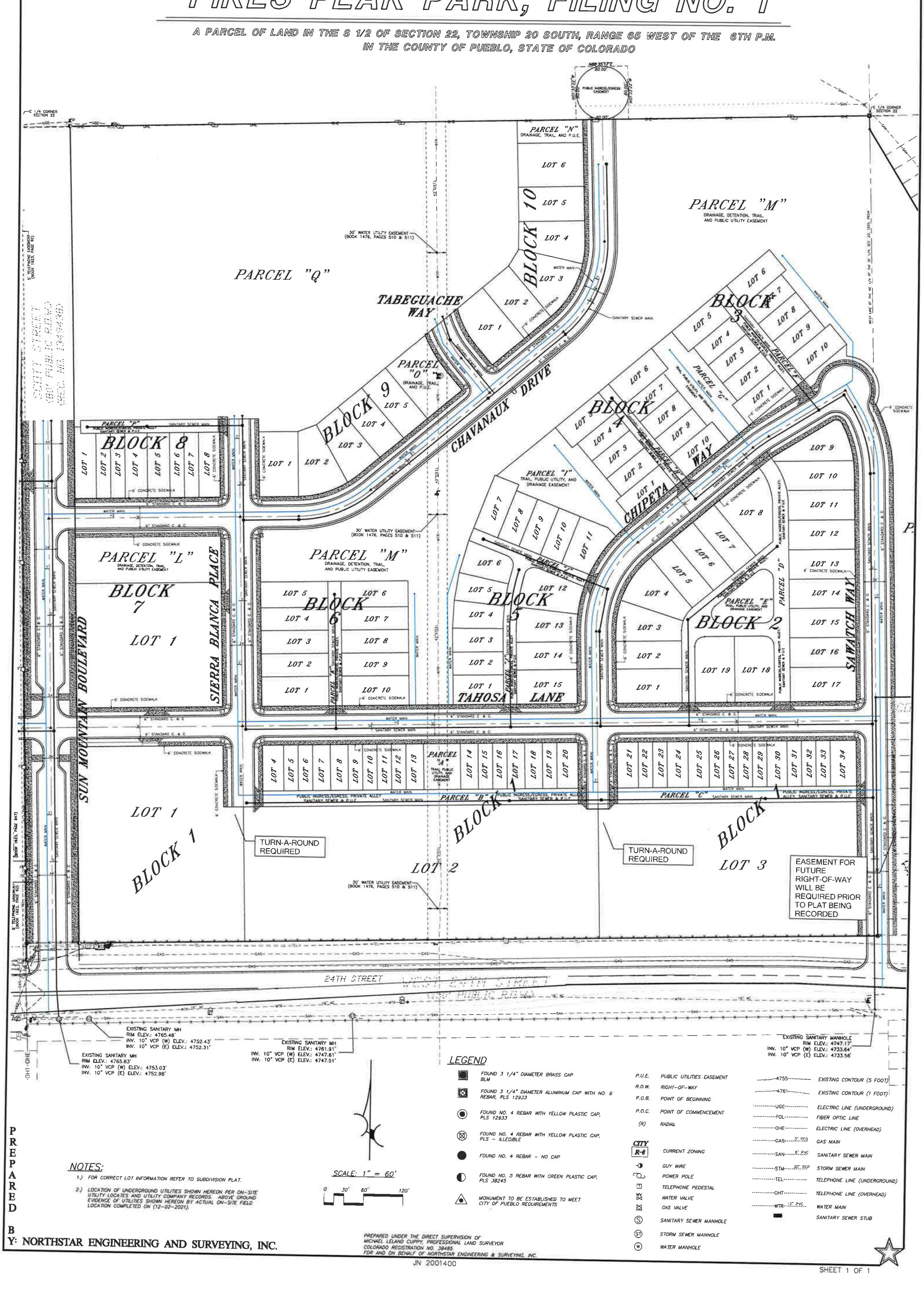
PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

JN 2001400

UTILITY MAP OF:

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



NOTES:

1.) FOR CORRECT LOT INFORMATION REFER TO SUBDIVISION PLAT.

2.) LOCATION OF UNDERGROUND UTILITIES SHOWN HEREON PER ON-SITE UTILITY LOCATES AND UTILITY COMPANY RECORDS. ABOVE GROUND EVIDENCE OF UTILITIES SHOWN HEREON BY ACTUAL ON-SITE FIELD LOCATION COMPLETED ON (12-02-2021).

SCALE: 1" = 60'

0 30' 60' 120'

LEGEND

- FOUND 3 1/4" DIAMETER BRASS CAP BLM
- FOUND 3 1/4" DIAMETER ALUMINUM CAP WITH NO. 6 REBAR, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS 12933
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R.O.W. RIGHT-OF-WAY
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
(R) RADIAL

CITY R-8 CURRENT ZONING

GUY WIRE
POWER POLE
TELEPHONE PEDESTAL
WATER VALVE
GAS VALVE
SANITARY SEWER MANHOLE
STORM SEWER MANHOLE
WATER MANHOLE

4755 EXISTING CONTOUR (5 FOOT)
4761 EXISTING CONTOUR (1 FOOT)
UGE ELECTRIC LINE (UNDERGROUND)
FOL FIBER OPTIC LINE
OHE ELECTRIC LINE (OVERHEAD)
GAS 3" PED GAS MAIN
SAN 8" PVC SANITARY SEWER MAIN
STM 30" RCP STORM SEWER MAIN
TEL TELEPHONE LINE (UNDERGROUND)
OHT TELEPHONE LINE (OVERHEAD)
WTR 12" PVC WATER MAIN
SANITARY SEWER STUB

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY, PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 38485
FOR AND ON BEHALF OF NORTHSTAR ENGINEERING & SURVEYING, INC.

JN 2001400

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

v

MINUTES OF PLANNING AND ZONING COMMISSION PUBLIC HEARING AND WORKSESSION

City of Pueblo, Colorado
Wednesday, March 23, 2022 – 3:30 p.m.
City Council Chambers, 1 City Hall Place

Join Zoom Meeting online:
https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09

Join Zoom Meeting by phone:
+1 669 900 6833 US (San Jose)
+1 346 248 7799 US (Houston)
Online and phone Meeting ID and Password:
Meeting ID: 927 1786 7722
Passcode: 195462

MEETING CALLED TO ORDER

The meeting was called to order at 3:39 p.m. with Commissioner Castellucci presiding.
The meeting was held at City Council Chambers, 1 City Hall Place, commissioners, applicants, and the public participated in person and via Zoom.

Commissioners Present: Mike Castellucci, Patrick Avalos, Cheryl Spinuzzi, Christopher Pasternak, Sarah Martinez, and Lisa Bailey.

Commissioners Absent: Alexandra Aznar

Staff Members Present: Dan Kogovsek, City Attorney; Scott Hobson, Acting Director for Department of Planning and Community Development; Beritt Odom, Principal Planner; Danielle Baxter, Planner; Andrew Hayes, Public Works Director, Melanie Turner, Transportation Engineer.

APPROVAL OF AGENDA

A Motion was made by Spinuzzi to approve the agenda, Seconded by Bailey.

Motion passed 6-0, Aznar Absent

PUBLIC MEETING AND ACTION

Regular Agenda

1c. S-21-12 Pikes Peak Park, Filing No. 1 Subdivision

Staff report Beritt Odom, Principal Planner

BACKGROUND:

The applicant is requesting to resubdivide 79.01 acres into 114 single-family residential lots; four commercial/mixed use and multifamily residential lots; one lot for possible future Fire Station development; and multiple parcels dedicated to easements, access, park amenities, and future development sites.

The proposed Pikes Peak Park, Filing No. 1 Subdivision is intended to create a walkable, mixed residential community with neighborhood serving retail and includes lots and parcels designed for single-family residential, multifamily residential, commercial/mixed use, public facilities, park amenities, and private access to residential units. This is a resubdivision of the Foothills Subdivision, A Special Area Plan, 2000, which was approved for manufactured home development and a commercial node along W. 24th Street.

The subdivision will create 114 single-family lots with varying sizes to accommodate the three types of single-family residential structures proposed within the Pikes Peak Park PUD, single-family attached, single-family detached rear-loaded, single-family detached front-loaded. Single-family attached residential will be constructed on the 17 lots located south of Tahosa Lane and the eight lots within Block 8, located north of Chavanaux Lane. The single-family attached lots vary in width between 32-feet and 22-feet with a 70-foot depth. The lots front Tahosa Lane and Chavanaux Lane, vehicular access is provided by the private alley, which will be subdivided as Parcels B, C and P. The Pikes Peak Park PUD does not have provisions for a "Private Alley," therefore the dedication of Parcels B and C must be amended to either a "Public Alley" or "Private Lane." Parcel P is a dead-end access parcel; therefore, it must be amended to be a "Private Lane."

Single-family detached, rear-loaded, structures will be constructed on the lots located north of Tahosa Lane, west of Chipeta Way, and north of Chavanaux Drive. Lots within Blocks 3, 4, 5, and 6 front "green courts" and are configured in a cluster pattern. The minimum lot width is 35-feet, minimum lot area is 3,100 square feet, and maximum lot coverage is 60-percent. The proposed PUD allows vehicular access to these homes from dead-end parcels dedicated to public ingress/egress and utilities. The Subdivision plat dedicates these parcels, which provides access to the homes fronting green courts, as "Private Alleys." Pikes Peak Park PUD Development Guide establishes right-of-way standards for a "Public Alley" and a "Private Lane." The Public Alley requires a 12-foot paved drive-lane, and the Private Lane requires a 20-foot paved drive-lane, "where lane serves as fire access." Because Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes and have a dead-end, the plat must be amended to dedicate the parcels as "Private Lanes" not "Private Alley," to insure adequate drive width for residents and emergency services. The Pueblo Fire Department issued a variance to allow "dead-end fire apparatus access roads in excess of 150-feet for Parcel E, blocks 7&8. Additionally, the lots adjacent to the dead-end of the access parcels have a greater setback, 20-feet as opposed to 5-feet, to allow additional space for vehicles to turn around.

Single-family detached residential, front-loaded lots are larger and closer to standard residentially zoned lots. The minimum lot width is 45-feet, minimum lot area is 4,000 square feet, and maximum lot coverage is 50-percent. Residences constructed on these lots will front Sawatch Way, Chipeta Way, and Tahosa Lane. The lots will also have alley access adjacent to the rear lot line, provided by Parcel D. Parcel D is dedicated for public ingress/egress, utilities and "Private Alley." The Pikes Peak Park PUD does not have provisions for a "Private Alley," therefore the dedication of Parcel D must be amended to either a "Public Alley" or "Private Lane."

Commercial, multifamily residential, and commercial mixed-use lots are located along W. 24th Street and Sun Mountain Blvd. Park, trail, and open space amenities are provided within Parcel M. Drainage, detention, and utilities will be provided in Parcel L, Parcels Q and R are "non-Buildable" and are reserved for future resubdivision prior to development. Finally, Lot 1, Block 11, located north of W. 24th Street and adjacent to the western property line, may be developed as a City of Pueblo Fire station in the future.

Recommended Action:

The Subdivision Review Committee recommends the Planning and Zoning Commission forward a recommendation the requested Subdivision be **APPROVED** with the following noted:

- **Request for Deferred Filings,** Request for Deferred Filings: The Subdivision Review Committee has no objection to the Request for Deferred Filings, SRC Memo, March 17, 2022.
- **Overhead Electric Lines:** Three phase overhead electric mainlines exist along the northern property line and adjacent to the western right-of-way boundary of Sun Mountain Blvd. All overhead lines, as identified in the exhibit from Black Hills, must be undergrounded and identified in the Exhibit B of the Subdivision Improvement Agreement (Derek Chavez, email and exhibit, March 16, 2022).

Conditions of Approval:

- (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.):
- Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes, the plat must be amended to dedicate the parcels as "Private Lane" not "Private Alley," to insure adequate drive width for residents and emergency services.
- Dedication of Parcel D must be amended to either a "Public Alley" or "Private Lane."
- Dedication of Parcels B and C must be amended to either a "Public Alley" or "Private Lane."
- Amend the Stormwater Facility Maintenance Agreement, as noted in the "redlined" draft agreement and memorandum from John Sakariason, Stormwater Coordinator, March 16, 2022.
    - Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.

HEARING

Ashleigh Winans, NeighborWorks of Southern Colorado, 1241 E. Routt; Tamara Pleshek, NeighborWorks of Southern Colorado; applicants and Mike Cuppy, NorthStar Engineering, representing the applicants stated that they did not have additional testimony regarding the Subdivision request.

COMMISSION ACTION:

Motion to approve S-21-12 with staff conditions made by Bailey, second by Avalos.

MOTION PASSED: 6-0 (Aznar Absent)

city of PUEBLO colorado

DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: Beritt Odom, Principal Planner

CC: Michelle Cruz, Administrative Technician
Subdivision File

FROM: Joe Martellaro, Associate Engineer II

SUBJECT: V-21-04 Foothills Subdivision, Street and Easement Vacation
S-21-12 Pikes Peak Park, Filing No. 1

DATE: March 29, 2022

Please place the above referenced submittals on the City Council Agenda.

Per our meeting with Mike Cuppy this morning, we are allowing this be placed on the agenda prior to mylars being submitted. In the event mylars are not submitted as soon as practical, the agenda items will be pulled from council agenda.

Also, please note that this vacation & plat will not be recorded until the signed offsite easement, for construction of Sawatch Way, is submitted as part of the Part II requirements.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

S-21-12

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Beritt Odom, Principal Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	March 23, 2022
SUBJECT:	Pikes Peak Park, Filing No. 1
APPLICANT:	Ashleigh Winans, NeighborWorks Southern Colorado
ENGINEER	Drew Brice, NorthStar Engineering and Surveying
PROPERTY OWNER:	NeighborWorks Southern Colorado
LOCATION:	Generally located north of W. 24th Street and east of N. Pueblo Blvd.
EXISTING ZONE:	R-8, Manufactured Home Residential District B-3, Highway and Arterial Business District
CONCURRENT REQUESTS:	Z-21-16, Rezoning, Pikes Peak Park PUD V-21-04, Vacation, Foothills Street and Easement Vacation

REQUEST:
The applicant is requesting to resubdivide 79.01 acres into 114 single-family residential lots; four commercial/mixed use and multifamily residential lots; one lot for possible future Fire Station development; and multiple parcels dedicated to easements, access, park amenities, and future development sites.

STAFF REVIEW AND FINDINGS:
The proposed Pikes Peak Park, Filing No. 1 Subdivision is intended to create a walkable, mixed residential community with neighborhood serving retail and includes lots and parcels designed for single-family residential, multifamily residential, commercial/mixed use, public facilities, park amenities, and private access to residential units. This is a resubdivision of the Foothills Subdivision, A Special Area Plan, 2000, which was approved for manufactured home development and a commercial node along W. 24th Street.

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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, Pikes Peak Park PUD Development Guide (once approved and recorded).

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 the requested Subdivision be **APPROVED** with the following noted:

Requests for Modifications to Requirements:	Not Applicable
Request for Deferred Filings	Request for Deferred Filings: The Subdivision Review Committee has no objection to the Request for Deferred Filings, SRC Memo, March 17, 2022.

Plat Deficiencies:	Not Applicable
Overhead Electric Lines:	Three phase overhead electric mainlines exist along the northern property line and adjacent to the western right-of-way boundary of Sun Mountain Blvd. All overhead lines, as identified in the exhibit from Black Hills, must be undergrounded and identified in the Exhibit B of the Subdivision Improvement Agreement (Derek Chavez, email and exhibit, March 16, 2022).
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	1. Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes, the plat must be amended to dedicate the parcels as "Private Lane" not "Private Alley," to insure adequate drive width for residents and emergency services. 2. Dedication of Parcel D must be amended to either a "Public Alley" or "Private Lane." 3. Dedication of Parcels B and C must be amended to either a "Public Alley" or "Private Lane." 4. Amend the Stormwater Facility Maintenance Agreement, as noted in the "redlined" draft agreement and memorandum from John Sakariason, Stormwater Coordinator, March 16, 2022. 5. Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The subject property is unimproved.

- **Neighborhood Compatibility:**
  - North
    - A-1, County Agricultural One, undeveloped
  - East
    - R-2, Single-Family Residential, undeveloped
  - South
    - R-8, Manufactured Home Residential, manufactured homes
    - A-2, Agricultural Two District, undeveloped
  - West
    - R-4, Mixed Residential District, undeveloped
    - B-3, Highway and Arterial Business District

- **Comprehensive Plan Compliance:**
  The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan states that *Urban Residential* neighborhoods are found predominantly within

the city limits of Pueblo and the urbanizing areas in the City's immediate periphery. These neighborhoods have a mixture of housing types and neighborhood commercial services. The Comprehensive Plan states further that "zoning for duplexes, garden apartments and small office buildings may be allowed along collector and arterial roads." According to the Comprehensive Plan, densities within the Urban Neighborhoods are generally 4-7 units per acre.

The proposed Pikes Peak Park, Filing No. 1 includes a mixture of residential and commercial lots. Residential uses include single-family detached, single-family attached, multifamily residential and mixed use residential. The Pikes Peak Park PUD allows a maximum of 1,065 dwelling units, with a total density of 13.48 units per acre, which is much higher than the maximum density of 7 units per acre as recommended by the Comprehensive Plan. The proposed Pueblo Regional Comprehensive Plan, 2022, also designates the subject site as Urban Neighborhood but allows for densities between 6-16 units per acre. The proposed subdivision has an approximate density of 1.44 single-family residential units per acre; however, this does not account for future multifamily and mixed-use development or future phases of residential development within future subdivisions. The overall density of the development is limited by the Pikes Peak Park PUD Development Guide provisions. Proposed commercial uses are located adjacent to W. 24th Street and Sun Mountain Blvd. West 24th Street is a Principal Arterial, and the future Sun Mountain Blvd is classified as a Minor Arterial, which conforms to the Comprehensive Plan.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:

- **Minimum lot size and width:**
  - All lots meet the minimum lot width and area as proposed in the Pikes Peak Park PUD Development Guide.

REFERRAL AGENCIES AND COMMENTS:

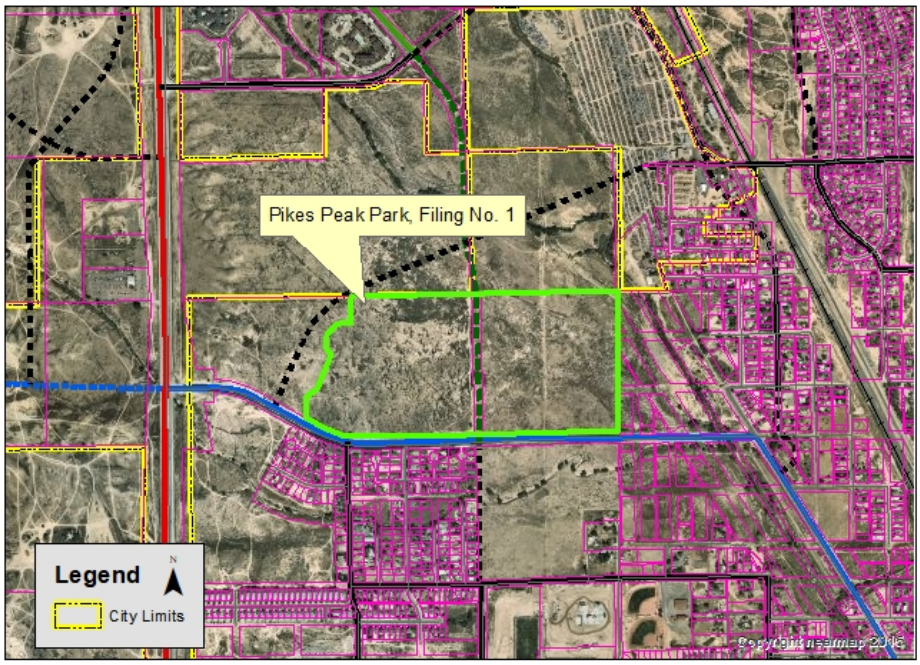
- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- Pueblo Board of Water Works- Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.
- City Wastewater-No comment
- City Stormwater-Please see the attached memorandum from John Sakariason, Stormwater Coordinator,
- City Parks and Recreation Department-No comment
- City GIS-No Comment
- Xcel Energy-No Comment
- Black Hills Energy- Please see the attached email and overhead electric line exhibit from Derek Chavez, March 15, 2022
- CDOT-No comment

ATTACHMENTS:

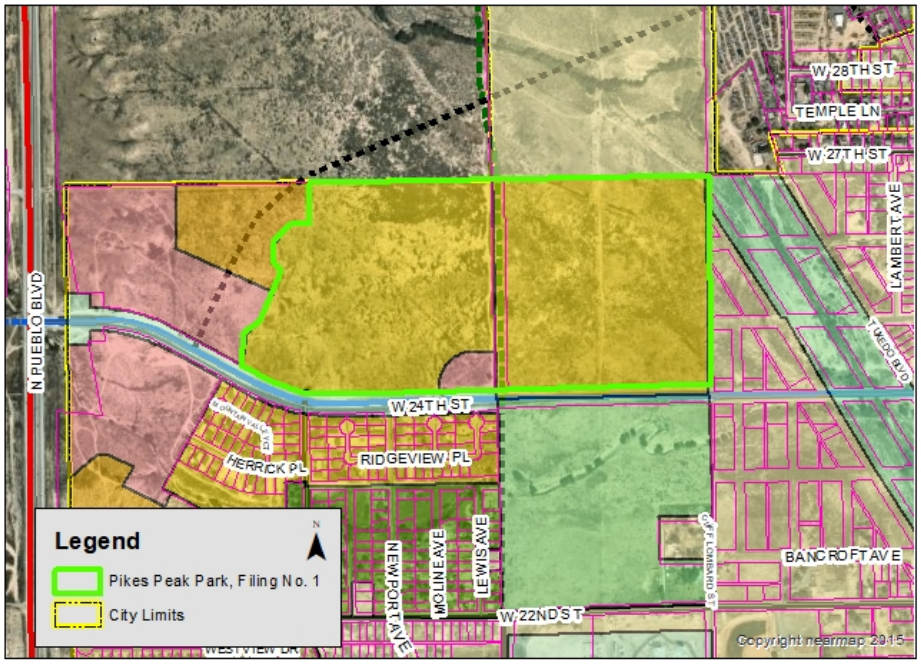
A. Aerial Photograph
B. Zoning Map

C. Comprehensive Plan Map
D. Site Photographs
E. SRC Memo, March 17, 2022
F. Plat
G. Subdivision Application
H. Black Hills Energy Overhead Electric Line Exhibit
I. Stormwater Utility Memo

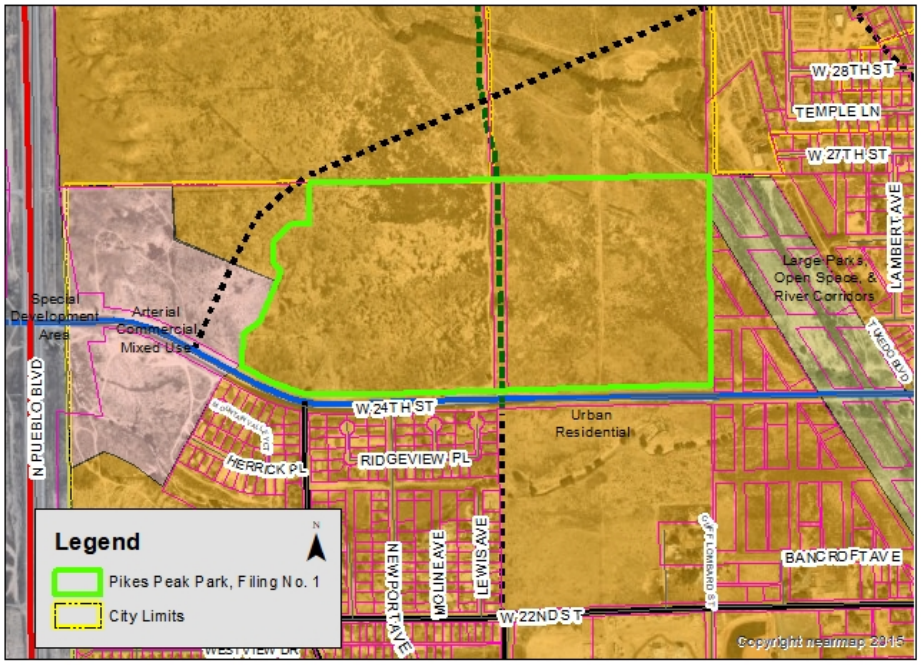
ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map



C. Comprehensive Plan

Attachment D. Site Photos



Pikes Peak Park, Filing No. 1, looking north from W. 24th Street



Pikes Peak Park, Filing No. 1, looking west from W. 24th Street

Andrew Hayes
Director Public Works
Director
Transportation Department
Steven Meier
Director Parks & Recreation

city of PUEBLO colorado
Subdivision Review Committee

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 17, 2022

Subject: V-21-04 Foothills Street and Easement Vacation and S-21-12 Pikes Peak Park, Filing No. 1

V-21-04 Foothills Street and Easement Vacation:
The subdivision review committee recommends that the street and easement vacation be recommended to City Council for approval.

S-21-12 Pikes Peak Park, Filing No. 1:
The subdivision review committee recommends that the Planning and Zoning Commission recommend approval to City Council with the following conditions:

1. Parcels F, H, J, K, and P are the only vehicular access to the adjacent homes, the plat must be amended to dedicate the parcels as “Private Lane” not “Private Alley,” to insure adequate drive width for residents and emergency services.
2. Dedication of Parcel D must be amended to either a “Public Alley” or “Private Lane.”
3. Dedication of Parcels B and C must be amended to either a “Public Alley” or “Private Lane.”
4. Amend the Stormwater Facility Maintenance Agreement, as noted in the “redlined” draft agreement and memorandum from John Sakariason, Stormwater Coordinator, March 16, 2022.
5. Make subdivision plat and utility plan corrections according to the attached redlined plans provided by Joe Martellaro, Associate Engineer II, March 16, 2022.

All conditions must be satisfied prior to City Council review.

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO

THE CITY OF PUEBLO WILL ALSO BE SIGNING THE PLAT WITH NEWLY VACATED ROW THAT THE CITY OWNS

– DEDICATION –

KNOW ALL MEN BY THESE PRESENTS: NEIGHBORWORKS SOUTHERN COLORADO, a Colorado 501(C)3 nonprofit organization, being the sole owner of the following property:

Parcels of land located in the South one-half of Section 22, Township 20 South, Range 65 West of the 6th P.M. in the County of Pueblo and State of Colorado and being more particularly described as follows:

All of Blocks 1 and 2 of Foothills Subdivision, A Special Area Plan as filed for record at Reception No. 1349438 in the office of the Pueblo County Clerk and Recorder.

AND

All of Blocks 10 and 11 of Irving Park Subdivision and adjacent vacated right-of-way.

Containing 79.01 acres, (3,441,687 sf) more or less.

Has caused the aforegoing described property to be surveyed, platted and subdivided into lots, blocks, parcels and streets and has shown hereon certain easements for drainage, landscape, pedestrian use and for all public utilities, 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 PIKES PEAK PARK, FILING NO. 1.

All public streets and private alleys and all public utility, sanitary sewer, detention, drainage, trail, and ingress/egress easements shown hereon are hereby dedicated to the public for perpetual use. With respect to all easements for City utilities, including but not limited to sanitary and storm water services and whether designated as a drainage easement, detention 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% from said owner(s).

Parcels A, E, G, I, N and O are hereby reserved for drainage, trail, and public utility purposes to be owned and maintained by Pikes Peak Park Metropolitan District.

Parcel L and M are hereby reserved for drainage, detention, trail, and public utility purposes to be owned and maintained by Pikes Peak Park Metropolitan District.

Parcels B, C, D, F, H, J, K and P are hereby reserved for private alleys, public utilities, sanitary sewer, and ingress/egress purposes to be owned and maintained by Pikes Peak Park Metropolitan District.

Parcels Q and R are hereby reserved for future development.

"All of the property shown on this plat shall be subject to the terms and conditions defined and described in the Declaration of Covenants dated _____, and recorded in the office of the Clerk and Recorder of Pueblo County, Colorado."

Drainage facilities located within drainage and/or detention easements shown hereon shall be installed, repaired, and maintained in good working order and condition by the owner(s) of all the lots within the subdivision and said lots shall be subject to the terms and conditions of the Stormwater Facility Maintenance Agreement dated _____ and filed contemporaneously with the annexed plat. 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 owner(s).

Streets, curbs & gutters, and sidewalks located within ingress/egress or access easements shown hereon shall be installed, repaired, and maintained in good working order and condition by the Pikes Peak Park Metropolitan District, subject to the terms and conditions of the Declaration of Covenants referenced hereon.

IN WITNESS WHEREOF, Ashleigh Winans, the CEO of NEIGHBORWORKS SOUTHERN COLORADO, a Colorado 501(C)3 nonprofit organization, sets her hand and seal this _____ day of _____, _____ A.D.:

NEIGHBORWORKS SOUTHERN COLORADO
a Colorado 501(C)3 nonprofit organization

_____
Ashleigh Winans, CEO
NEIGHBORWORKS SOUTHERN COLORADO

STATE OF _____)
)SS
COUNTY OF _____)

I, _____, a Notary Public in and for the County of _____, State of _____, do hereby certify that Ashleigh Winans, the CEO of NEIGHBORWORKS SOUTHERN COLORADO, who is personally known to me to be the identical person who signed the aforegoing dedication, appeared before me this day in person and acknowledged the execution thereof to be her free and voluntary act for the uses and purposes therein set forth as the deed of said Organization.

WITNESS my hand and notarial seal this _____, day of _____, _____ A.D.:

My Commission Expires:
Address:

_____ _____
Notary Public Date

IN WITNESS WHEREOF, Mayor of City of Pueblo, Nicholas Gradisar, a Municipal Corporation, sets his hand and seal this _____, day of _____, _____A.D.:

CITY OF PUEBLO
a Municipal Corporation

_____
Nicholas Gradisar, Mayor of City of Pueblo

STATE OF COLORADO)
)SS
COUNTY OF PUEBLO)

I, _____, a Notary Public in and for the County of Pueblo, State of Colorado, do hereby certify that Nicholas Gradisar, Mayor of CITY OF PUEBLO, a Municipal Corporation, who is personally known to me to be the identical person who signed the aforegoing dedication, appeared before me this day in person and acknowledged the execution thereof to be his free and voluntary act for the uses and purposes therein set forth as the deed of said Municipal Corporation.

WITNESS my hand and notarial seal this_____, day of_____, _____ A.D.:

My Commission Expires:
Address:

_____
Notary Public

– SURVEYOR'S CERTIFICATION –

This is to certify that we have prepared the annexed plat and that it complies with the minimum standards for Land Survey Plats as set forth in Section 38-51-106 Et. Seq., C.R.S. 1994 (as amended). We have performed the accompanying survey and it was conducted by me or under my responsible charge. All lines and dimensions are correctly shown hereon to the best of my knowledge and belief.

Date:

NORTHSTAR ENGINEERING AND SURVEYING, INC.
111 E. 5th Street
Pueblo, CO 81003

By: _____
Michael Leland Cuppy,
Colorado Registered Professional
Land Surveyor No. 38485

For and on Behalf of
NorthStar Engineering and Surveying, Inc.

– IMPROVEMENT CERTIFICATION –

This is to certify that the Subdivider has complied with Alternate No. 4 of Section 12-4-7(J) (1) and with Section 12-4-5 (b), of the 1971 Code of Ordinances, City of Pueblo, County of Pueblo, State of Colorado.

_____ _____
Director of Public Works Date

– 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

– NOTICE –

NOTICE is hereby given that acceptance of this platted subdivision by the City of Pueblo, does not constitute an acceptance of the dedicated public roads, park, and other public improvements for maintenance by the City. Until such dedicated public roads and 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 said dedicated public roads, parks and other public improvements and rights-of-way are the sole responsibility of the Subdivider or any subsequent owner(s) of the land within this 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 roads, easements, and facilities.

– APPROVAL FOR RECORDING –

Approved by City Council of Pueblo, Colorado, by Ordinance No. _____.

This is to certify that the plat of PIKES PEAK PARK, FILING NO. 1 has been approved for recording in the office of the Pueblo County Clerk and Recorder of Pueblo County, Colorado.

_____ _____
City Clerk Date

PARK TABLE

Land Use	Land Area (ac)	Percentage of Residential Land use
PARK AREA	5.93	27.90%

NOTE: PARK AREA INCLUDES PARCELS E, G, I, O, N, AND THE PORTION OF PARCEL M TO THE WEST OF THE WEST LINE OF THE NE 1/4 OF THE SE 1/4, SEC. 22, T20S, R65W

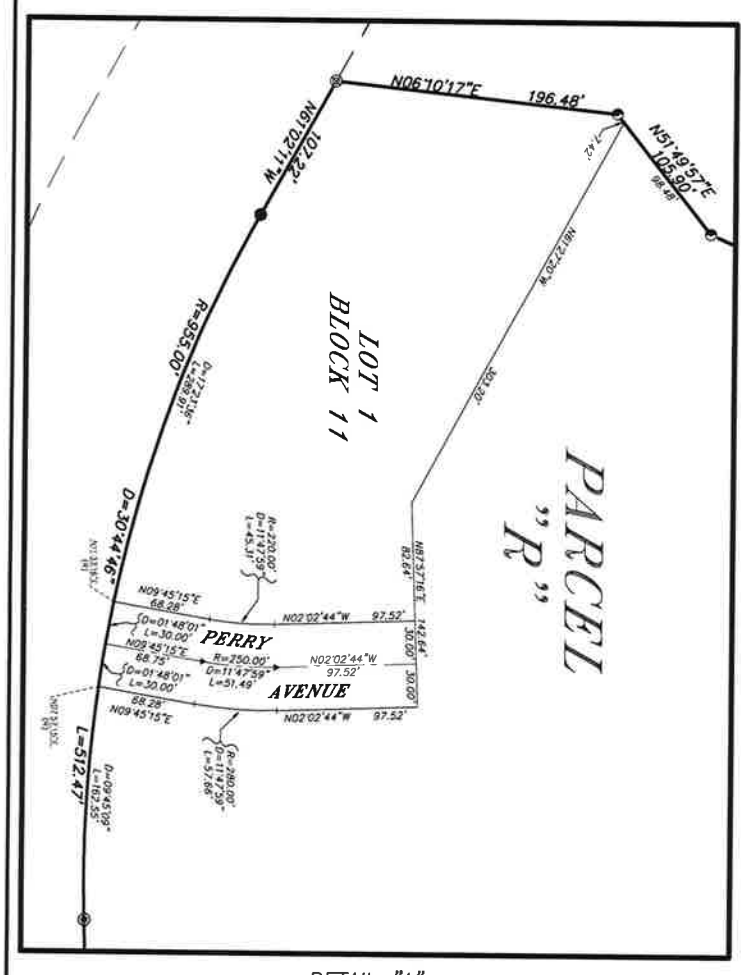
LAND USE TABLE

Land Use	Land Area (ac)	Max. Gross Density du/ac	Max Dwelling units	Max Commercial/ Community Area (sq. ft.)
Residential	19.47	12	233	3000
Commercial Mixed-Use	9.23	20	184	33000

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



DETAIL "A"
SCALE: 1"=60'

SCALE: 1" = 120'

0 60' 120' 240'

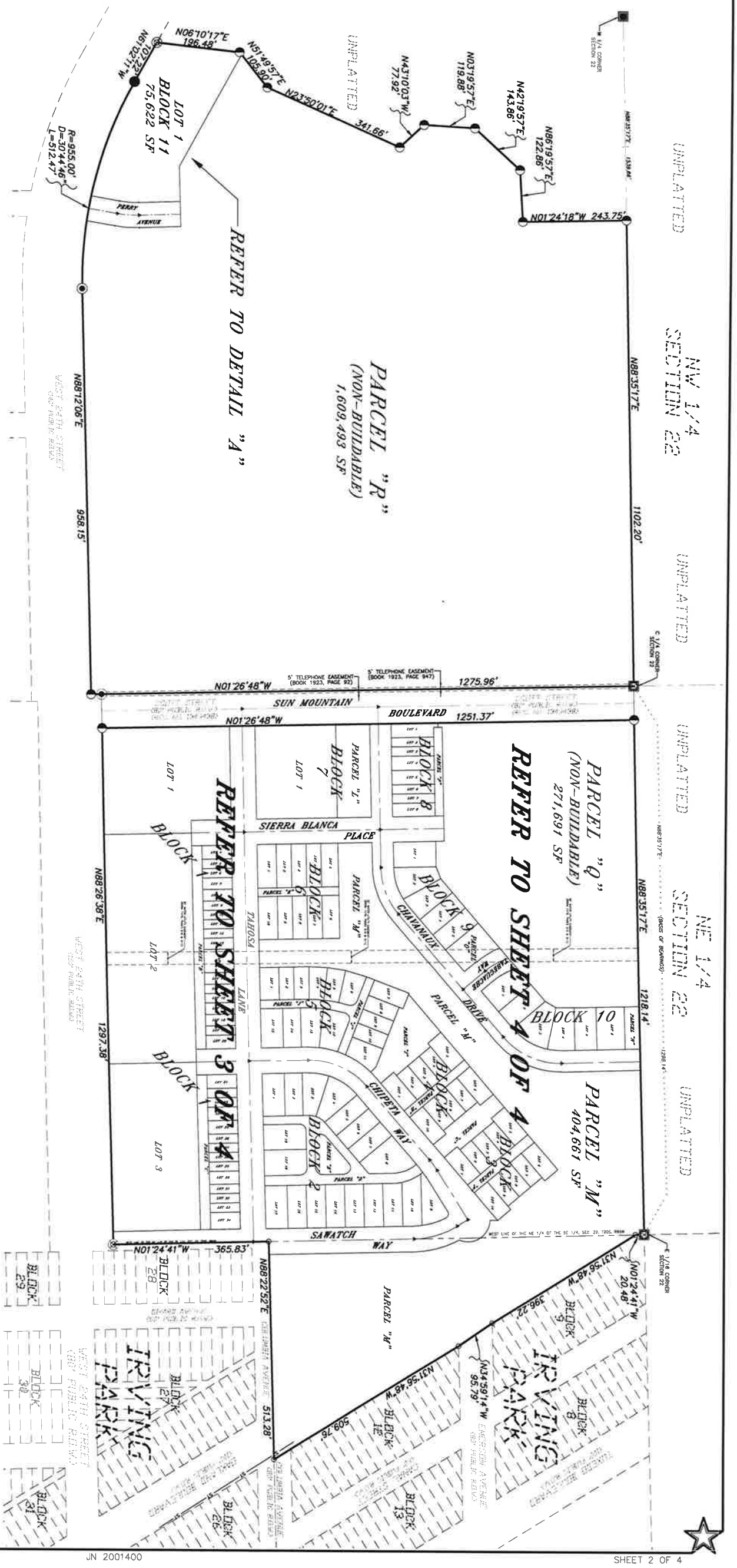
LEGEND

- FOUND 3 1/4" DIAMETER BRASS CAP BLM
- FOUND 3 1/4" DIAMETER ALUMINUM CAP WITH NO. 6 REBAR, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS – ILLEGIBLE
- FOUND NO. 4 REBAR – NO CAP
- FOUND NO. 5 REBAR WITH GREEN PLASTIC CAP, PLS 38245
- MONUMENT TO BE ESTABLISHED TO MEET CITY OF PUEBLO REQUIREMENTS

P.U.E.	PUBLIC UTILITIES EASEMENT
R.O.W.	RIGHT-OF-WAY
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
(R)	RADIAL

BASIS OF BEARINGS

THE NORTH SECTION LINE OF THE NW 1/4 OF SE 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. TO BEAR N. 88°35'17" E.



PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

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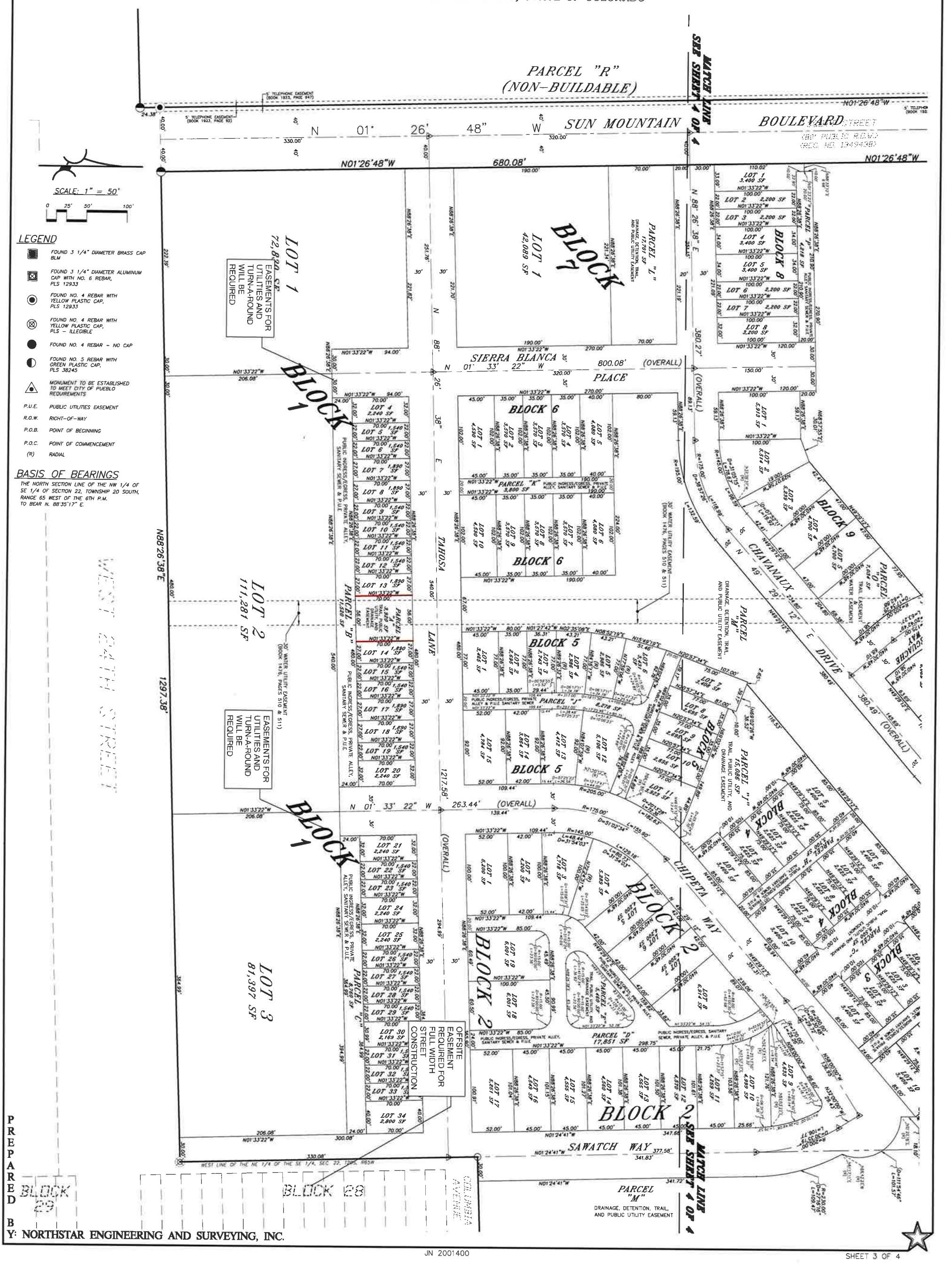
A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



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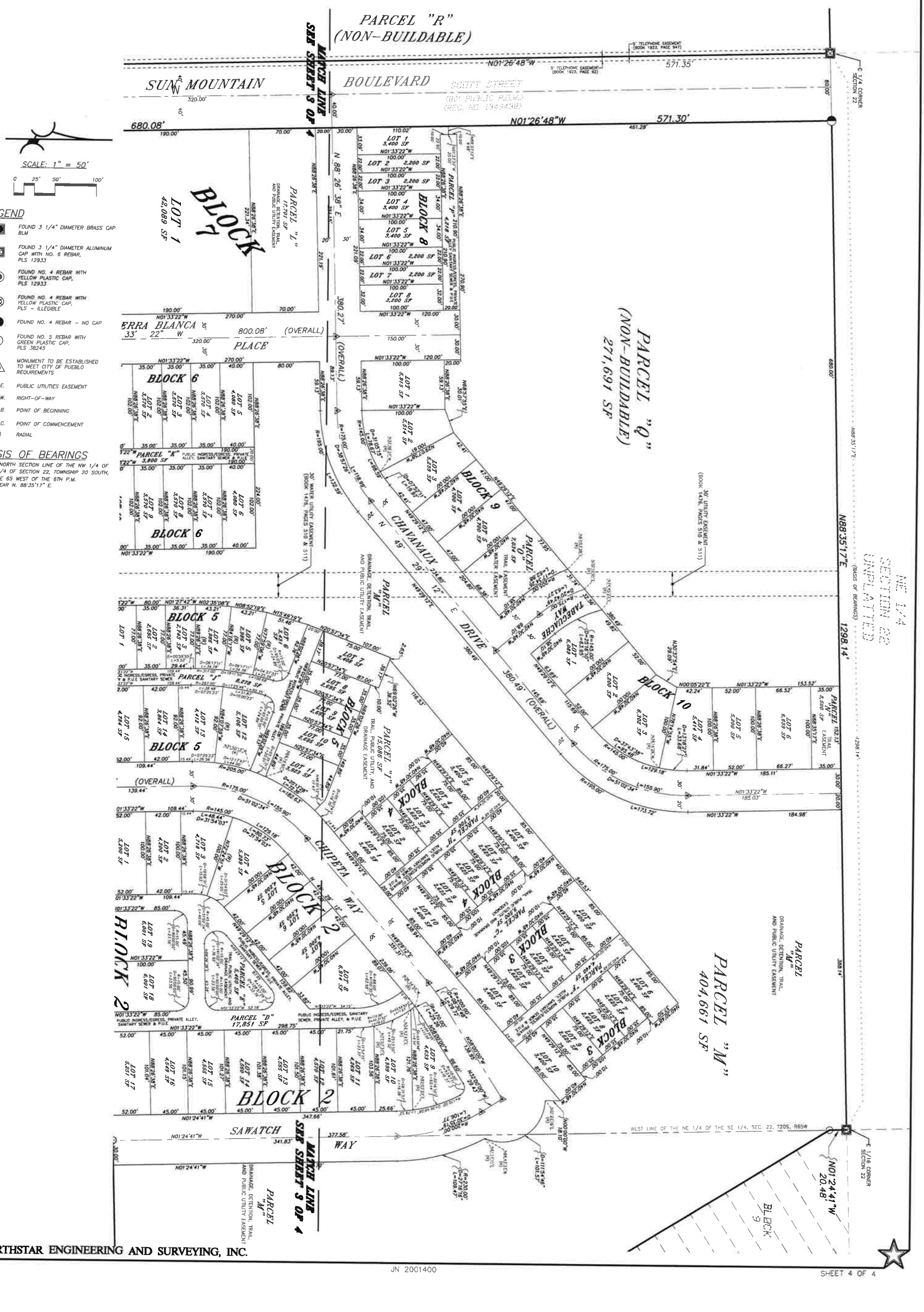


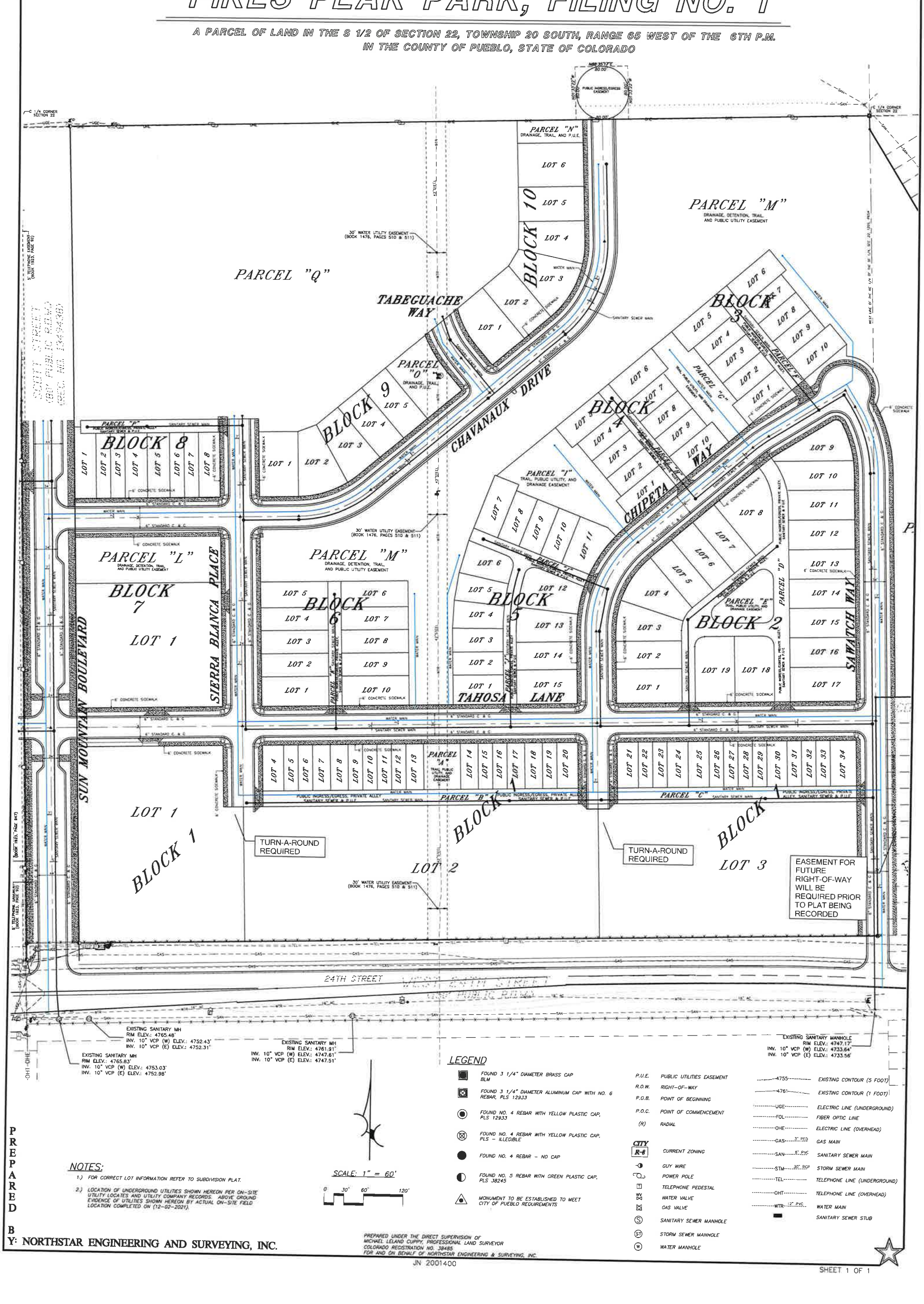
PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

JN 2001400

UTILITY MAP OF:

PIKES PEAK PARK, FILING NO. 1

A PARCEL OF LAND IN THE S 1/2 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M.
IN THE COUNTY OF PUEBLO, STATE OF COLORADO



NOTES:

1.) FOR CORRECT LOT INFORMATION REFER TO SUBDIVISION PLAT.

2.) LOCATION OF UNDERGROUND UTILITIES SHOWN HEREON PER ON-SITE UTILITY LOCATES AND UTILITY COMPANY RECORDS. ABOVE GROUND EVIDENCE OF UTILITIES SHOWN HEREON BY ACTUAL ON-SITE FIELD LOCATION COMPLETED ON (12-02-2021).

SCALE: 1" = 60'

0 30' 60' 120'

LEGEND

- FOUND 3 1/4" DIAMETER BRASS CAP BLM
- FOUND 3 1/4" DIAMETER ALUMINUM CAP WITH NO. 6 REBAR, PLS 12933
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, PLS 12933
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P.U.E. PUBLIC UTILITIES EASEMENT
R.O.W. RIGHT-OF-WAY
P.O.B. POINT OF BEGINNING
P.O.C. POINT OF COMMENCEMENT
(R) RADIAL

CITY R-8 CURRENT ZONING

GUY WIRE
POWER POLE
TELEPHONE PEDESTAL
WATER VALVE
GAS VALVE
SANITARY SEWER MANHOLE
STORM SEWER MANHOLE
WATER MANHOLE

4755 EXISTING CONTOUR (5 FOOT)
4761 EXISTING CONTOUR (1 FOOT)
UGE ELECTRIC LINE (UNDERGROUND)
FOL FIBER OPTIC LINE
OHE ELECTRIC LINE (OVERHEAD)
GAS 3" PED GAS MAIN
SAN 8" PVC SANITARY SEWER MAIN
STM 30" RCP STORM SEWER MAIN
TEL TELEPHONE LINE (UNDERGROUND)
OHT TELEPHONE LINE (OVERHEAD)
WTR 12" PVC WATER MAIN
SANITARY SEWER STUB

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY, PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 38485
FOR AND ON BEHALF OF NORTHSTAR ENGINEERING & SURVEYING, INC.

JN 2001400

city of PUEBLO colorado
Planning & Community Development
211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Planning & Zoning Application

Please type or print clearly. Illegible applications will not be accepted. Case #: _____

Contact Info

Property Owner		**Applicant**	
Name: Ashleigh Winans		Name: SAME AS OWNER	
Company: NeighborWorks Southern Colorado		Company:	
Address: 1241 E Routt Ave, Pueblo, CO	Zip: 81004	Address:	Zip:
Phone: (719) 544-8078		Phone: ( )	
Email: awinans@nwsoco.org		Email:	
Engineer		**Surveyor**	
Name: Drew Brice		Name: SAME AS ENGINEER	
Company: NORTHSTAR ENGINEERING		Company:	
Address: 111 E. 5TH ST	Zip: 81003	Address:	Zip:
Phone: (719) 544-6823		Phone: ( )	
Email: DBRICE@NORTHSTAR-CO.COM		Email:	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location: North of 24th st, West of Wildhorse Creek and East of Pueblo Blvd.
(address or general description)

Parcel No(s): 0522430217, 522310230

Existing Zone: PUD | Proposed Zone (if applicable):

PUD Name (if applicable): PIKE PEAKS PARK

Project Scope

Project Name: Pikes Peak Park, Filing No. 1

- ☐ Rearrangement of Property Boundaries:
  # of existing lots: _____ Total acres: _____
- ☐ Overall Development Plan
- ☐ Site Plan Review: Building area: _____sf
  ○ HARP ○ Development Plan ○ PUD ○ Student Housing
- ☐ Special Area Plan
- ☐ Street Name Change: Existing Name: _____ Proposed Name: _____
- ☒ Subdivision: # of lots: 115 Total acres: 73.925
- ☐ Text Amendment
- ☐ Vacation: ○ Street ○ Alley ○ Easement ○ Other: _____
- ☐ Other: _____

(Continue Next Page)

(Continued from previous page)

Project Information

Provide a brief description of the proposed request:
Platting lots, roads, and parcels for the first phase of a development that will include residential, multi-family, and commercial development.

What is the total acreage included in the project? 34.94 73.925

What is the proposed use of the property?

☒ Commercial ☒ Multi-family ☒ Residential ☐ Industrial ☐ Other

Are there any other pending or recently approved Land Use applications regarding this property? ☒ Yes ☐ No

If yes, please list: Rezone to PUD (Pikes Peak Park)

Attachments

Attachment Checklist

The following list of attachments are required to accompany all applications:

- ☐ A. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted.
- ☐ B. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us)
- ☐ C. Additional information as required by the **P&Z Submittal Requirements Sheet.**

Terms

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.
2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.
5. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.

Signatures

Property Owner		
Print Name:	Ashleigh Winans	
Signature:	Ashleigh Winans	Date: 11/17/2021
Applicant, if different from Property Owner		
Print Name:		
Signature:		Date:

Office Use Only

Zoning Compliance (Completed by City Staff)		
Application checked for completeness by:	Date:	Fee Paid:

IDABEL CIR
PIKES PEAK CT
ROYAL GORGE CT
ANTERO CT
SPAULDING AVE
SAN DE CRISTO CIR
COCHETOPA CT
CULEBRA CT
GORDOVA CT
PONCHA CT
LA MANCHA CT
SAN DE CRISTO ST
SAN DE CRISTO CT
PERRY AVE
BUENA VISTA CT
CUCHERA CT
24TH ST

0feet 100feet 200feet 300feet 400feet 500feet 600feet

Prepared By: Dchavez

Date: 03/15/2022

Disclaimer: Black Hills Energy power line location information is provided as a courtesy by Black Hills Energy. The location information is provided "as is" without any guarantee or warranty of any kind, express or implied. Black Hills Energy does not warrant or assume any legal liability or responsibility for the reliance, use, accuracy, completeness, or usefulness of any such information.

3 PHASE OH MAINLINE

Jeff Hawkins, PE, CFM
Director of Stormwater

211 E. "D" Street
Pueblo, CO 81003

Phone (719) 553-2899
Fax (719) 553-2294

Stormwater Utility

MEMO

TO: Beritt Odom, Principal Planner

FROM: John Sakariason, Stormwater Coordinator

DATE: March 16, 2022

SUBJECT: S-21-12 P & Z Conditions

This memo is intended to serve as the Stormwater Utility's review of the referenced project submittal. Please forward to the applicant's representative.

1. The maintenance agreement has ben submitted, but the stormwater department provided comments to the applicant and is awaiting a resubmittal.

STORMWATER FACILITY MAINTENANCE AGREEMENT

This Stormwater Maintenance Agreement is entered into this **14** day of **March**, 20 **22**, by and between Pueblo, a municipal corporation ("the City") and **Neighborworks Southern Colora** **Neighborworks Southern Colorado** (the "Owner"), and collectively referred to as the "Parties".

RECITALS

WHEREAS, Owner owns certain real property located in the City of Pueblo legally described as follows:

See Attached Exhibit A

;

and more commonly known as **Pikes Peak Park** (the "Property"); and

WHEREAS, a Drainage Report and Plan ("Plan") for the Property has been approved by the City subject to and conditioned upon faithful performance by Owner of all duties created by this Agreement; and

WHEREAS, said Plan provides for stormwater management facilities including such facilities intended to reduce, detain, convey, and manage stormwater runoff and also water quality facilities (collectively referred to as "Facilities"); and

WHEREAS, the Facilities shown on the Plan shall be constructed and adequately maintained by the Owner; and

WHEREAS, the City requires that the Owners submit an Operation and Maintenance Manual ("O & M Manual") as specified by the City.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

AGREEMENT

1. The Owner shall maintain the Facilities as described in the Plan to ensure that such Facilities are and will remain in proper working condition in accordance with the approved O & M Manual and other applicable legal requirements. Maintenance shall include, but not be limited to, routine landscaping, sediment removal, repair, reconstruction, or replacement of the Facilities as necessary to meet the requirements of this Agreement.

2. The maintenance of the Facilities shall be performed in accordance with the O & M Manual for the Facilities.

3. The Owner shall cause the inspections of the Facilities to be conducted as follows:

    a. The Owner agrees to cause inspections of the Facilities, at the Owner's expense at least once every calendar year.

    b. An inspection report for the facilities shall be submitted in writing to the City for each calendar year by no later than April 1st of the following year. The inspection report shall be in accordance with the requirement set forth in the O & M Manual.

    c. The Owner agrees to perform promptly all needed maintenance and repairs and report such activity to the City pursuant to the O & M Manual.

4. The Owner, hereby, grants, bargains and conveys to the City, officers, agents, and employees an easement over the Property for access from public rights-of-way, abutting private roadways, and/or private driveways, to the Facilities for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, repairing or replacing the Facilities to the extent that the Owner fails to do so and as necessary to ensure their proper working condition as provided in paragraphs one and two above.

5. In the event the Owner fails to inspect, report, or properly maintain the Facilities within thirty (30) days after written notice by the City of such deficiencies to the Owner, the City may enter upon the Property and take whatever steps it deems necessary to maintain or repair the Facilities and bill the owner for such expense plus an administrative charge of 15%. However, if the Owner's failure to properly maintain the facilities could cause damage to property, loss of life or violation of a NPDES MS-4 Permit, the City may take immediate action, without notice to the Owner, to maintain or repair the Facilities. It is expressly understood and agreed that the City is under no obligation to maintain or repair the Facilities, and in no event shall this Agreement be considered to impose any such obligation on the City.

6. The Owner agrees that it will not at any time dedicate the Facilities to the public, to public use or to the City without the City's written consent, nor will it subdivide or convey the Property without a covenant providing that a proportional share of the cost of maintenance and other costs associated with any other of the obligations and duties contained herein runs with each subdivided part of the original tract or parcel of land.

7. In an event of emergency involving the Facilities, the City, its officers, agents, and employees may enter immediately upon the Property and take whatever reasonable steps it deems necessary to meet the emergency. The City shall notify the Owner of such emergency and entry as soon as possible but in no event later than twenty-four (24) hours after such entry. Alternatively, the City may notify the Owner by phone to take whatever reasonable action is necessary within a specified time period. Should the Owner fail to respond, or should the Owner inform the City that it intends to not respond within the specified period of time, the City, its officers, agents, and employees may enter immediately upon the emergency.

8. The City shall not pay any compensation at any time for its use of the Property in any way necessary for the inspections and maintenance of the Facilities, including access to the Facilities.

9. In the event the City, pursuant to this Agreement, performs work or expends any funds reasonably necessary for the maintenance or repair of the Facilities, including labor, equipment, supplies and materials, the Owner agrees to reimburse the City within thirty (30) days after the City gives the Owner written notice of such expense. If the Owner or its successors or assigns fail to make timely payment as required herein, interest on such payment shall accrue at the rate of 1.5% per month until paid in full.

10. Any amount owed to the City and not paid within thirty (30) days of notification shall be the joint and several obligation of any owner of record of the Property or any portions thereof served by the Facilities and any successors in interest to such owner on the date such maintenance or repair was performed.

11. The Owner, its successors, and assigns shall indemnify and hold harmless the City, its officers, agents, and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City arising out of or resulting from the construction, presence, existence of maintenance or use of the Facilities. The Owner shall notify the City when the Owner transfers its interest in the Property or any portion thereof. The Owner shall provide the City with a copy of any such deed.

12. The responsibilities and obligations of the Owner shall constitute a covenant running with the land, and shall be binding upon all present and subsequent owners, their administrators, executors, assigns, heirs, and any other successors in interest so long as they own an interest in the Property or any portion thereof served by the Facilities.

13. The Owner acknowledges that any future site plan, master plan, drainage plan or other process determined by the City to be a final plan, shall include the following language: "The property owner, its successors, and assigns shall be responsible for maintenance of the Stormwater Facilities pursuant to the Operations and Maintenance (O & M) Manual and all permanent Best Management Practices (BMPs). Requirements include, but are not limited to, installing the specified BMPs contained in the Drainage Report and Plan and maintaining the Facilities as shown in the O & M Manual as approved by the City. If the Facilities are not properly maintained, the City may provide necessary maintenance and assess the cost to the Owner of the property in accordance with the Stormwater Facility Maintenance Agreement approved by the City and recorded at the Pueblo County Clerk and Recorder's Office."

14. This Agreement shall be recorded at the Pueblo County Clerk and Recorder's Office.

15. In the event either of the Parties hereto files a lawsuit to enforce the terms of the Agreement, the prevailing party shall be entitled to its reasonable costs and attorney fees.

[Remainder of this page left intentionally blank]

IN WITNESS WHEREOF, the City and the Owner have executed this Agreement on the date set forth above.

CITY:

By: _____
Mayor
Attest:

_____
City Clerk

OWNER:
Neighborworks South , a **501(c)3 nonprofit** (corp/llc, indicate)

By: **Ashleigh Winans, CEO**
, as

Or (if non corporate entity)

_____

(The Acknowledgement (notarization) will vary for Owner depending on if Owner is an individual, corporation, partnership, etc. Also, where there is a mortgage on the property, the mortgage holder must sign the Subordination section of this Agreement) An Affidavit of Authority/Incumbency to execute shall be supplied for any entity.

ACKNOWLEDGEMENT
(For a Corporation)

State of **Colorado**)
)ss
County of **Pueblo**)

The foregoing instrument was acknowledged before me this ___ day of **March**, 20 **22** by **Ashleigh Winans** as **CEO** of the **Neighborworks Southern Colorado**, a **non-profit 501c3** corporation, on behalf of the corporation.

[seal]

_____
Notary Public
My Commission Expires:

_____

January 24, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Ashleigh Winans, NeighborWorks Southern Colorado** for the approval of the following application(s):

V-21-04; Foothills Street and Easement Vacation. Vacation of the streets and easements dedicated within the Foothills Subdivision. Generally located north of W. 24th Street and east of N. Pueblo Blvd.

S-20-01; Pikes Peak Park, Filing 1 Subdivision. Subdivision of approximately 73.92 acres into multiple lots facilitating residential and commercial mixed-use development. Generally located north of W. 24th Street and east of N. Pueblo Blvd.

The Planning and Zoning Commission meeting will be held on February 9, 2022, at 3:30 p.m., by Zoom: Meeting ID:927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston)) or in-person at 1 City Hall Pl (3rd Floor City Council Chambers). 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 contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

January 24, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Ashleigh Winans, NeighborWorks Southern Colorado** for the approval of the following application(s):

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER S-21-12

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 Pikes Peak Park Fil #1 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.

2-18-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Ow	OwnerZip
NEIGHBORHOOD HOUSING SERVICES OF PUEBI	1241 E ROUTT AVE	PUEBLO	CO	81004-2908
PINELLE JAMES P/PINELLE SHIRLEY A	2205 CLIFF LOMBARD S	PUEBLO	CO	81003-3877
TREFETHEN ROBERT A + TREFETHEN CYNTHIA	2311 SUNBURST CT	PUEBLO	CO	81003-3848
EVANS JAMES W/EVANS JACQUELINE M	2312 SUNBURST CT	PUEBLO	CO	81003-3848
PORTER LARRY W/PORTER NORAH E	2831 TEMPLE LN	PUEBLO	CO	81003-1061
BAMBER EMMA RUBERSON TRUST	4016 RIDGE DR	PUEBLO	CO	81008-1720
BAMBER EMMA RUBERSON TRUST + HAYES EI	4016 RIDGE DR	PUEBLO	CO	81008-1720
REGALADO PATRICK	903 E B ST	PUEBLO	CO	81003-3507
MCKINNEY ROSE MARY	909 W PITKIN AVE	PUEBLO	CO	81004-1142
CITY OF PUEBLO A MUNICIPAL CORPORAT	PO BOX 1427	PUEBLO	CO	81002-1427

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A LETTER OF INTENT TO SELL 101 W. RIVERWALK PLACE, UNITS 1A AND 1B, TO FULL PLATE MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY FOR ONE MILLION ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS ($1,102,500)

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign a non-binding Letter of Intent for the City to sell 101 W. Riverwalk Place, Units 1A and 1B, to Full Plate Management, LLC for $1,102,500.

PREVIOUS COUNCIL ACTION:

Not applicable to this ordinance.

BACKGROUND:

Units 1A and 1B were conveyed to the City by Professional Bull Riders, Inc. in 2012 and have been vacant since being acquired by the City. For the past 10 years, the City has attempted to sell both units to a business interested in developing the riverwalk property.

FINANCIAL IMPLICATIONS:

The purchase price for the property in the amount of $1,102,500 shall be allocated $490,000 to Unit 1B and $612,500 to Unit 1A.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to sell the property to Full Plate Management, LLC for $1,102,500.

RECOMMENDATION:

Approval of this Ordinance.

Attachments:
Proposed Ordinance
Proposed Letter of Intent.

ORDINANCE NO. 10166

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A LETTER OF INTENT TO SELL 101 W. RIVERWALK PLACE, UNITS 1A AND 1B, TO FULL PLATE MANAGEMENT, LLC, A COLORADO LIMITED LIABILITY COMPANY FOR ONE MILLION ONE HUNDRED TWO THOUSAND FIVE HUNDRED DOLLARS ($1,102,500)

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

SECTION 1.

The Letter of Intent ("Letter") dated April 25, 2022, between the City and Full Plate Management, LLC, a copy of which is attached hereto and is incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Letter in the name of the City and the City Clerk is authorized to fix the seal of the City thereto and attest same.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Letter which are necessary or appropriate to implement 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022 .

☐ 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

LETTER OF INTENT

This non-binding Letter of Intent ("LOI") entered into this 25th day of April, 2022 shall form the basis for the preparation of a binding Purchase and Sale Agreement ("PSA") relative to the purchase by Full Plate Management, LLC or assigns ("Purchaser") of 101 E. Riverwalk Place. Condominium Unit 1A and condominium Unit 1B ("Units") (hereinafter referred to as the "Property") from the seller City of Pueblo ("Seller"). The following general terms and conditions will be applicable to the said purchase:

1. **Purchase Price.** The Purchase Price for the Property shall equal $1,102,500 and shall be allocated $490,000 to Unit 1B and $612,500 to Unit 1A. A separate PSA shall be prepared for the purchase of each Unit.

2. **Earnest Money Deposit**. Upon the execution of a formal PSA for each Unit, Purchaser will place in escrow with a title company of the Seller's choosing (the "Title Company") the sum of $25,000.00 as an Earnest Money deposit, split equally between each Unit ($12,500 per Unit). If Purchaser does not terminate the Purchase Agreement during the Due Diligence Period, then the Earnest Money shall become non-refundable and shall be paid to the Seller..

3. **Information to be Provided by the Seller**. After the execution of the PSA, Seller will deliver, or cause to be delivered, to Purchaser, at Seller's expense, the following documents and information related to the Property:

    a. A current Title Commitment covering the Property (one per Unit) issued by the Title Company, together with legible copies of all documents creating any liens, encumbrances, easements, restrictions or other exceptions to title listed in the Title Commitment.

    b. A current recorded Condominium Plat sufficient to enable the Title Company to issue an Owner's Title Policy to Purchaser at Closing.

    c. The Property was not constructed by Seller and therefore Seller is not in possession of engineering reports, environmental reports (with accompanying No Further Action letters from applicable governmental entities, if needed), soil reports, topographical surveys, traffic reports, zoning ordinances, site plans, construction drawings, as-built Building plans, or other similar reports and studies relating to the Property. Said documents may be in the possession of the Professional Bulls Riders, Inc. which constructed the Property and currently occupies other condominium units.

d. Seller covenants that no construction work has been performed on the Property in the last 12 months.

e. The Property was conveyed to the Seller by Professional Bull Riders, Inc. in 2012 and has been vacant since then. Operating statements covering the Property for the current year and for the immediately preceding three calendar years are not in the possession of the Seller.

f. Copies of ad valorem tax statements and property insurance statements covering the Property for the current year, if available, and for the immediately preceding three calendar years are not in the possession of the Seller.

The Title Commitment will be delivered to Purchaser within fifteen (15) days after the execution of the PSA, and the other items in the possession of the Seller will be delivered to Purchaser within five (5) days after the execution of the PSA.

4. **Purchaser's Due Diligence Period and Site Plan Approval Period.** Purchaser shall have a period ending ninety (90) days after the effective date of the PSA ("Due Diligence Period") within which to arrange for financing for the property, conduct a physical inspection of the Property and such other inspections, tests, investigations and feasibility studies as Purchaser may deem necessary or advisable in connection with its purchase and planned Project. Purchaser reserves the right to extend the Due Diligence period for up to two (2) additional thirty (30) day extension periods by depositing an additional $10,000.00 in non-refundable Earnest Money with the Title Company ($5,000.00 per Unit) for each thirty (30) day extension.

   Purchaser may elect to terminate the PSA for any reason, in its sole discretion, at any time during the Due Diligence period, and, if Purchaser so elects to terminate the PSA, the refundable portion of the Earnest Money deposit shall be refunded to Purchaser and Purchaser and Seller shall have no further rights or obligations under the Purchase Agreement. Otherwise, the Earnest Money shall be non-refundable after expiration of the Due Diligence Period.

5. **Title Review**. The Purchase and Sale Agreement will contain customary provisions for Purchaser to deliver notice of any title objections to Seller, and will afford Seller an opportunity to cure Purchaser's title objections. Any outstanding mortgages, assessments and other liens against the

Property will be satisfied and discharged by Seller at Closing, with any related costs to be paid by Seller.

6. **Closing**. The Closing will take place thirty (30) days after the expiration of the Due Diligence period.

7. **Conditions to Closing**. Purchaser's obligation to close its acquisition of the Property under the Purchase agreement will be subject to the following conditions:

   a. Issuance of an Owners Title Policy subject only to the exceptions approved by the Purchaser.
   b. Approval of the use as a Child Care Center by the HARP Board and the Pueblo City Council.
   c. There will be no material and adverse change in the condition of the Property.
   d. Seller's representations and warranties under the Purchase Agreement will be true and correct in all material respects as of the Closing date.

8. **Assignment**. Purchaser shall have the right to assign the Purchase Agreement to any entity, either controlled by or under common control with Purchaser (including a limited partnership whose general partner is controlled by or under common control with Purchaser), or any other unrelated entity.

9. **Brokerage Disclosure**. In accordance with the Colorado Real Estate Commission, this confirms that Nathan Stern and Zach Cytryn of Fuel & Iron Realty represent the Purchaser and are not acting as agents or subagents of the Seller.

10. **Disclaimers**. IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILTY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN SELLER'S SPECIAL WARRANTY OF TITLE TO BE SET FORTH IN THE SPECIAL WARRANTY DEED), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING, BUT NOT LIMITED TO, HAZARDOUS MATERIALS CONTAMINATION), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY.

PURCHSER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS."

11. **Nature of this Letter of Intent**. This Letter of Intent is a non-binding expression of interest. It is understood and agreed that neither party shall be legally bound to the other, unless and until, the terms and conditions relating to this transaction are negotiated and incorporated into the Purchase and Sale Agreement, as signed by both parties.

12. **Counterparts**. This Letter of Intent may be executed in one or more counterparts, each of which will be deemed an original copy of this Letter of Intent.

If the general terms and conditions set forth above are acceptable, please indicate by signing this Letter of Intent in the space provided below. Upon our receipt of a signed copy of this Letter of Intent, Seller's attorney will prepare a draft of the Purchase and Sale Agreement for subsequent review by the parties prior to execution.

ACCEPTED AND AGREED:

SELLER:

CITY OF PUEBLO, CO
A MUNICIPAL CORPORATION

By: _____
Mayor

ATTESTED BY: _____
City Clerk

PURCHASER:

Full Plate Management, LLC

By: _____
Manager

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: April 11, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO 200 GREENHORN DRIVE, PUEBLO, CO 81004

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign an agreement accepting the conveyance of 200 Greenhorn Drive, located in the City's Minnequa Industrial Park, from the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF").

PREVIOUS COUNCIL ACTION:

On June 8, 2020, by Ordinance No. 9712, City Council agreed to transfer up to $5 million from the "half-cent" Economic Development Tax Fund to PDF for the acquisition of land and construction of a so-called "shell" building within one of the City's industrial parks. After construction of the shell building, PDF agreed to convey title to the City.

BACKGROUND:

PDF constructed the shell building in the Minnequa Industrial Park for $3,326,611.19. The attached Ordinance approves a conveyance of the shell building to the City for future economic development purposes.

FINANCIAL IMPLICATIONS:

The City takes title to Lot 1 of the Minnequa Industrial Park which was acquired and improved using the City's "half-cent" economic development funds.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, title to Lot 1 will remain with PDF.

RECOMMENDATION:

The Pueblo Economic Development Corporation recommends approval of this Ordinance.

Attachments:
Proposed Ordinance
Agreement

ORDINANCE NO. 10167

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO 200 GREENHORN DRIVE, PUEBLO, CO 81004

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

SECTION 1.

The Agreement for Conveyance of Real Property and Improvements ("Agreement"), dated April 25, 2022 between the City of Pueblo, a Colorado municipal corporation and the Pueblo Development Foundation, a Colorado nonprofit corporation, relating to a job creating capital improvement project, a copy of which is attached hereto, having been approved as to form by the City Attorney is hereby approved. The Mayor is authorized to execute and deliver the Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and to attest same.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement which are necessary or desirable to imolement 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 April 11, 2022.

Final adoption of Ordinance by City Council on April 25, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on April 27, 2022 .

☐ 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

AGREEMENT FOR CONVEYANCE OF REAL PROPERTY AND IMPROVEMENTS

This Agreement for Conveyance of Real Property and Improvements ("Conveyance Agreement") is made and entered into this 25th day of April, 2022 by and between the City of Pueblo, a Colorado Municipal Corporation (hereinafter "City"), and the Pueblo Development Foundation, a Colorado Non-Profit Corporation (hereinafter "Foundation"). City and Foundation are collectively referred to as the "Parties".

RECITALS

On May 26, 2020, the Pueblo City Council approved and authorized the Mayor of the City to sign an agreement between City and Foundation appropriating monies from the Sales and Use Tax Capital Improvements Projects Fund for the acquisition of land in the Minnequa Industrial Park and for the construction of a shell building and related infrastructure improvements, ("Funding Agreement").

Pursuant to the Funding Agreement, the City allocated up to $5,000,000.00 for the acquisition of the land and the construction of the building and infrastructure improvements. The Funding Agreement required that after construction was completed, Foundation would convey the property and improvements to the City for its economic development projects.

The construction of the shell building and the related infrastructure improvements on the property has been completed, however certain requirements related to stormwater drainage features as required by the City of Pueblo Stormwater Utility have not been completed as the same will most likely undergo material changes depending upon the requirements and planned use of the property by an economic development prospect currently engaged in negotiations with the City to ultimately acquire the property.

The Parties desire to enter into an agreement concerning the conveyance of the property to the City and the related assumption by the City of the Stormwater Discharge Permit issued by the Colorado Department of Public Health and Environment and the related requirements imposed by the City of Pueblo Stormwater Utility.

NOW, THEREFORE, for and in consideration of compliance with the Funding Agreement and of the mutual covenants and terms hereinafter set forth, the City and Foundation agree as follows:

1. CONVEYANCE TO CITY.

Foundation, as Grantor, hereby agrees to and shall execute a Special Warranty Deed to the City, as Grantee, conveying the real property and improvements located at 200 Greenhorn Dr., Pueblo, CO 81004 and more particularly described as:

Lot 1, Minnequa Industrial Park, Fifth filing, County of Pueblo, State of Colorado.

Said deed shall be in substantially the same form as that attached hereto and made a part hereof by reference, labeled **Exhibit A**. Upon delivery of the Deed to City, City agrees to cause the same to be recorded in the records of the Pueblo County Clerk and Recorder, and such recording shall further constitute acceptance of the Deed by the City.

2. STORMWATER REQUIREMENTS.

Foundation hereby informs and discloses to City as follows:

In order to obtain the building permit for the construction of the shell building, Foundation was required; 1) to obtain a Stormwater Discharge permit from the Colorado Department of Public Health and Environment in compliance with the Colorado Discharge Permit System ("State Permit") and to register the same, as the Responsible Owner, in the Colorado Environmental Online Services ("CEOS"), and, 2) to agree to perform and/or comply with all requirements imposed by the City of Pueblo Stormwater Utility.

Foundation obtained the State Permit (Permit No. COR411796) and entered the same as the Responsible Owner in CEOS. Foundation has resolved and completed some, but not all, of the outstanding stormwater requirements and issues as identified by the City of Pueblo Stormwater Utility. City acknowledges receipt of the information and disclosure by Foundation as set forth above and based upon the same and its own investigation into the matter, hereby agrees to accept the conveyance of the property subject to all such requirements and obligations as are related to stormwater planning, infrastructure, maintenance, and operation as have been, and as may hereinafter be, imposed by the governmental entity or the regulatory department having jurisdiction over stormwater matters at the property. City agrees to be responsible and, where required, to pay for, at its sole and separate expense, all costs incurred in establishing and thereafter maintaining compliance with such Stormwater Regulations. City agrees to cause the Director of its Stormwater Utility, or his or her designee, to enter the City as the Responsible Party for the State Permit in the CEOS system and to take all such other actions as may be required to discharge and relieve Foundation from any further obligation of any nature related to stormwater matters at the property.

3. BINDING AGREEMENT.

When executed by the Parties, this Agreement shall constitute a binding agreement and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, provided Foundation may not assign this Agreement or any interest herein without the express written consent of the City, which consent shall not be unreasonably withheld.

4. GENERAL MATTERS.

(a) In no event shall City or Foundation, their officers, agents, or employees be liable to each other for damages, including without limitation, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to

this Agreement or the performance or breach thereof by the parties hereto or the failure or delay of the parties hereto in the performance of any covenantor provision under this Agreement on their part to be performed. In consideration of the other party entering into this Agreement, City and Foundation hereby waive and discharge each other, their officers, agents and employees from all claims for any and all such damages.

(b) Notwithstanding the above, in the event of breach of this Agreement by the City or Foundation, the non-breaching party shall have the right to request specific performance of this Agreement by the breaching party, but not damages.

(c) In the event of any litigation arising under this Agreement, 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 jurisdiction of such District Court. To the extent allowed by law, each party waives its right to a jury trial.

(d) This Agreement expresses the entire understanding of the parties and supersedes and abrogates any and all prior dealings and commitments, whether oral or written, with respect to the subject matter of this Agreement. This Agreement may not be amended or modified except in writing signed by City and Foundation. Any waiver of any provision of this Agreement must be in writing and signed by the party whose rights are being waived. No waiver of any breach of any provision hereof shall be or be deemed to be a waiver of any preceding or subsequent breach of the same or any other provision of this Agreement. The failure of either party to enforce or seek enforcement of the terms of this Agreement following any breach shall not be construed as a waiver of such breach.

(e) This Agreement shall be construed in accordance with and be governed by the laws of the State of Colorado without regard to conflict of law principles.

(f) Any notices hereunder shall be sufficiently given if given in writing personally or mailed by first class, registered, or certified mail, postage prepaid, addressed:

(I) if to City, Mayor, City of Pueblo, 1 City Hall Place, Second Floor, Pueblo, CO 81003 with a copy to City Attorney, 1 City Hall Place, Third Floor, Pueblo, Colorado 81003, or

(II) if to the Foundation, President, 301 N. Main St., Suite 210, Pueblo, Colorado 81003.

or to such other person or address as either party shall specify in written notice given to the other party pursuant to the provisions of this subsection (f).

(g) The persons signing this Agreement in the name of and on behalf of Foundation represent and warrant that they and Foundation have the requisite power and authority to enter into, execute, and deliver this Agreement, and that this Agreement is a

valid legally binding obligation of Foundation enforceable against Foundation in accordance with its terms.

(h) If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

(i) Neither party shall be, or hold itself out as, agent of the other or as joint venturers or partners under this Agreement.

(j) Each party acknowledges that this Agreement was fully negotiated by the parties and, therefore, no provision of this Agreement shall be interpreted against any party because such party or its legal representative drafted such provision.

(k) The provisions of this Agreement are for the exclusive benefit of the parties hereto and their successors and permitted assigns, and no third party shall be a beneficiary, or have any rights by virtue of this Agreement.

(l) This Agreement may be executed in any number of counterparts by physical or electronic signatures, 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.

Executed effective the day and year first above written.

[S E A L]

City of Pueblo
a Colorado Municipal Corporation

Attest: _____
City Clerk

By: _____
Mayor

[S E A L]

Pueblo Development Foundation
A Colorado nonprofit corporation

Attest: _____
Name:
Title:

By: _____
Name: Robert L. Root
Title: President

EXHIBIT A

SPECIAL WARRANTY DEED
(200 GREENHORN DR., PUEBLO, CO 81004)

THIS DEED, made this ___ day of March, 2022 by and between PUEBLO DEVELOPMENT FOUNDATION, a Colorado nonprofit corporation, Grantor, for and in consideration of the sum of TEN DOLLARS ($10.00) in hand paid by the CITY OF PUEBLO, a Colorado municipal corporation, Grantee; Grantor hereby sells and conveys to Grantee, whose address is 1 City Hall Place, Pueblo, CO 81003, the following real property situate in the County of Pueblo, State of Colorado, to-wit:

Lot 1, Minnequa Industrial Park, Fifth Filing, County of Pueblo, State of Colorado

more commonly known by street and number as: 200 Greenhorn Dr., Pueblo, CO 81004, also known as Pueblo County Assessor Parcel No. 1523002009

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in any otherwise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estate, right, title, interest, claim, and demand whatsoever of the Grantor, either in law or in equity, of, in, and to the above bargained premises with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the Grantee, its successors and assigns forever. Grantor for itself and its successors and/or assigns do covenant and agree that it shall and will warrant and forever defend the above bargained premises in the quiet and peaceful possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor. The singular number shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders. Said warranty is subject to rights-of-way, easements, covenants, plats, agreements and other restrictions of record as of the date of this Deed and any other exceptions or exclusions or rights of third parties not shown by the public records of which Grantee has actual knowledge, and subject to the inclusions of the property within any special taxing district.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

PUEBLO DEVELOPMENT FOUNDATION
A COLORADO NON-PROFIT CORPORATION

_____
Robert L. Root
President of Pueblo Development Foundation

STATE OF COLORADO)
) ss
COUNTY OF PUEBLO)

Subscribed and sworn to before me this _____ day of March, 2022 by Robert L. Root, in his capacity as President of Pueblo Development Foundation, a Colorado Non-Profit Corporation.

Witness my hand and official seal.

My commission expires: _____

_____
Notary Public

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: **April 25, 2022**

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: A RESOLUTION GRANTING LOCAL BUSINESSES A DEFERMENT UNTIL JANUARY 1, 2023 TO MAKE THEIR FIRST MONTHLY PAYMENTS ON LOANS FROM THE COVID-19 EMERGENCY PROJECT

SUMMARY:

Attached is a proposed Resolution granting local businesses which received loans in 2020 from the COVID-19 Emergency Project a deferment until January 1, 2023 to make their first payments on said loans.

PREVIOUS COUNCIL ACTION:

On April 13, 2020, by Ord. No. 9698, the City Council established the COVID-19 Emergency Project within the Sales and Use Tax Capital Improvement Project Fund, commonly referred to as the "half-cent sales tax fund." On April 13, 2020, by Resolution No.14394, City Council also transferred $5,000,000 from the 1992-2021 Sales and Use Tax Capital Improvement Projects Fund to the COVID-19 Emergency Project.

On July 12, 2021, by Resolution No. 14663, City Council granted local businesses which received loans in 2020 from the COVID-19 Emergency Project, a deferment until May 1, 2022 to make their first payments on said loans. The Resolution also waived interest on said loans during the deferment interval.

BACKGROUND:

Under the attached Resolution, local businesses shall be given another eight (8) months to financially recover from the pandemic before being required to make their first monthly payments on the loans.

FINANCIAL IMPLICATIONS:

None. Interest on the loans during the additional 8 month deferment period is not being waived.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council has the option of not giving local businesses an additional 8 month deferment in making their first loan payments.

RECOMMENDATION:

None.

Attachments:
Proposed Resolution.

As Amended
April 25, 2022

RESOLUTION NO. 14870

A RESOLUTION GRANTING LOCAL BUSINESSES A DEFERMENT UNTIL JANUARY 1, 2023 TO MAKE THEIR FIRST MONTHLY PAYMENTS ON LOANS FROM THE COVID-19 EMERGENCY PROJECT

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

SECTION 1.

The thirty-four (34) local businesses listed on the attached Exhibit A, which received loans from the COVID-19 Emergency Project shall be and hereby are granted a deferment until January 1, 2023 to make their first monthly payments on said loans. Said loans shall not accrue interest during this deferment period.

SECTION 2.

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 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED April 25, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: Lawrence W. Atencio
VICE PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

COVID-19 Emergency Project - ED2001

Current Loan List

Company Name	Loan Amount
A & D Billiards dba Classic Q's	35,000.00
Aguilar Barber Styling Inc dba Aguilar's Barber	15,000.00
Apollonia West Inc, formerly Neon Alley Ltd dba Bistoro	50,000.00
Bella Sposa Bridal Boutique, LLC	25,000.00
Benfatti's Inc. dba Benfatti Furniture	50,000.00
Big Daddy's Sunset Bowl, Inc.	50,000.00
Big-O Tires of Pueblo	50,000.00
Clear Choice Glass of Pueblo LLC	20,000.00
Cordelia J & Company dba Formulary 55	40,000.00
DanCor, Inc. dba Reflections Plus	15,000.00
Dio Mercantile Co. dba Dairy Queen	75,000.00
E & B Meats LLC dba Bays Meat Market	15,000.00
Flow Right Plumbing Heating & Irrigation, Inc	75,000.00
Game Over Legends, Inc. dba Game Over	5,000.00
GFZ LLC dba Grays Coors Tavern	15,000.00
Gilbert Ortiz-Chicken N Cone, LLC dba Chicken N Pasta	15,000.00
Grahams Grill	15,000.00
Joey D Enterprises Inc. dba Subway	10,000.00
Le Nails & Sp LLC dba Le Nails	15,000.00
Marquis Paint & Body, Inc.	25,000.00
Mercado Motors	75,000.00
Moreschini Dental	25,000.00
MSK Enterprise Inc. dba The Pantry Restaurant	100,000.00
Nachos Restaurants	50,000.00
Pueblo Athletic Club	75,000.00
R.S. Transmissions Inc. dba Aamco Transmissions	10,000.00
Screened Effects, Inc.	20,000.00
Signs by Scott, Ltd	75,000.00
Solar Roast Coffee LLC	75,000.00
SPM Realty, Inc. dba Rocky Mountain Realty	50,000.00
Stanley C Rheaume DPB PC dba Podiatry Associates	20,000.00
Studio 127 Salon & Day Spa LLC 910	35,000.00
Ted's Tire Service	7,500.00
	$ 1,232,500.00

Last Updated: 03/23/2022