REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS - CITY HALL
#1 CITY HALL PLACE
MONDAY, May 9, 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 Steve Cornella, Pueblo Christian Center

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E.1. Proclamation Presentation: "Sound The Alarm, Save A Life Day - May 9, 2022" – Barb Huber, Fire Chief

E.2. Proclamation Presentation: "Building Safety Month – May 2022" – Mark Gurule, Plans Examiner/Building Inspector, Pueblo Regional Building Department

E.3. Proclamation Presentation: "National Foster Care Month – May 2022" – Suzette Keating, Child Welfare Program Administrator And Josette Jaramillo, Foster Care Supervisor For Pueblo County Department Of Human Services

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 25, 2022*** as distributed.

Documents:

04-25Minutes.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

M. RESOLUTIONS

M.1. A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF $74,218.30 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIRS IN BASIN-5 VARIOUS LOCATIONS II, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

Documents:

Resolution_14871.pdf
Bid Summary_Change Order_Map.pdf

M.2. A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO REFUND SANITARY SEWER FEES OF $793.35 TO LARRY ZERFAS

Documents:

Resolution_14872.pdf
Refund_Documents.pdf

M.3. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $19,840.47 TO K.R. SWERDFEGER CONSTRUCTION, INC., FOR AN EMERGENCY STORM SEWER POINT REPAIR AT THE INTERSECTION OF 22ND STREET AND GRAND AVENUE AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14873.pdf
Bid Summary_Map.pdf

M.4. A RESOLUTION APPROVING AN AMENDMENT TO A CONSTRUCTION CONTRACT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND DOUG VAUGHN, LLC, PROVIDING FOR ADDITIONAL REPAIR WORK RELATED TO PROJECT NO. 22-014 ELMWOOD GOLF COURSE CART PATH, IN THE AMOUNT OF $12,000, TO BE PAID FROM PROJECT ACCOUNT EW2101 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14874.pdf
Amendment No. 1.pdf

M.5. 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

Documents:

Resolution_14875.pdf

Bid Summary.pdf

M.6. A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO RON MAESTAS FOR THE USE OF THE NORTH MONUMENT AVENUE RIGHT OF WAY AT 1601 NORTH MONUMENT AVENUE FOR THE PURPOSE OF INSTALLING A RETAINING WALL

Documents:

Resolution_14876.pdf
Revocable Permit.pdf

M.7. A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE LA GENTE YOUTH SPORTS, INC. FOR THE USE OF THE 1200 BLOCK OF JUAN MADRID AVENUE TO HOST THE ANNUAL JUAN MADRID MEMORIAL SOFTBALL TOURNAMENT FROM MAY 20, 2022, TO MAY 23, 2022

Documents:

Resolution_14877.pdf
Revocable Permit.pdf

M.8. A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF EILEEN DENNIS TO THE PUEBLO DEPOT ACTIVITY DEVELOPMENT AUTHORITY BOARD OF DIRECTORS AKA PUEBLOPLEX

Documents:

Resolution_14878.pdf

M.9. A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF STEVEN CONTRERAS TO THE PUEBLO REGIONAL BUILDING – PLUMBING BOARD OF APPEALS - JOURNEYMAN

Documents:

Resolution_14879.pdf

M.10. A RESOLUTION RATIFYING PACOG'S APPOINTMENT OF DYNELLE ABEYTA, JULIE FAIRMAN, CINDY LAU, AND STEVEN RODRIGUEZ TO THE COMMUNITY SERVICES ADVISORY COMMISSION (CSAC) – JOINT CITY-COUNTY APPOINTMENTS

Documents:

Resolution_14880.pdf

M.11. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF COLLEEN CLARK TO COMPLETE A THREE-YEAR TERM EXPIRING DECEMBER 31, 2024 ON THE PUEBLO HUMAN RELATIONS COMMISSION

Documents:

Resolution_14881.pdf
Application.pdf

M.12. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF WESTON BURRER TO THE SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE DISTRICT ADVISORY COMMITTEE

Documents:

Resolution_14882.pdf
Application.pdf

M.13. A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INSTITUTE A CIVIL INTERPLEADER ACTION AND FOR DECLARATORY RELIEF RELATING TO DISPUTED CLAIMS TO UNION DUES DEDUCTIONS BETWEEN PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

Documents:

Resolution_14883.pdf

N. ORDINANCES – FIRST PRESENTATION

N.1. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A COLORADO LIBRARY DISTRICT AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2022 KIDS READ SUMMER CHALLENGE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL HOUSEHOLDS AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $328,500 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR PURPOSES THEREOF

Documents:

Ordinance_N-1.pdf
2022 Kids Read - Amendment.pdf

N.2. AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $65,031 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SUSTAINABILITY STUDY FOR THE WASTEWATER DEPARTMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_N-2.pdf
Agreement.pdf

N.3. AN ORDINANCE ESTABLISHING PROJECT CI2208 FOR UNION AVENUE BRIDGE REPAIR PROJECT, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-096 (24927) IN THE AMOUNT OF $100,500 TRANSFERRING THE FUNDS IN THE AMOUNT OF $100,500 FROM BRIDGE REPAIRS PROJECT, HUAN05 TO THE UNION AVENUE BRIDGE REPAIR PROJECT, CI2208, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $210,000

Documents:

Ordinance_N-3.pdf
InterGovernmental Agreement.pdf
Dept Certification.pdf

N.4. AN ORDINANCE VACATING A PORTION OF THE ALLEY BETWEEN MAHREN

AVENUE AND EGAN AVENUE

Documents:

Ordinance_N-4.pdf
P_Z Report.pdf

N.5. AN ORDINANCE AMENDING ZONING RESTRICTIONS OF LOT 1 OF THE PUEBLO SPRINGS APARTMENTS SUBDIVISION FROM A-1, AGRICULTURAL ONE ZONE DISTRICT TO R-5, MULTIPLE-RESIDENTIAL AND OFFICE ZONE DISTRICT

Documents:

Ordinance_N-5.pdf
P_Z Report.pdf

N.6. AN ORDINANCE APPROVING THE PUEBLO SPRINGS APARTMENTS SUBDIVISION

Documents:

Ordinance_N-6.pdf
P_Z Report.pdf

N.7. AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

Documents:

Ordinance_N-7.pdf

N.8. AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

Documents:

Ordinance_N-8.pdf

N.9. AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST

Documents:

Ordinance_N-9.pdf

O. APPROVAL OF CONSENT AGENDA

O.1. I Move To Approve All Resolutions Set Forth In The Consent Agenda; Pass The Ordinances Of The Consent Agenda, Setting The Public Hearings For Monday, May 23, 2022, And Order The Ordinances To Be Published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q.1. A RESOLUTION AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $300,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT TO PROVIDE GOVERNMENT SERVICES THROUGH TRASH REMOVAL AND CLEAN-UP

PROJECTS AS AUTHORIZED BY SECTION 603(C)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 (D)

Documents:

Resolution_14884.pdf

Q.2. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO LATINO CHAMBER DEVELOPMENT CORP. IN THE AMOUNT OF TWO THOUSAND DOLLARS ($2,000) TO SUPPORT THE LATINO VETERANS PROFILES IN COURAGE AWARDS

Documents:

Resolution_14885.pdf
Council Contingencies.pdf
Sponsorship Form.pdf

Q.3. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PARKVIEW MEDICAL CENTER IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT PARKVIEW'S LADIES AND LEMONS EVENT

Documents:

Resolution_14886.pdf
Council Contingencies.pdf
Sponsorship Form.pdf

Q.4. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PUEBLO DOWNTOWN ASSOCIATION IN THE AMOUNT OF SEVEN HUNDRED DOLLARS ($700) TO SUPPORT THE LEVEE WALK

Documents:

Resolution_14887.pdf
Council Contingencies.pdf
Sponsorship Form.pdf

Q.5. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO 3R TECHNOLOGY SOLUTIONS IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT THE CLEANUP OF DOG PATCH

Documents:

Resolution_14888.pdf
Council Contingencies.pdf

Q.6. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE GOODNIGHT BARN FOUNDATION IN THE AMOUNT OF FIFTEEN THOUSAND DOLLARS ($15,000) TO SUPPORT THE CHUCK WAGON RENDEZVOUS

Documents:

Resolution_14889.pdf
Council Contingencies.pdf
Request and Event Information.pdf

Q.7. A RESOLUTION AUTHORIZING THE PRESIDENT OF CITY COUNCIL TO NEGOTIATE A PROPOSED AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND A REPUTABLE ACCOUNTING FIRM, TO PERFORM A FORENSIC AUDIT, SUBJECT TO SUBSEQUENT APPROVAL OF SAID AGREEMENT BY ORDINANCE

Continued to June 13, 2022 meeting

Documents:

Resolution_Q-7.pdf

R. ORDINANCES – FINAL PRESENTATION

R.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_10168.pdf
Licensed Dental Hygiene Care Subrecipient Agreement.pdf
Ybarra Boxing Club Subrecipient Agreement.pdf
Juneteenth Organization of Pueblo, Inc Subrecipient Agreement.pdf

R.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_10169.pdf
Professional Services Agreement.pdf

R.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_10170.pdf

2021 Year end Budget Reconciliation.pdf

R.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_10171.pdf
Agreement.pdf

R.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_10172.pdf
Agreement.pdf

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

Documents:

Ordinance_10173.pdf
P_Z Report.pdf

R.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_10174.pdf
Software and Consulting Agreement.pdf

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

Documents:

Ordinance_10175.pdf
Parklet Use Agreement.pdf

S. EMERGENCY ORDINANCES

S.1. AN EMERGENCY ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, COLORADO STATE FAIR AUTHORITY AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_10176.pdf
License Agreement.pdf

S.2. AN EMERGENCY ORDINANCE APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT, MTF M086-087 (24023) PRAIRIE AVENUE IMPROVEMENTS, BETWEEN PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, THE COLORADO DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_10177.pdf
Grant Amendment.pdf
Grant Certification.pdf

ADJOURN

REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
MONDAY, APRIL 25, 2022 – 7:00 P.M.

MINUTES

A. CALL TO ORDER President Heather Graham

B INVOCATION Pastor George Casias, The Vineyard of Pueblo

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: Mayor Nicholas Gradisar, City Attorney Daniel Kogovsek, Chief of Staff Laura Solano, City Clerk Marisa Stoller.

E. SPECIAL RECOGNITIONS

- President Heather Graham presented a proclamation declaring "Southern Colorado Youth Go Day – April 30, 2022" to Akemi Moore, Health Promotion Specialist PDPHE
- Councilor Vicente Martinez Ortega presented a proclamation declaring "Servicios de La Raza Day – April 30, 2022" to Rosa Zavala, Servicios de La Raza

F. PUBLIC FORUM

- Pueblo Rocks – Thank you
- Sal Katz, Mt. Carmel Vet Svr Ctr - Welcome
- Kim Arline – Public meeting on 4/26

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

Mayor Gradisar requested the community attend the public meeting about Union Ave on 4/26 at Lamb library. About 400 riders participated in the Pueblo Classic races.

H. REVIEW AND APPROVAL OF THE AGENDA

The agenda was reviewed page by page. Mayor Gradisar requested that item M-2 be removed from the agenda. Mr. Martinez Ortega requested that item M-10 be moved to the regular agenda. Ms. Winner requested that item N-2 be moved to the regular agenda. Ms. Martinez, seconded by Mr. Martinez Ortega, moved to remove item M-2 from the agenda and move M-10 and N-2 to the regular agenda and to approve the agenda as modified.

MINUTES

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

I. READING AND APPROVAL OF MINUTES

Mr. Atencio, seconded by Mr. Flores, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **Monday, April 11, 2022** as distributed.

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

K. CONSENT AGENDA

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

L. COMMUNICATIONS

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

M. RESOLUTIONS

M-1 RESOLUTION NO 14857 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

M-2 REMOVED FROM AGENDA

M-3 RESOLUTION NO 14858 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

M-4 RESOLUTION NO 14859 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

M-5 RESOLUTION NO 14860 AUTHORIZING THE TRANSFER OF $100,000 FROM PROJECT NO. CI2204 TO PROJECT NO. CI2206 FOR THE ADAMS AVENUE AND JACKSON STREET ROUNDABOUT PROJECT

MINUTES

M-6 RESOLUTION NO 14861 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

M-7 RESOLUTION NO 14862 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

M-8 RESOLUTION NO 14863 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

M-9 RESOLUTION NO 14864 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

M-10 MOVED TO THE REGULAR AGENDA

M-11 RESOLUTION NO 14865 APPOINTING JACQUELINE KEITH TO THE PUEBLO CITY-COUNTY LIBRARY DISTRICT BOARD OF TRUSTEES

M-12 RESOLUTION NO 14866 CONFIRMING THE APPOINTMENT BY THE MAYOR OF KEN JOHNSON TO THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

M-13 RESOLUTION NO 14867 CONFIRMING THE APPOINTMENT BY THE MAYOR OF CHRISTINA MAESTAS AND STEVEN RODRIGUEZ TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS (CCHH)

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 – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

N-2 MOVED TO REGULAR AGENDA

MINUTES

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 – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

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 – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

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 – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

N-6 AN ORDINANCE VACATING PORTIONS OF PLATTED STREETS AND ALLEYS OF SOUTH BRADFORD STREET, KELLY AVENUE, AND RIVER STREET – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

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 – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

N-8 AN ORDINANCE AMENDING THE STANDARD FORM PARKLET USE AGREEMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR QUALIFYING BUSINESSES – *submitted for First Presentation*

Public Hearing was Set for Monday, May 9, 2022, Notice of Hearing was Ordered Published by Title.

MINUTES

O. APPROVAL OF CONSENT AGENDA

Mr. Flores, seconded by Ms. Winner, moved to 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.**

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

P. REGULAR AGENDA

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 – *submitted for First Presentation*

Ms. Winner, seconded by Mr. Atencio, moved to set Public Hearing for Monday, May 9, 2022, and ordered the Notice of Hearing to be Published by Title.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, Martinez Ortega. Nays: Winner. Motion carried 6-1.

M-10 RESOLUTION NO 14868 CONFIRMING THE MAYOR'S REAPPOINTMENT OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT

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

Mr. Flores, seconded by Mr. Atencio, moved to approve the Resolution on Final Presentation.

Mr. Martinez Ortega moved to change the length of term from 2 years to 90 days. Motion failed for lack of a second.

Roll Call - Ayes: Atencio, Flores, Graham, Maestri, Martinez, and Winner. Nays: Martinez Ortega. Motion carried 6-1.

Q. RESOLUTIONS

Q-1 RESOLUTION NO 14869 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

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

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

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

R. ORDINANCES – FINAL PRESENTATION

R-1 ORDINANCE NO 10156 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 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. Flores, seconded by Mr. Atencio, moved to approve the Ordinance on Final Presentation.

Roll Call - Ayes: Atencio, Flores, Graham, Martinez, Martinez Ortega and Winner. Nays: Maestri. Motion carried 6-1.

R-2 ORDINANCE NO 10157 CREATING PROJECT PT2201 SHOP TRUCK REPLACEMENT, ACCEPTING BUDGETING AND APPROPRIATING INSURANCE PROCEEDS IN THE AMOUNT OF $18,250 INTO PROJECT PT2201 – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Ben Valdez, Director of Transportation.

PUBLIC HEARING:

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

Mr. Martinez Orega, 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-3 ORDINANCE NO 10158 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 Final Presentation*

A staff report and detailed review of the Ordinance was given by Greg Pedroza, Airport Director

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-4 ORDINANCE NO 10159 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 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 Final Presentation*

A staff report and detailed review of the Ordinance was given by Greg Pedroza, Airport Director

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.

MINUTES

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

R-5 ORDINANCE NO 10160 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 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.

Ms. Winner, 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-6 ORDINANCE NO 10161 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 Final Presentation*

A staff report and detailed review of the Ordinance was given by Jerry Pacheco, PURA Director.

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Ms. Winner, 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 10162 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 Final Presentation*

MINUTES

A staff report and detailed review of the Ordinance was given by Scott Hobson, Interim Director of Planning & Community Development. Mr. Hobson requested that Case # Z 21-22 and all minutes and associated documents from the March 9th, 2022 meeting of the Planning & Zoning Commission be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

- Randy Thurston 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.

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

R-8 ORDINANCE NO 10163 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 Final Presentation*

A staff report and detailed review of the Ordinance was given by Scott Hobson, Interim Director of Planning & Community Development. Mr. Hobson requested that Case # Z 21-16 and all minutes and associated documents from the March 23rd, 2022 meeting of the Planning & Zoning Commission be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

- Ashleigh Winas appeared in person to speak in favor of this ordinance
- Tamara Pleshek appeared in person to speak in favor of this ordinance

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

Ms. Martinez, 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-9 ORDINANCE NO 10164 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 Final Presentation*

MINUTES

A staff report and detailed review of the Ordinance was given by Scott Hobson, Interim Director of Planning & Community Development. Mr. Hobson requested that Case # V 21-04 and all minutes and associated documents from the March 23rd, 2022 meeting of the Planning & Zoning Commission 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-10 ORDINANCE NO 10165 APPROVING THE PIKES PEAK PARK, FILING NO. 1 SUBDIVISION – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Scott Hobson, Interim Director of Planning & Community Development. Mr. Hobson requested that Case # S 21-12 and all minutes and associated documents from the March 23rd, 2022 meeting of the Planning & Zoning Commission be made part of the record for this hearing. So ordered by President Graham.

PUBLIC HEARING:

- Elvis Martinez 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 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-11 ORDINANCE NO 10166 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 Final Presentation*

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

PUBLIC HEARING:

- Sean Martinez, Rocky Mountain Realty, appeared in person to speak in favor of this ordinance
- Barbara Zork appeared in person to speak against this ordinance

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

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

Roll Call - Ayes: Atencio, Flores, Graham, Martinez, Martinez Ortega and Winner. Nays: Maestri. Motion carried 6-1.

R-12 ORDINANCE NO 10167 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 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. 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.

S. COUNCIL MEMBER CONFLICT OF INTEREST

President Heather Graham was excused from the meeting due to a conflict of interest with agenda item number S-1. Vice President Larry Atencio assumed control of the meeting.

S-1 RESOLUTION NO 14870 GRANTING LOCAL BUSINESSES A DEFERMENT UNTIL JANUARY 1, 2023 TO MAKE THEIR FIRST MONTHLY PAYMENTS ON LOANS FROM THE COVID-19 EMERGENCY PROJECT – *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, Vice President Atencio declared the Hearing closed.

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

Ms. Winner, seconded by Ms. Martinez, moved to add a waiver of interest to the Resolution.

Roll Call - Ayes: Maestri, Martinez, Martinez Ortega and Winner. Nays: Atencio and Flores. Motion carried 4-2 with President Graham recused.

Vote on the Resolution granting local businesses a deferment until January 1, 2023 to make their first monthly payments on loans from the COVID-19 emergency project and waiving interest until January 1, 2023.

MINUTES

Roll Call - Ayes: Flores, Maestri, Martinez, Martinez Ortega and Winner. Nays: Atencio. Motion carried 5-1 with President Graham recused.

S. EXECUTIVE SESSION

Ms. Martinez, seconded by Mr. Martinez Ortega, moved to convene into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e); and the following additional details are provided for identification purposes:

To instruct negotiators regarding a proposed purchase of real estate by the City of Pueblo.

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

ADJOURN: 9:52 p.m. Vice President Atencio Adjourned the Meeting into Executive Session.

Executive Session began at 10:00 p.m. and was adjourned at 10:15 p.m.

Respectfully submitted,

Marisa Stoller
City Clerk

City Clerk's Office Item # M-1

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 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 $74,218.30 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIRS IN BASIN-5 VARIOUS LOCATIONS II, 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 repairs in Basin-5 various locations II.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

During routine inspection for the City Wide 100% television inspection program of sewer mains, the Wastewater Department collection crew discovered sewer mains with large offset joints, holes, and broken pipe inverts in Basin-5 at various locations. The bedding around the pipes was washed out and the pipe inverts were completely gone increasing the risk of pipe collapses and blocking the flow in the mains.

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

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

Total:	$ 61,223.44	82%

Surface Improvement Related

Total:	$ 12,994,86	18 %
Grand Total:	$ 74,218.30	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 the 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. 14871

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF $74,218.30 WITH PARKER EXCAVATING, INC. EMERGENCY SANITARY SEWER POINT REPAIRS IN BASIN-5 VARIOUS LOCATIONS II, FOR 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 sewers in Basin-5 various locations II with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of $74,218.30.

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 affixed 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 and the contract to implement the transactions 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 and the contract change order in the amount of $45,996.30 are hereby ratified.

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					Basin-5 Various Locations II			
Date: 12/14/2021					**K.R. Swerdfeger Construction, Inc.**	**FRPHI ECS & Landscape, Inc.**	**Parker Excavating, Inc.**	
Project Number: 20-059 (WWAN03)								
Item	**Description**	**Estimated**					**Unit Price**	
1	Remove and Replace 8” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	88.00	$ -
		21-100	LF		$ -	$ -	53.50	$ -
		>100	LF	112	$ 9,520.00	$ 62,720.00	51.50	$ 5,768.00
2	Remove and Replace 8” PVC More than 10’ Deep	1-20	LF		$ -	$ -	109.50	$ -
		21-100	LF		$ -	$ -	59.50	$ -
		>100	LF		$ -	$ -	59.25	$ -
3	Remove and Replace 10” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	91.50	$ -
		21-100	LF		$ -	$ -	60.50	$ -
		>100	LF		$ -	$ -	60.00	$ -
4	Remove and Replace 10” PVC More than 10’ Deep	1-20	LF		$ -	$ -	119.50	$ -
		21-100	LF		$ -	$ -	68.50	$ -
		>100	LF		$ -	$ -	68.00	$ -
5	Remove and Replace 12” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	103.50	$ -
		21-100	LF		$ -	$ -	69.50	$ -
		>100	LF		$ -	$ -	68.00	$ -
6	Remove and Replace 12” PVC More than 10’ Deep	1-20	LF		$ -	$ -	122.00	$ -
		21-100	LF		$ -	$ -	69.50	$ -
		>100	LF		$ -	$ -	68.00	$ -
7	Remove and Replace 15” PVC Less than 10’ Deep	1-20	LF		$ -	$ -	115.00	$ -
		21-100	LF		$ -	$ -	73.00	$ -
		>100	LF		$ -	$ -	71.00	$ -
8	Remove and Replace 15” PVC More than 10’ Deep	1-20	LF		$ -	$ -	134.00	$ -
		21-100	LF		$ -	$ -	81.50	$ -
		>100	LF		$ -	$ -	79.50	$ -
9	Remove and Replace 4” Service Tap Less than 10’ Deep	1-20	LF		$ -	$ -	89.00	$ -
		21-100	LF		$ -	$ -	47.50	$ -
		>100	LF		$ -	$ -	45.50	$ -
10	Remove and Replace 4” Service Tap More than 10’ Deep	1-20	LF		$ -	$ -	109.00	$ -
		21-100	LF		$ -	$ -	55.00	$ -
		>100	LF		$ -	$ -	53.50	$ -
11	Asphalt Patch – 4” HMA on 4” Class 6 ABC For 8" and 10" Pipe	1-20	LF		$ -	$ -	54.00	$ -
		21-100	LF		$ -	$ -	54.00	$ -
		>100	LF	186	$ 11,160.00	$ 10,044.00	54.00	$ 10,044.00
12	Asphalt Patch – 5” HMA on 6” Class 6 ABC For 8” and 10” Pipe	1-20	LF		$ -	$ -	58.00	$ -
		21-100	LF		$ -	$ -	58.00	$ -
		>100	LF		$ -	$ -	58.00	$ -
13	Asphalt Patch – 4” HMA on 4” Class 6 ABC For 12" and 15" Pipe	1-20	LF		$ -	$ -	61.00	$ -
		21-100	LF		$ -	$ -	61.00	$ -
		>100	LF		$ -	$ -	61.00	$ -
14	Asphalt Patch – 5” HMA on 6” Class 6 ABC For 12" and 15" Pipe	1-20	LF		$ -	$ -	65.00	$ -
		21-100	LF		$ -	$ -	65.00	$ -
		>100	LF		$ -	$ -	65.00	$ -
15	Remove and Replace 7” Reinforced Concrete	1-20	SF		$ -	$ -	14.10	$ -
		21-100	SF		$ -	$ -	13.75	$ -
		>100	SF		$ -	$ -	13.50	$ -
16	Remove and Replace 6” Reinforced Concrete	1-20	SF		$ -	$ -	13.25	$ -
		21-100	SF		$ -	$ -	12.50	$ -
		>100	SF		$ -	$ -	12.25	$ -
17	Remove and Replace 4” Concrete	1-20	SF		$ -	$ -	9.50	$ -
		21-100	SF		$ -	$ -	9.25	$ -
		>100	SF		$ -	$ -	9.00	$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		$ -	$ -	40.00	$ -
		21-100	LF		$ -	$ -	39.50	$ -
		>100	LF		$ -	$ -	39.25	$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		$ -	$ -	126.50	$ -
		21-100	CY	60.00	$ 9,000.00	$ 9,180.00	126.50	$ 7,590.00
		>100	CY		$ -	$ -	126.50	$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			$ -	$ -	275.00	$ -
21	Remove and Replace 48” Diameter Manhole	EA			$ -	$ -	3200.00	$ -
22	Remove and Replace 60” Diameter Manhole	EA			$ -	$ -	3850.00	$ -
23	Reinstate Services	EA		3	$ 900.00	$ 261.00	265.00	$ 795.00
24	Mobilization	LS		7	$ 10,500.00	$ 5,250.00	575.00	$ 4,025.00
				Total	$ 41,080.00	$ 87,455.00		$ 28,222.00
				With Contingency	$ 49,296.00	$ 104,946.00	$ -	$ 33,866.40

CONTRACT CHANGE ORDER

CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE

Project Name : 2021 - 2023 Emergency Sanitary Sewer Point Repair
Basin-5 Various Locations II

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
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>20LF)	($5,768.00)	
2	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF) - 2680 BEGONIA ST		$1,496.00
3	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF) - 2591 AZALEA ST		$880.00
4	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF) - 2510 BEGONIA ST		$1,584.00
5	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>21LF) - 2611 BEGONIA ST		$2,300.50
6	REMOVE & REPLACE 8" PVC PIPE >10' DEEP (<21LF) - 2105 VINEWOOD LN		$438.00
7	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF) - 3945 BISON LN		$484.00
8	REMOVE & REPLACE 10" PVC PIPE >10' DEEP (<21LF)- 156 BRIDLE TR		$1,553.50
9	REMOVE & REPLACE 8" PVC PIPE >10' DEEP (<21LF) - SURFWOOD & CHATALET		$547.50
10	ASPHALT PATCH - 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE		$1,917.00
11	REINSTATE SERVICES		$2,650.00
12	INSTALL EXTRA LEAN CONCRETE (FLOW FILL)		$14,737.25
13	MOBILIZATION		$2,875.00
14	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF) - 2680 BEGONIA ST & ASTER ST		$440.00
15	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (<21LF)- BISON LN & STARLITE DR		$440.00
16	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>20LF)- 1112 W 14TH ST		$4,280.00
17	ASPHALT PATCH - 5" HMA ON 6" CLASS 6 ABC FOR 8" AND 10" PIPE		$696.00
18	REMOVE AND REPLACE 48" DIAMETER MANHOLE		$3,200.00
19	REMOVE CAMERA/CLEANING HEAD/TAP CUTTER		$825.00
20	REMOVE & REPLACE 4" SERVICE TAP <10' DEEP (<21LF)		$890.00
21	REMOVE 48" DIAMETER DEADEND MANHOLE		$1,600.00
22	CHANGE ORDER		$667.69
23	RECYCLED ASPHALT		$337.86
24	BYPASS PUMPING		$2,200.00
25	TRAFFIC CONTROL		$4,725.00
	TOTAL (Decrease) / Increase	($5,768.00)	$51,764.30

Net Adjustment This Change Order	$	45,996.30
Amount of Previous Change Order(s)	$	0.00
Original Contract Amount	$	28,222.00
Total Adjusted Contract Amount To Date	$	74,218.30

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

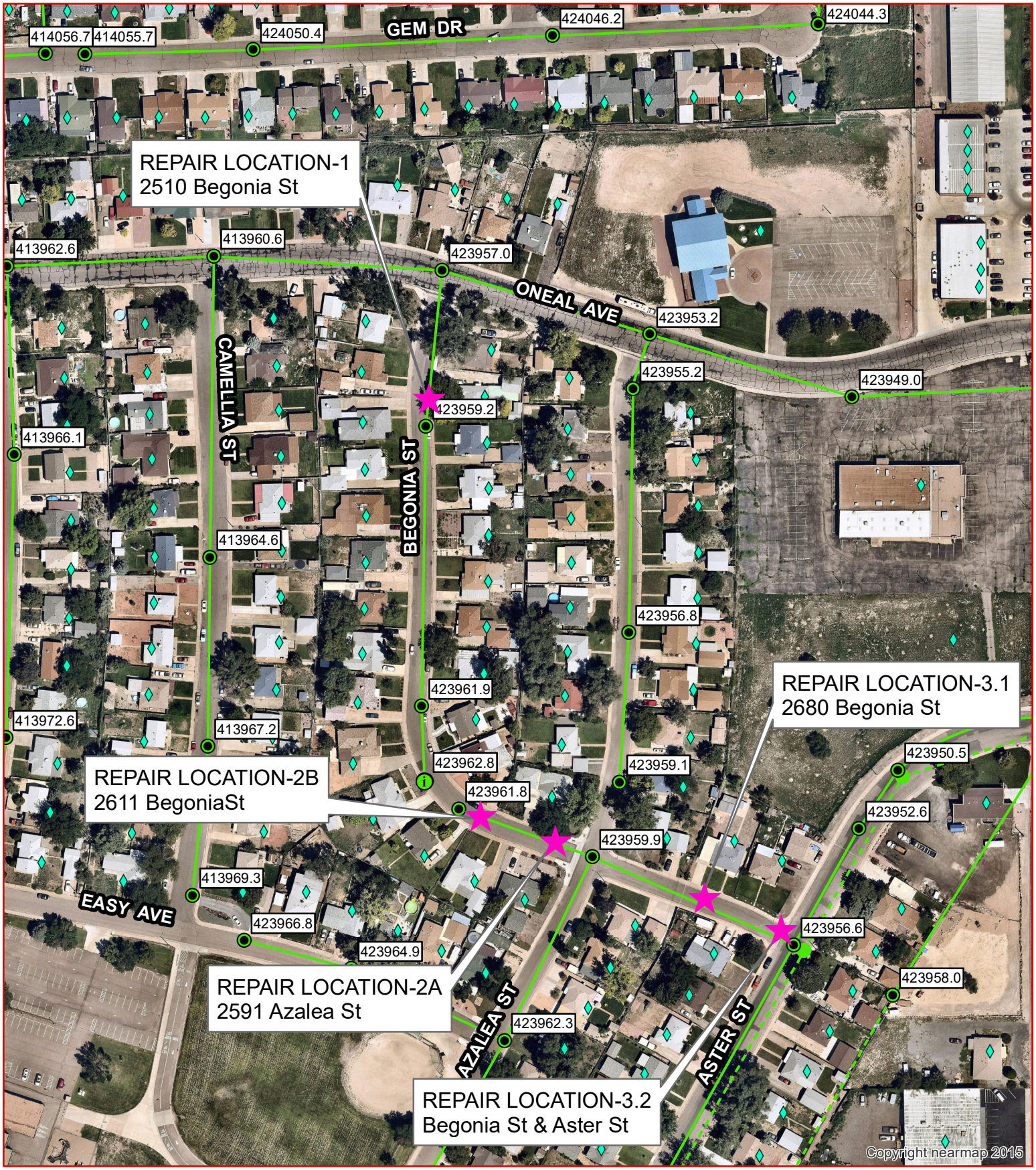
Accepted by: _____ Date:_____
Contractor's Representative

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.

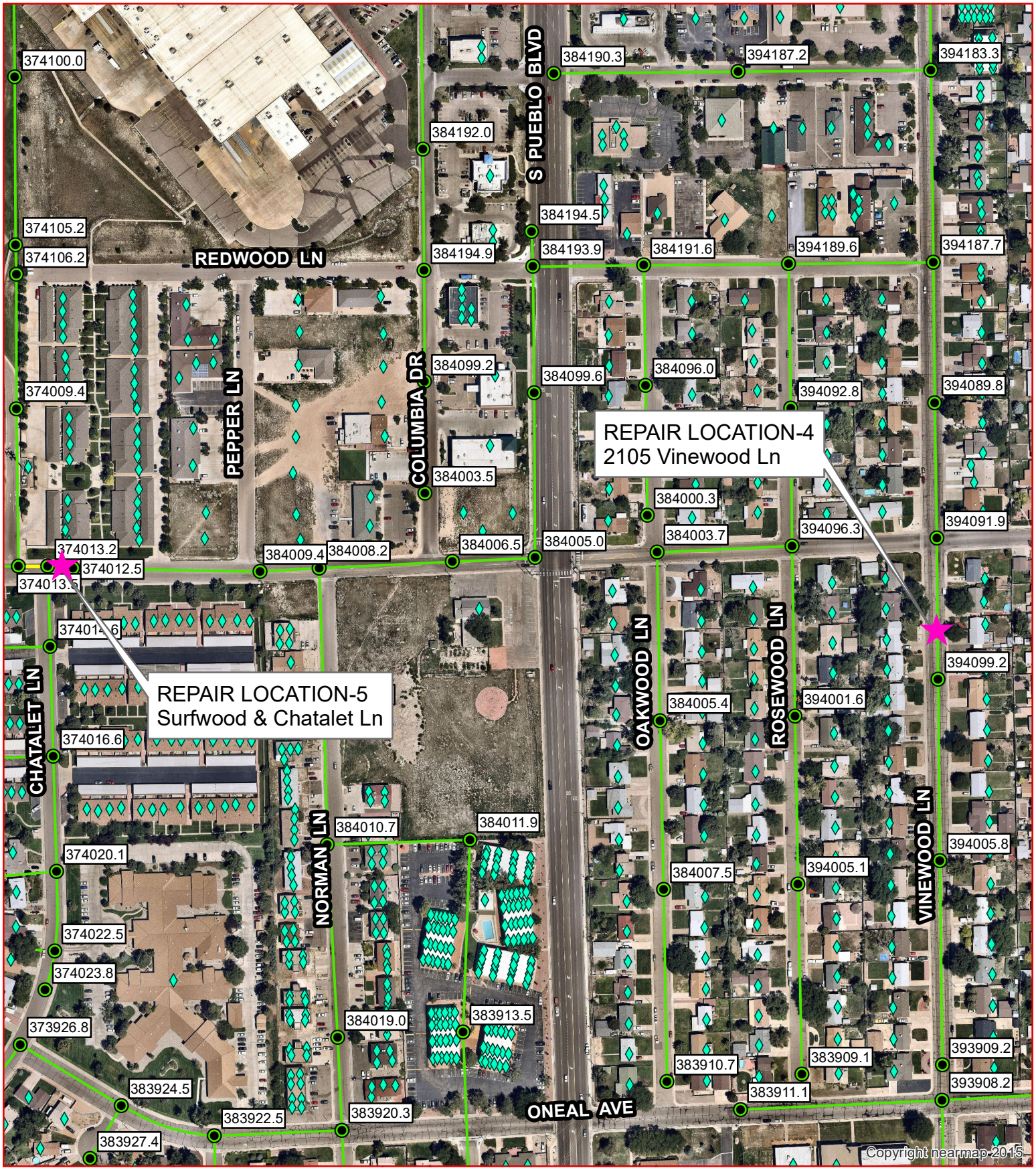
Approved by: _____ Date:_____
Director of Wastewater

FORM CO100.1299

20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
Basin-5 Various Locations II (1 of 3)



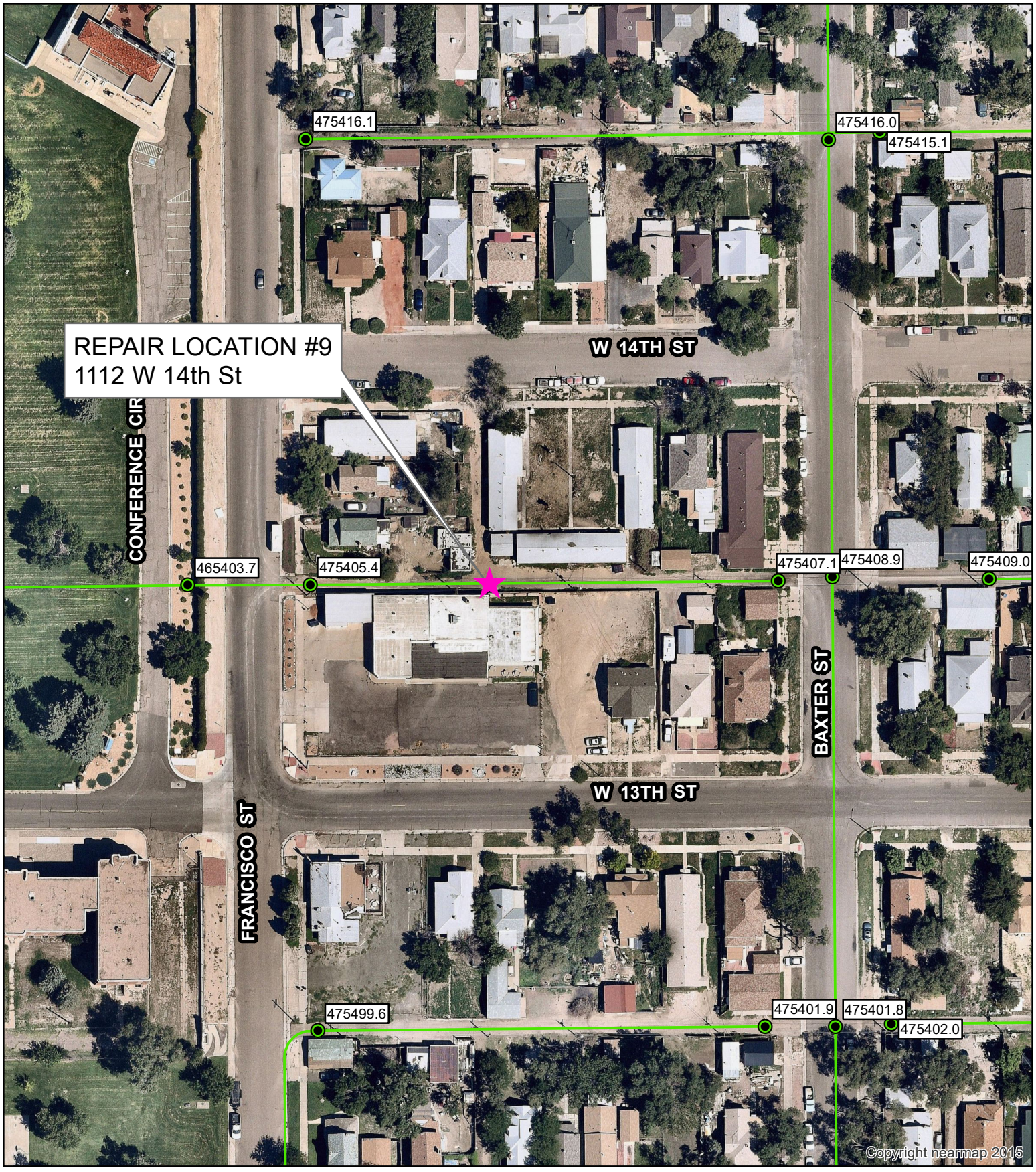
20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
Basin-5 Various Locations II (2 of 3)



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
Basin-5 Various Locations II (3 of 3)



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
1112 W 14TH ST (Added to Basin 5 Various Locations)



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 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: AN RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO REFUND SANITARY SEWER FEES OF $793.35 TO LARRY ZERFAS

SUMMARY:

From May of 2021 to February of 2022, charges for sanitary sewer fees were erroneously charged to Larry Zerfas, whose property is setup on a septic tank.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Wastewater Department recently received a written request from Larry Zerfas who is the owner of the property located at 139 Bridle Trail. Mr. Zerfas is seeking a refund of his sewer bill. The residence at 139 Bridle Trail is on a septic tank and should never have been charged sanitary sewer fees.

Pursuant to City Ordinance 16-6-25, refunds based upon sewer user charges appearing on billings issued more than ninety (90) days prior to receipt of a written request can only be authorized by City Council and are limited to a maximum period of two years. Mr. Zerfas is requesting the refund of wastewater fees in the amount of $793.35 for the charges from May 2021 to February 2022.

FINANCIAL IMPLICATIONS:

The refund of $793.35 will be paid from the Claim Settlement Fund, Account number 037689-106274. Funds are available and have been appropriated.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Alternative No. 1 – No Action

The property at 139 Bridle Trail will not receive compensation for sanitary sewer fees.
.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Request for Refund
Amounts paid for Sewer Fees on Bridle Trail

RESOLUTION NO. 14872

A RESOLUTION AUTHORIZING THE CITY OF PUEBLO TO REFUND SANITARY SEWER FEES OF $793.35 TO LARRY ZERFAS

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

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

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

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

SECTION 1.

The City shall refund Larry Zerfas the sum of $793.35 for the erroneous collection of fees charged for 139 Bridle Trail during the period of May 2021 through February 2022.

SECTION 2.

Such refund shall be paid through the Claim Settlement Fund, Account Number 037689-106274 in the amount of $793.35.

SECTION 3.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: Sonia Mondragon
Sent: Thursday, March 3, 2022 6:18 AM
To: Ryan Dalton <rdalton@pueblowater.org>
Cc: Dennis Trujillo <dtrujillo@pueblo.us>; Debi Romines <dromines@pueblo.us>; bonniezerfas@comcast.net
Subject: FW: [External] 139 Bridle Trail Septic

Ryan
Please note that 139 Bridle Trail should not be charged monthly sewer fees since it has a septic tank.

Dennis,
Please make put 139 Bridle Trial on your list of addresses that are on septic.

Sonia Mondragon
719-553-2890 Office | 719-250-6598 Mobile

city of PUEBLO colorado

Transaction Date	Transaction	Transaction Amount
2/24/2022	Cycle Bill Due: 3/16/2022	$255.75
1/26/2022	Cycle Bill Due: 2/15/2022	$295.44
12/27/2021	Cycle Bill Due: 1/16/2022	$30.27
11/24/2021	Cycle Bill Due: 12/14/2021	$30.27
10/27/2021	Cycle Bill Due: 11/16/2021	$30.27
9/27/2021	Cycle Bill Due: 10/17/2021	$30.27
8/25/2021	Cycle Bill Due: 9/14/2021	$30.27
7/27/2021	Cycle Bill Due: 8/16/2021	$30.27
6/24/2021	Cycle Bill Due: 7/14/2021	$30.27
5/26/2021	Cycle Bill Due: 6/15/2021	$30.27
	TOTAL SEWER CHARGED	**$793.35**
LARRY ZERFAS		
139 BRIDLE TRAIL		
037689-106274		



Sent from my iPhone

This e-mail transmission (including any attachment(s) contains information that is confidential and may be legally privileged. It is intended for the use of the addressee only. If you received this e-mail in error, we request that you contact us immediately by telephone or return e-mail, and that you delete this message from your computer. If you are not the intended recipient, please be advised that any dissemination, distribution, or copying of this e-mail is strictly prohibited. [/ref]

City Clerk's Office Item # M-3

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Jeff Hawkins, Director of Stormwater

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $19,840.47 TO K.R. SWERDFEGER CONSTRUCTION, INC., FOR AN EMERGENCY STORM SEWER POINT REPAIR AT THE INTERSECTION OF 22ND STREET AND GRAND AVENUE AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards a construction contract to K.R. Swerdfeger Construction, Inc., for emergency storm sewer point repair at the intersection of 22nd Street and Grand Avenue.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Stormwater Utility Department performed a televised inspection of stormwater infrastructure at the intersection of 22nd Street and Grand Avenue. The inspection revealed a hole where the crown of a stormwater lateral pipe had collapsed due to structural defects noticed throughout the entire pipe. An emergency repair was required to replace the defective stormwater pipe.

The bid summary sheet with the unit prices for the estimated work performed by K.R. Swerdfeger Construction, Inc., for the project is attached. This work was performed under the 2020-2022 Storm Sewer Point Repair Ordinance #9755 which contractors were qualified via competitive bid.

The cost breakdown for the project is as follows:

Description	Total
Remove Existing Pipe and Replace w/12" HP Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	$10,950.00
Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 12" pipe replacement)	$3,600.00
Install Extra Lean Concrete (Flowable Fill)	$1,008.00
Mobilization	$3,515.00
Traffic Control	$767.47
	$19,840.47

FINANCIAL IMPLICATIONS:

Funding for this project came from the Stormwater Utility Enterprise. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-019 (SW1501).

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not applicable

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:
Bid Summary
Site Location Exhibit

RESOLUTION NO. 14873

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $19,840.47 TO K.R. SWERDFEGER CONSTRUCTION, INC., FOR AN EMERGENCY STORM SEWER POINT REPAIR AT THE INTERSECTION OF 22ND STREET AND GRAND AVENUE AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

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

WHEREAS, the point repair work was awarded to K.R. Swerdfeger Construction, Inc., under the 2020-2022 Storm Sewer Point Repair contract; NOW, THEREFORE,

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

SECTION 1.

This contract is for repair of a stormwater pipe at the intersection of 22nd Street and Grand Avenue by K.R. Swerdfeger Construction, Inc., Project No. 20-019 (SW1501) and is hereby awarded to said bidder in the amount of $19,840.47.

SECTION 2.

Funds for Project No. 20-019 (SW1501) shall be from the Stormwater Utility Enterprise.

SECTION 3.

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

SECTION 4.

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

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

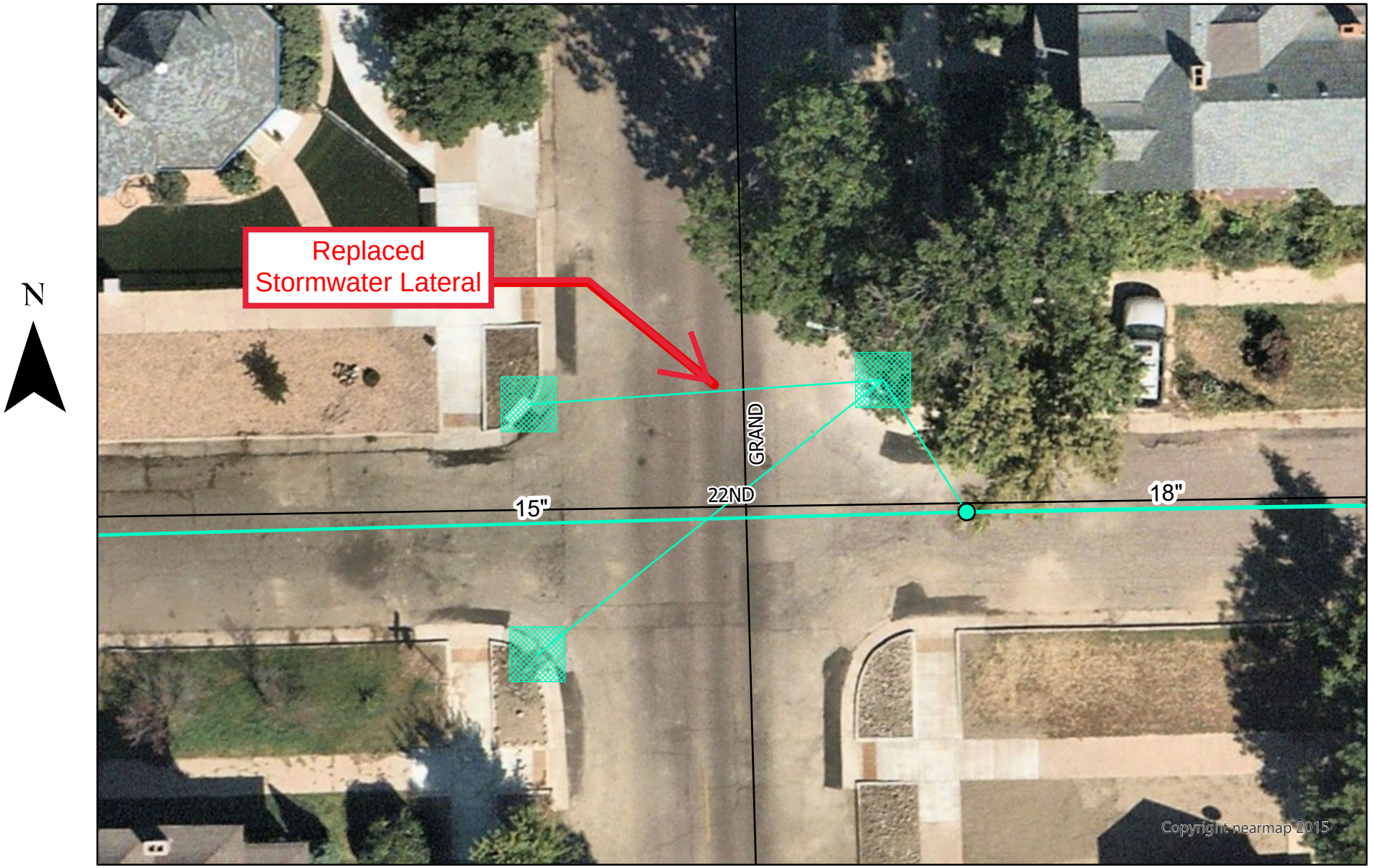
ATTESTED BY: _____

CITY CLERK

2020-2022 Storm Sewer Point Repair					
Date:		6/11/21			
Project Number:		20-019 (SW1501)			
Bid Item	Description	Bid Quantities	Quantity	K.R. Swerdfeger Construction	
				Unit Price	Total Price
1	Remove Existing Pipe and Replace w/12" HP Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20 LF		$245.00	
		21-100 LF	50	$219.00	$10,950.00
		>100 LF		$172.00	
2	Remove Existing Pipe and Replace w/12" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep	1-20 LF		$262.00	
		21-100 LF		$233.00	
		>100 LF		$184.00	
3	Remove Existing Pipe and Replace w/15" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20 LF		$251.00	
		21-100 LF		$231.00	
		>100 LF		$183.00	
4	Remove Existing Pipe and Replace w/15" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep	1-20 LF		$275.00	
		21-100 LF		$245.00	
		>100 LF		$195.00	
5	Remove Existing Pipe and Replace w/18" Reinforced Conc. Pipe Less than 8' Deep	1-20 LF		$292.00	
		21-100 LF		$244.00	
		>100 LF		$200.00	
6	Remove Existing Pipe and Replace w/18" Reinforced Conc. Pipe Greater than 8' up to 12' Deep	1-20 LF		$315.00	
		21-100 LF		$265.00	
		>100 LF		$219.00	
7	Remove Existing Pipe and Replace w/24" Reinforced Conc. Pipe Less than 8' Deep	1-20 LF		$327.00	
		21-100 LF		$270.00	
		>100 LF		$224.00	
8	Remove Existing Pipe and Replace w/24" Reinforced Conc. Pipe Greater than 8' up to 12' Deep	1-20 LF		$350.00	
		21-100 LF		$291.00	
		>100 LF		$243.00	
9	Remove Existing Pipe and Replace w/36" Reinforced Conc. Pipe Less than 8' Deep	1-20 LF		$396.00	
		21-100 LF		$330.00	
		>100 LF		$279.00	
10	Remove Existing Pipe and Replace w/36" Reinforced Conc. Pipe Greater than 8' up to 12' Deep	1-20 LF		$422.00	
		21-100 LF		$351.00	
		>100 LF		$295.00	
11	Remove Existing Pipe and Replace w/18" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20 LF		$251.00	
		21-100 LF		$224.00	
		>100 LF		$177.00	
12	Remove Existing Pipe and Replace w/18" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep	1-20 LF		$268.00	
		21-100 LF		$238.00	
		>100 LF		$189.00	
13	Remove Existing Pipe and Replace w/24" HP Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20 LF		$274.00	
		21-100 LF		$244.00	
		>100 LF		$194.00	
14	Remove Existing Pipe and Replace w/24" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep	1-20 LF		$289.00	
		21-100 LF		$244.00	
		>100 LF		$209.00	
15	Remove Existing Pipe and Replace w/36" Polypropylene Corrugated Double Wall Pipe Less than 8' Deep	1-20 LF		$332.00	
		21-100 LF		$294.00	
		>100 LF		$241.00	
16	Remove Existing Pipe and Replace w/36" Polypropylene Corrugated Double Wall Pipe Greater than 8' up to 12' Deep	1-20 LF		$348.00	
		21-100 LF		$317.00	
		>100 LF		$255.00	
17	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 12" pipe replacement)	1-20 LF		$145.00	
		21-100 LF	50	$72.00	$3,600.00
		>100 LF		$65.00	

2020-2022 Storm Sewer Point Repair					
Date:		6/11/21			
Project Number:		20-019 (SW1501)			
Bid Item	Description	Bid Quantities	Quantity	K.R. Swerdfeger Construction	
				Unit Price	Total Price
18	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 18" pipe replacement)	1-20 LF		$145.00	
		21-100 LF		$72.00	
		>100 LF		$65.00	
19	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 24" pipe replacement)	1-20 LF		$150.00	
		21-100 LF		$81.00	
		>100 LF		$77.00	
20	Remove and Replace Asphalt 4" Asphalt on 4" Class 6 ABC (based on 36" pipe replacement)	1-20 LF		$178.00	
		21-100 LF		$93.00	
		>100 LF		$92.00	
21	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 12" pipe replacement)	1-20 LF		$159.00	
		21-100 LF		$84.00	
		>100 LF		$74.00	
22	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 18" pipe replacement)	1-20 LF		$159.00	
		21-100 LF		$84.00	
		>100 LF		$74.00	
23	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 24" pipe replacement)	1-20 LF		$188.00	
		21-100 LF		$89.00	
		>100 LF		$85.00	
24	Remove and Replace Asphalt 5" Asphalt on 6" Class 6 ABC (based on 36" pipe replacement)	1-20 LF		$200.00	
		21-100 LF		$107.00	
		>100 LF		$102.00	
25	Remove and Replace 7" Reinforced Concrete	1-20 SF		$25.00	
		21-100 SF		$23.00	
		>100 SF		$17.00	
26	Remove and Replace 6" Reinforced Concrete	1-20 SF		$22.00	
		21-100 SF		$19.00	
		>100 SF		$18.00	
27	Remove and Replace Standard Curb and Gutter	1-20 LF		$47.00	
		21-100 LF		$35.00	
		>100 LF		$29.00	
28	Install Extra Lean Concrete (Flowable Fill)	1-20 CY	6	$168.00	$1,008.00
		21-100 CY		$163.00	
		>100 CY		$158.00	
29	Dissimilar Pipe Connection for Pipe 15" to 20"	EA		$582.00	
24	Dissimilar Pipe Connection for Pipe 22" to 28"	EA		$743.00	
25	Dissimilar Pipe Connection for Pipe 30" to 42"	EA		$958.00	
26	Remove and Replace Type 1A 48" Dia Standard	EA		$3,335.00	
27	Remove and Replace Type 1B 60" Dia Standard	EA		$4,200.00	
28	Remove and Replace Type 1C 72" Dia Standard	EA		$5,195.00	
29	Remove and Replace 5' Type "S" Inlet	EA		$7,790.00	
30	Install Tactile Band	EA		$385.00	
31	Mobilization	EA	1	$3,515.00	$3,515.00
32	Traffic Control	LS	1	$767.47	$767.47
					$19,840.47

SITE LOCATION EXHIBIT - 22ND STREET & GRAND AVENUE



BACKGROUND PAPER FOR PROPOSED RESOLUTION

COUNCIL MEETING DATE: May 9, 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: A RESOLUTION APPROVING AN AMENDMENT TO A CONSTRUCTION CONTRACT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND DOUG VAUGHN, LLC, PROVIDING FOR ADDITIONAL REPAIR WORK RELATED TO PROJECT NO. 22-014 ELMWOOD GOLF COURSE CART PATH, IN THE AMOUNT OF $12,000, TO BE PAID FROM PROJECT ACOUNT EW2101 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution approves an amendment to the construction contract awarded to Doug Vaughn, LLC, in the amount of $12,000 for the Elmwood Golf Course Cart Path, Project No. 22-014 (EW2101).

PREVIOUS COUNCIL ACTION:

Ordinance 9817, dated November 9, 2020, created Project EW2101, in the amount of $45,000.

Ordinance 10050, dated November 22, 2021, approved the 2022 budget and budgeted an additional $50,000 to project EW2101.

Resolution 14825, dated March 14, 2022, approved the award of a construction contract in the amount of $42,810 to Doug Vaughn, LLC and set forth $7,000 for contingencies.

BACKGROUND:

In general, this project consists of the removal of one (1) asphalt cart path and the construction of a new cart path near hole 5. The two new cart paths were intended to be six-foot-wide concrete at the Elmwood Golf Course.

The contractor was directed to construct the new cart path at hole 5 at 8-foot-width. The City has taken a physical benefit from the increased cart path width and therefore owes a contract amendment for the additional scope of work.

FINANCIAL IMPLICATIONS:

This amendment authorizes the payment to the contractor, Doug Vaughn, LLC, for the increased scope of work from the existing project account EW2101 Cart Path Repair/Replace – Elmwood.

BOARD/COMMISSION RECOMMENDATION:

The Golf Course Enterprise Citizen's Advisory Committed supports this project.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

None.

RECOMMENDATIONS:

Approve the Resolution.

Attachments:
Proposed Resolution

RESOLUTION NO. 14874

A RESOLUTION APPROVING AN AMENDMENT TO A CONSTRUCTION CONTRACT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION AND DOUG VAUGHN, LLC, PROVIDING FOR ADDITIONAL REPAIR WORK RELATED TO PROJECT NO. 22-014 ELMWOOD GOLF COURSE CART PATH, IN THE AMOUNT OF $12,000, TO BE PAID FROM PROJECT ACOUNT EW2101 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, Project No. 22-014 (EW2101), Elmwood Golf Course Cart Path Project was awarded to Doug Vaughn, LLC, on March 14, 2022; and

WHEREAS, additional construction work contemplated by the Amendment was needed; and

WHEREAS, it is in the best interests of the City to proceed with and complete such design in the manner herein provided; NOW, THEREFORE,

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

SECTION 1.

The Amendment dated May 9, 2022, by and between the City of Pueblo, A Municipal Corporation, and Doug Vaughn, LLC, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by the Amendment to be performed in the amount of $12,000.

SECTION 2.

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

SECTION 3.

Funds in the amount of $12,000.00 for said project shall be paid from the Cart Path Repair/Replace - Elmwood Project, No. EW2101.

SECTION 4.

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

SECTION 5.

This resolution shall become effective immediately upon passage and approval.

INTRODUCED: May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

AMENDMENT NO. 1 TO
CONSTRUCTION CONTRACT

This Amendment No. 1 to a construction contract ("Amendment") is executed to be effective as of _____, 2022, by and between the City of Pueblo, a municipal corporation ("City") and Doug Vaughn, LLC, a Colorado Limited Liability Company ("Contractor").

WHEREAS, City and Contractor entered into that certain construction contract dated March 28, 2022, for Bid 22-014 Elmwood Golf Course Cart Path (EW2101) (the "Construction Agreement"); and

WHEREAS, City and Contractor desire to amend the Construction Agreement subject to the terms and conditions set forth herein.

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

1. The Amended Request for Quotation attached hereto, and labelled Exhibit 1, is hereby accepted and approved. The Construction Agreement and the Request for Quotation set forth at Article 1.B of the Construction Agreement are amended to incorporate all additional work to be performed as contemplated by and at the prices set forth in the Amended Request for Quotation. Contractor shall perform all such work subject to and consistent with all requirements and provisions of the Construction Agreement. Contractor shall perform all acts necessary or required as a result of this Amendment. The time for completion of all work under the Construction Agreement including the additional work to be performed under this Amendment shall be May 27, 2022.

2. Except as expressly modified by this Amendment, the Construction Agreement shall remain in full force and effect. Except as modified by this Amendment, any obligations to be performed under the Construction Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Construction Agreement as it existed prior to this Amendment.

3. This Amendment and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms

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

City of Pueblo, a municipal corporation,

By: _____
Naomi Hedden, Purchasing Director

Attested by:

_____
City Clerk

Balance of Appropriations Exist for this Amendment and Funds are Available:

_____
Director of Finance

Approved as to Form:

_____
City Attorney

Doug Vaughn, LLC, a Colorado Limited Liability Company

By: _____
Doug Vaughn, Managing Member

EXHIBIT 1
AMENDED REQUEST FOR QUOTATIONS

BID 22-014 ELMWOOD GOLF COURSE CART PATH (EW2101)

The undersigned hereby proposes to furnish all labor, materials, tools, equipment, and all utility/transportation services necessary to perform and complete, in an industry acceptable and professional manner, construction in accordance with the plans and specifications as prepared by or for the City of Pueblo, Colorado, for the sums set forth in the following schedule (this schedule reflects the same Unit Price for every bid item as indicated in the original bid – This is a continuation of the original contract):

Additional Work Item	Quantity	Grand Total for Additional Work
Base Bid and Bid Alternate No. 1 Construct 4-inch-thick concrete path 6' wide shall be revised to Construct 4-inch-thick concrete path 8' wide.	1 LS	$12,000

(Twelve Thousand and no/100 ----------Dollars)

The undersigned has examined the quantities shows against the plans and specifications and accepts the said quantities as substantially correct, both as to classification and amount, and as correctly listing the work to be completed. The City is not responsible for bidding errors resulting from Contractor's failure to follow this requirement.

Doug Vaughn, LLC, a Colorado Limited Liability Company

By: _____
Doug Vaughn, Managing Member

City Clerk's Office Item # M-5

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 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. 14875

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 that 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 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 May 9, 2022

BY: Larry Atencio
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-6

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

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

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO RON MAESTAS FOR THE USE OF THE NORTH MONUMENT AVENUE RIGHT OF WAY AT 1601 NORTH MONUMENT AVENUE FOR THE PURPOSE OF INSTALLING A RETAINING WALL

SUMMARY:

Attached is an application for a revocable permit submitted by Ron Maestas.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Ron Maestas requests to use the North Monument Avenue right of way along the side of his property at 1601 North Monument Avenue. The intent is to prevent the landscaping rock from falling onto the sidewalk when there is rain or snow.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will cause the construction to be canceled.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Background Paper, Letter of Intent, Homeowners Insurance, Site Plan

RESOLUTION NO. 14876

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO RON MAESTAS FOR THE USE OF THE NORTH MONUMENT AVENUE RIGHT OF WAY AT 1601 NORTH MONUMENT AVENUE FOR THE PURPOSE OF INSTALLING A RETAINING WALL

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

SECTION 1.

The attached Revocable Permit is authorized to be issued to Ron Maestas for the use of the right of way on North Monument Avenue at 1601 North Monument Avenue.

SECTION 2.

The use of the public right of ways 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.

The City Clerk is directed to cause said Revocable Permit to be forthwith recorded in the office of the Pueblo County Clerk and Recorder

SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED May 9, 2022

BY: Larry Atencio
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: Ron Maestas 1601 N. Monument Ave. Pueblo CO 81001; 719-994-6318
2. Permitted Area: N. Monument Ave. right of way at 1601 N. Monument Ave.
3. Purpose of Revocable Permit: Installing a retaining wall
4. Authorized Improvements: N/A
5. Commencement Date: 04/13/2022 Time: 08:00 AM
6. Ending Date: Indefinite Time:

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 25TH day of APRIL, 2022.

PERMITTEE:

Organization: _____

By: Roy Maestas

Title: Owner

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me the 25 day of April, 2022 by Roy Maestas as owner.

My commission expires: 4/22/22.

[SEAL]

Betty Jo Aragon
Notary Public

BETTY JO ARAGON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19984005474
MY COMMISSION EXPIRES JUNE 22, 2022

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

By _____
Nicholas A. Gradisar, Mayor

To whom it may concern,

I am installing a retaining wall alongside my house at 1601 N. Monument Avenue. This wall will be made of concrete and be three foot tall. It will be installed in the N. Monument Avenue right of way. I am installing this wall to help prevent the landscaping rock from falling onto the sidewalk. This occurs with any rain or snow that we get. Thank you for your consideration.

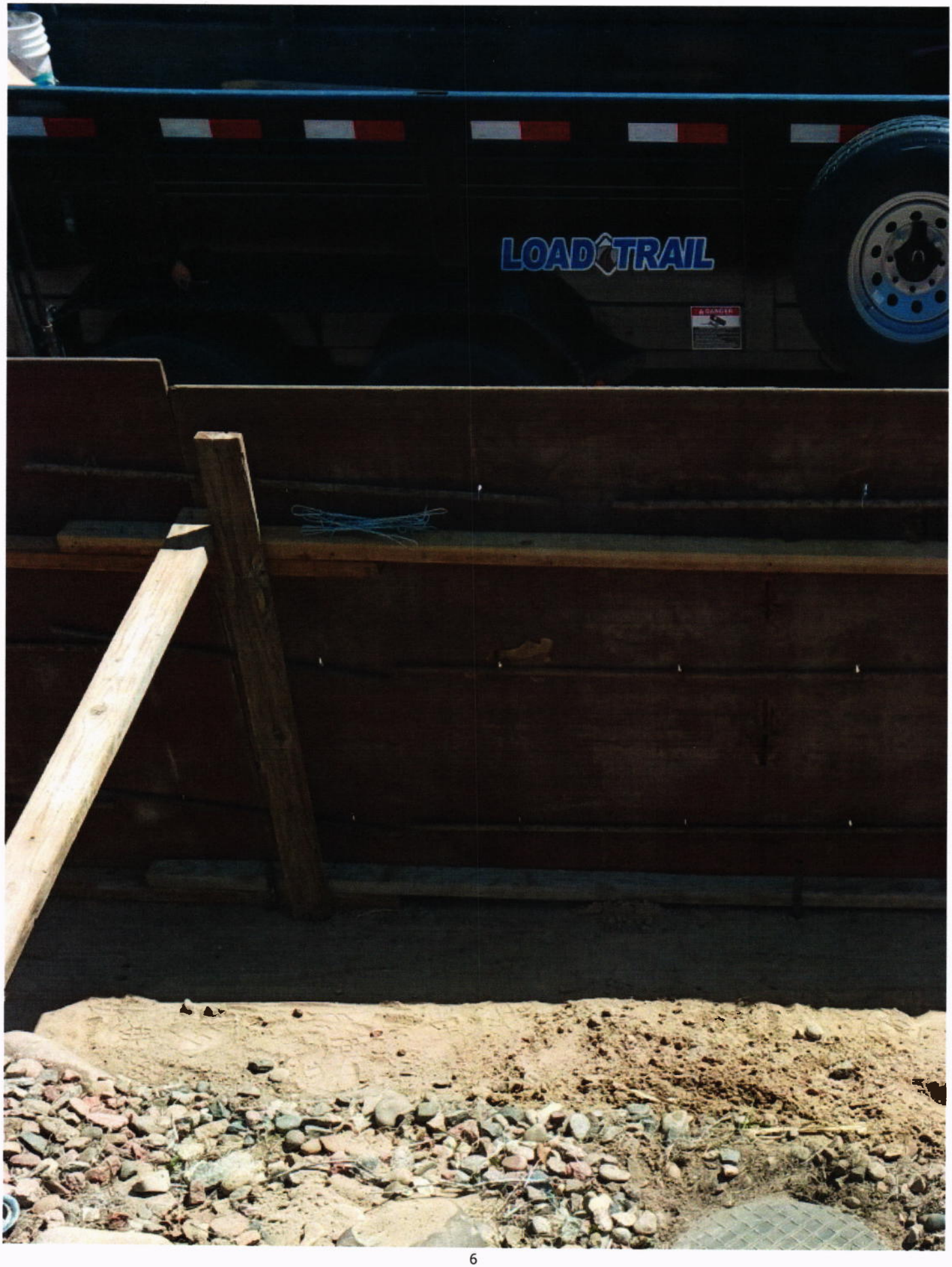
Roy Maestas



4-14-2022




PUEBLO
WATER


LOAD TRAIL


1600 N Monument Ave
Pueblo, Colorado
Google
Street View - Jun 2012
Google
Image capture: Jun 2012 © 2022 Google United States Terms Privacy Report a problem
52°F Sunny
12:03 PM
4/14/2022

This CONTINUATION page, with Jacket- — Form 4257 , and forms and endorsements listed below, CONTINUES your Dwelling Policy.

18
18
31
JB

INSURER:

THE HARTFORD

Hartford Underwriters Insurance Company

1 GRIFFIN ROAD NORTH, WINDSOR, CT 06095 DUPLICATE

Co. Code 6

POLICY NO. 55JB 311818

Previous Policy No. RENEWAL

DECLARATIONS

Named Insured and Mailing Address (Number, Street, Town or City, County, State, Zip Code)

MAESTAS, VIOLA
1671 FREMONT AVE
PUEBLO CO 81001-

Policy Period 12:01 a.m. Standard Time at the described location

From	To	Years
10/15/21	10/15/22	1

Producer's Name **Producer's Code**

REFER TO PAGE 2 OF 2

THIS IS NOT A BILL. YOU WILL RECEIVE A SEPARATE STATEMENT CONCERNING YOUR ACCOUNT.

This insurance applies to the Described Location, Coverage for which a Limit of Liability is shown and Perils Insured Against for which a Premium is stated.

DESCRIBED LOCATION — THE DESCRIBED LOCATION COVERED BY THIS POLICY IS AT THE ABOVE ADDRESS UNLESS OTHERWISE STATED: (NUMBER, STREET, APARTMENT, TOWN OR CITY, COUNTY, STATE, ZIP CODE)

1601 N MONUMENT AVE
PUEBLO CO 81001

DEDUCTIBLE: $ 500

In case of loss under this policy we cover only that part of the loss over the deductible stated.

COVERAGES	LIMIT OF LIABILITY	PERILS INSURED AGAINST AND BASIC PREMIUMS: FIRE AND LIGHTNING	EXTENDED COVERAGE	SPECIAL FORM
A. Dwelling	$149,600	$149	$453	INCL
B. Other Structures	$14,800	$14	$44	INCL
C. Personal Property				
D. Fair Rental Value (1/12 per month)				
E. Additional Living Expense (up to 25% per month)				

PREMIUMS We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

Total Basic Premiums PAYOR: INSURED			Total Endorsement Premiums	Total Policy Premium	
Fire and Lightning	Extended Coverage	SPECIAL FORM			
$163	$497	INCL		$660.00	12 PAY PLAN

SPECIAL STATE PROVISIONS:

RATING INFORMATION

NO. OF STORIES	APPR ROOF	SEAS DWG	CONSTRUCTION	OCCUPIED BY	NO. OF FAM	TOWN HOUSE	BLDR RISK	NO OF APTS	PROTECT CLASS	FEET TO HYDRANT	MILES TO FIRE DEPT	TERR	YEAR BUILT	NO. OF ROOMS
1.0			FRAME	TENANT	01				03	500	01	33	1965	

PROTECT STATEMENT	FIRE TOWN, FIRE DISTRICT OR MUNICIPALITY	OTHER STRUCTURE(S) INFORMATION: LIMIT	DESCRIPTION:	LIMIT	DESCRIPTION:

TRAILER OR MOBILE HOME INFORMATION: YEAR	TRADE NAME	SERIAL NUMBER	SIZE	ENCLOSED FOUND	PURCHASE INFORMATION: MO	YR	NEW	PRICE NEW	STD HSG	TIE DOWN: FULL	CHAS
			BY								

DISTRICT OR CITY	SP LOC MIN	EXPOS WARR	INSIDE: CITY LIM	PROT SUB	FIRE DIST	WIND HAIL EXCL	CONST: WIND RES	SEMI WIND RES	CONDITIONS CHARGES: DEBIT	CREDIT	INLAND	SEA COAST	BEACH	TARIFF OR RATE CARD NUMBER	SPECIFIC RATES: BUILDING: FIRE	EC	VMM	CONTENTS: FIRE	EC	VMM

Form and Endorsements made part of this policy at time of issue (Number, Edition, Description, Perils Insured Against, Limit of Liability, Premium)

REFER TO PAGE 2 OF 2

This policy shall not be valid unless countersigned by our authorized agent.

Countersignature Date	Agency at:	Agent:
10/15/2021	WINDSOR, CT	Susan L. Castaneda

Form H-146-2 Printed in U.S.A.

DECLARATIONS (Continued)

Policy No: 55JB 311818

Named Insured: MAESTAS,VIOLA

Producer's Name	**Producer's Code**
	561200

CUSTOMER SERVICE 1-800-423-0567

CLAIMS SERVICE 1-877-805-9918

Forms and Endorsements now made part of this policy:
(Entries on the endorsements may be left blank if shown elsewhere in the policy)

DP-3	01-77	DWELLING PROPERTY 3 - SPECIAL FORM		
HO-216	07-77	PREMISES ALARM SYSTEM 05% CREDIT	PREMIUM	$CR INCL
G2911-0	07-83	AMENDATORY ENDORSEMENT	PREMIUM	$NIL.
DP-300CO	02-14	SPECIAL PROVISIONS - COLORADO	PREMIUM	$NIL.

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

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

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE LA GENTE YOUTH SPORTS, INC. FOR THE USE OF THE 1200 BLOCK OF JUAN MADRID AVENUE TO HOST THE ANNUAL JUAN MADRID MEMORIAL SOFTBALL TOURNAMENT FROM MAY 20, 2022, TO MAY 23, 2022

SUMMARY:

Attached is an application for a revocable permit submitted by La Gente Youth Sports, Inc., to host their annual Juan Madrid Memorial Tournament.

PREVIOUS COUNCIL ACTION:

Revocable Permit and Resolution approval.

BACKGROUND:

La Gente Youth Sports, Inc. has requested the closure of the 1200 Block of Juan Madrid Avenue from May 20, 2022, at 8:00 a.m. through May 23, 2022, at 12:00 p.m. to host their annual fundraising softball tournament.

FINANCIAL IMPLICATIONS:

None

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Denying the Resolution will modify the area of use and jeopardize the safety of the Softball Tournament attendants.

RECOMMENDATION:

Approval of the Resolution.

Attachments:

Revocable Permit, Letter of Intent, Certificate of Liability, Barricade Plan

RESOLUTION NO. 14877

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE LA GENTE YOUTH SPORTS, INC. FOR THE USE OF THE 1200 BLOCK OF JUAN MADRID AVENUE TO HOST THE ANNUAL JUAN MADRID MEMORIAL SOFTBALL TOURNAMENT FROM MAY 20, 2022, TO MAY 23, 2022

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

SECTION 1.

The attached Revocable Permit is authorized to be issued to La Gente Youth Sports, Inc., for the use of the 1200 Block of Juan Madrid Avenue from May 20, 2022, at 8:00 a.m. to May 23, 2022, at 12:00 p.m. to host the Annual Juan Madrid Memorial Tournament.

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

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED May 9, 2022

BY: Larry Atencio
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: La Gente Youth Sports, Inc. 719-406-9200
2. Permitted Area: 1200 Block of Juan Madrid Ave. Pueblo, Colorado 81001
3. Purpose of Revocable Permit: Fundraising Softball Tournament
4. Authorized Improvements:
5. Commencement Date: May 20, 2022 Time: 6:00a.m.
6. Ending Date: May 23, 2022 Time: 12:00p.m.

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; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

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

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

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

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

Signed in Pueblo, Colorado this 8th day of April, 2022.

PERMITTEE:

Organization: La Gente Youth Sports Inc.

By: Zachary Valdez

Title: Director

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me the 8th day of April, 2022 by Zachary Valdez as Youth Sports, La Gente.

My commission expires: 07/20/2025.

[SEAL]

SHANNON GOODWIN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20214028973
MY COMMISSION EXPIRES 07/20/2025

Shannon Goodwin
Notary Public

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

By _____
Nicholas A. Gradisar, Mayor

LGYS
La Gente Youth Sports, Inc.
2804 E. 12th
Pueblo, CO 81001
(719) 242-4215
www.lgys.org

April 8, 2022

Pueblo City Council
1 City Hall Place
Pueblo, CO 81003

President and City Council,
La Gente Youth Sports is requesting a revocable permit to close a portion of Juan Madrid Avenue (1200 block) on the weekend of May 20, 21, 22, and 23, 2022. We are asking to close the street to host a fundraising softball tournament, the Juan Madrid Memorial. The Organization has closed the street for the last seventeen consecutive years which has led to a better event.

If you have any questions, please feel free to call me at your convenience.

Sincerely,

Zachary S. Valdez, MBA
Executive Director
La Gente Youth Sports, Inc
719-406-9200 Cell
zachary@lgys.org

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 02/28/2022

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 Andrea M Krupka Ins Agency inc 112 West D St Ste 100B Pueblo CO 81003	**CONTACT NAME:** Andrea Krupka **PHONE (A/C, No, Ext):** 719-404-3900 **FAX (A/C, No):** **E-MAIL ADDRESS:** akrupka@krupkainsuranceagency.com
INSURED La Gente Youth Sports INC 2804 E 12th St Pueblo CO 81001	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** United States Liability Company **INSURER B :** **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	
	[X] COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	[ ] CLAIMS-MADE [X] OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 5,000
				NPP1601149	02/26/2022	02/26/2023	PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	[ ] POLICY [ ] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$ 1,000,000
	[ ] 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	$

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

CERTIFICATE HOLDER

City Of Pueblo
1 City Hall Place
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

Andrea M Krupka

© 1988-2015 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name of Person Or Organization:

Effective Date: 02/26/2022
CITY OF PUEBLO
1 CITY HALL PLACE
PUEBLO, CO 81003

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights of Recovery Against Others To Us** of **Section IV - Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

City Clerk's Office Item # M-8

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 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 RATIFYING PACOG'S JOINT APPOINTMENT OF EILEEN DENNIS TO THE PUEBLO DEPOT ACTIVITY DEVELOPMENT AUTHORITY BOARD OF DIRECTORS AKA PUEBLOPLEX

SUMMARY:

This Resolution ratifies the joint City-County selection to the Pueblo Depot Activity Development Authority Board of Directors to serve a four-year term expiring May 9, 2026.

PREVIOUS COUNCIL ACTION:

Appointments to this Board of Directors are made on an annual basis selecting individuals to serve four-year terms expiring on May 9th of each year.

BACKGROUND:

Due to the term expiration of Board Member Eileen Dennis there is one joint City-County appointment on the Pueblo Depot Activity Development Authority Board of Directors. Ms. Dennis does wish to be considered for reappointment.

Following an advertisement published in the *Pueblo Chieftain* and an announcement on the City Clerk's webpage seeking volunteers to serve on this committee, no new applications were received.

Ms. Eileen Dennis' application was reviewed following the PACOG meeting held on April 28, 2022, and accepted for reappointment.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

City Council in agreement with the County Commissioners could remove the Resolution from the Agenda, request that the recruitment process be extended in order to receive additional applications for consideration.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:
Proposed Resolution

RESOLUTION NO. 14878

A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF EILEEN DENNIS TO THE PUEBLO DEPOT ACTIVITY DEVELOPMENT AUTHORITY BOARD OF DIRECTORS AKA PUEBLOPLEX

WHEREAS, this Resolution ratifies the joint appointment made following the PACOG meeting on April 28, 2022, by City-County Representatives who were present; NOW, THEREFORE;

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

SECTION 1.

The following individual is hereby appointed to the Pueblo Depot Activity Development Authority Board of Directors to serve a four-year term expiring May 9, 2026.

Eileen Dennis

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # M-9

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 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 RATIFYING PACOG'S JOINT APPOINTMENT OF STEVEN CONTRERAS TO THE PUEBLO REGIONAL BUILDING – PLUMBING BOARD OF APPEALS - JOURNEYMAN

SUMMARY:

This resolution ratifies the joint City-County appointment of a journeyman to the Regional Building Commission's Plumbing Board of Appeals to complete a three-year term.

PREVIOUS COUNCIL ACTION:

Joint City-County appointments to the Pueblo Regional Building Commission are made on an annual basis selecting individuals to serve three-year terms expiring on July 1st of each year. Resolutions to ratify the joint appointments are passed by each entity.

BACKGROUND:

There is one vacancy on the Pueblo Regional Building – Plumbing Board of Appeals due to the term expiration of Dennis Gardner.

Following the PACOG meeting on April 28, 2022, the BOCC and City Council members reviewed the application and appointed Steven Contreras.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

City Council in agreement with the County Commissioners could remove the Resolution from the Agenda, request that the recruitment process be extended in order to receive additional applications for consideration.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:
Proposed Resolution

RESOLUTION NO. 14879

A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF STEVEN CONTRERAS TO THE PUEBLO REGIONAL BUILDING – PLUMBING BOARD OF APPEALS – JOURNEYMAN

WHEREAS, this Resolution ratifies the joint appointment made following the PACOG meeting on April 28, 2022, by City-County Representatives who were present; NOW, THEREFORE;

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

SECTION 1.

The following individual is hereby appointed to the Pueblo Regional Building – Plumbing Board of Appeals to complete a three-year term expiring July 1, 2024.

Steven Contreras

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # M-10

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 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 RATIFYING PACOG'S APPOINTMENT OF DYNELLE ABEYTA, JULIE FAIRMAN, CINDY LAU, AND STEVEN RODRIGUEZ TO THE COMMUNITY SERVICES ADVISORY COMMISSION (CSAC) – JOINT CITY-COUNTY APPOINTMENTS

SUMMARY:

This Resolution ratifies the Joint City-County selections made to the Community Services Advisory Commission (CSAC).

PREVIOUS COUNCIL ACTION:

Joint City-County appointments to the Community Services Advisory Commission are made on an annual basis selecting individuals to serve staggered four-year terms expiring on April 30th of each year. Resolutions to ratify the joint appointments are passed by each entity.

BACKGROUND:

Due to the resignation of Barbara Vidmar and the term expirations of Susan Egnor, Henry Roman, Theresa Trujillo, and James Wiley, there are a total of five vacancies available on the Community Services Advisory Commission (CSAC). Four joint City-County appointments are available for citizens to serve a four-year term expiring April 30, 2026 and one joint appointment is available for a citizen to complete a four-year term expiring April 30, 2023.

The recruitment process for 2022 was handled by the Pueblo City Staff seeking volunteers to serve on this committee and new applications were received from Dynelle Abeyta, Julie Fairman, Cindy Lau, and Steven Rodriguez.

There remains one appointment available to complete a four-year term expiring April 30, 2026 on the Community Services Advisory Commission.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

The Community Services Advisory Commission studies the needs of the community in the areas of health and human services, recreation, arts and culture, environmental/conservation and economic development; reviews and analyzes proposals that are submitted to the Pueblo County and City of Pueblo Partnership during the annual Request for Proposal (RFP) process, including conducting interviews and performing site visits of agencies submitting proposals; makes final recommendations to the City and County officials for funding consideration on an annual basis, or as needed in an emergency situation; and works on other issues and projects as assigned to them by the Public Officials.

ALTERNATIVES:

City Council in agreement with the County Commissioners could remove the Resolution from the Agenda, request that the recruitment process be extended in order to receive additional applications for consideration.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:
Proposed Resolution

RESOLUTION NO. 14880

A RESOLUTION RATIFYING PACOG'S APPOINTMENT OF DYNELLE ABEYTA, JULIE FAIRMAN, CINDY LAU, AND STEVEN RODRIGUEZ TO THE COMMUNITY SERVICES ADVISORY COMMISSION (CSAC) – JOINT CITY-COUNTY APPOINTMENTS

WHEREAS, there are (5) vacancies to be filled on the Community Services Advisory Commission – Joint City-County appointments. Three appointments shall serve a four-year term expiring April 30, 2026; one open appointment shall complete a term expiring April 30, 2023, and one appointment shall remain open to serve a four-year term expiring April 30, 2026; and

WHEREAS, this Resolution ratifies the joint appointments made following the PACOG meeting on April 28, 2022, by City-County Representatives who were present; NOW, THEREFORE;

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

SECTION 1:

The following individuals are hereby appointed to the Community Services Advisory Commission Joint City-County Appointment to serve a four-year term expiring April 30, 2026.

Dynelle Abeyta

Julie Fairman

Cindy Lau

SECTION 2:

The following individual is hereby appointed to the Community Services Advisory Commission Joint City-County Appointment to complete a four-year term expiring April 30, 2023.

Steven Rodriguez

SECTION 3:

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 4:

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

INTRODUCED May 9, 2022

BY: Larry Atencio
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: May 9, 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 COLLEEN CLARK TO COMPLETE A THREE-YEAR TERM EXPIRING DECEMBER 31, 2024 ON THE PUEBLO HUMAN RELATIONS COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to complete a three-year term expiring December 31, 2024 on the Pueblo Human Relations Commission.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Pueblo Human Relations Commission selecting individuals to serve terms which expire during 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 resignation Sarah Habib, and the term expiration of Laura Wiant, there are two City appointments available on the Pueblo Human Relations Committee.

The application was reviewed by Mayor Gradisar who has appointed Colleen Clark to complete a term expiring December 31, 2024.

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. 14881

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF COLLEEN CLARK TO COMPLETE A THREE-YEAR TERM EXPIRING DECEMBER 31, 2024 ON THE PUEBLO HUMAN RELATIONS COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Colleen Clark to serve on the Pueblo Human Relations Commission, 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 Human Relations Commission to complete a three-year term expiring December 31, 2024 shall be and is hereby confirmed by the City Council:

Colleen Clark

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 May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: PUEBLO HUMAN RELATIONS COMMISSION
Date: Tuesday, April 12, 2022 4:17:34 PM

External email. Please use caution.

PUEBLO HUMAN RELATIONS COMMISSION

PUEBLO HUMAN RELATIONS COMMISSION
Application for Appointment

The Pueblo Human Relations Commission is committed to promoting mutual understanding and respect for all citizens and promoting open dialogue for all to participate.

Contact Information	
DATE	4/12/2022
FIRST NAME	Colleen
Middle Initial	*Field not completed.*
LAST NAME	Clark
HOME ADDRESS	3414 St. Clair Ave
CITY	Pueblo
STATE	Co
ZIP	81005
HOME PHONE	*Field not completed.*
WORK PHONE	*Field not completed.*
CELL PHONE	*Field not completed.*
E-MAIL ADDRESS	*Field not completed.*
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF	No

PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	*Field not completed.*
EDUCATION	CNA, Real Estate, Real Estate Appraisal, LADC and LDO. I also have collective hours of 100 in Sociology and Psychology.
Group Representation	
Please check the category or categories that best describes your qualifications or interest:	Racial, Sexual Orientation, Disabled, Generational
Questionnaire *Please complete the following general information.*	
Please elaborate on your qualifications for or interest in the category or categories you selected above.	My daughter has been married to her wife for 3 years and I have seen her struggles throughout the years, both emotionally and socially. Both her and her wife are in Law Enforcement, in which they have faced hate crimes not only because of their sexual orientation but also their choice of careers. I am in an interracial marriage. I am first generation immigrant and am now considered a senior citizen.
Why do you want to serve on the Human Relations Commission?	My daughter has suffered extreme prejudiced because of misinformation and bias attitudes, I would like to help the LGBTQIA community be more widely accepted within the community. As a spouse in an interracial marriage, I have been in a quagmire in which my race and my husband's, has led to us being discriminated against both financially and emotionally. My father immigrated from Yugoslavia (now Slovenia) when he was a young man, his English at times held a heavy Slavic accent. We many were laughed at, and I felt it affected his career. Growing up our foods and traditions were different than most American families so as a young adult I found myself struggling to adapt to the American lifestyle and in some instances the proper English language structure.
How much time are you willing to devote to fulfill the obligations as a Human Relations Commission Member?	approximately 20 hours a week.
What special accommodations, if any, will you need as a	N/A

Commission Member? (Translator, Signer, Transportation, etc.)	
What abilities and skills do you have which can be used as a resource to the Human Relations Commission? Bi-lingual? Signing? Other?	*Field not completed.*
What are the three most important issues that you feel this Commission can play a role in addressing?	1.) Communication and information 2.) Economic Development 3.) Education
What do you feel are Pueblo's strengths?	The diversity of the population, the actual physical location of the city and its surroundings. The future potential for growth but fiscally and ecotecture responsible while integrated the whole of society and its wonderfully diverse and multicultural community.
What do you feel are Pueblo's greatest challenges?	Poverty and crime as well as the inability to address the root causes of both issues.
(Section Break)	
Upload resume, 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: May 9, 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 WESTON BURRER TO THE SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE DISTRICT ADVISORY COMMITTEE

SUMMARY

This Resolution appoints individuals to the Southpointe Special Improvement Maintenance District Advisory Committee.

PREVIOUS COUNCIL ACTION

City Council has made appointments to the Southpointe Special Improvement Maintenance District Advisory Committee. 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 Bob Leach, there is one appointment available to serve on the Southpointe Special Improvement Maintenance District Advisory Committee.

Two applications were reviewed by Mayor Gradisar who has appointed Weston Burrer to serve on the SIMD.

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.

RESOLUTION NO. 14882

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF WESTON BURRER TO THE SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE DISTRICT ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of the following individual to the Southpointe Special Improvement Maintenance District Advisory Committee; 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 Southpointe Special Improvement Maintenance District Advisory Committee, shall be and is hereby confirmed by the City Council.

Weston Burrer

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Larry Atencio
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: Tuesday, April 12, 2022 1:54:31 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	4/12/2022
BOARD OR COMMISSION	SouthPointe Special Improvement Maintenance District Advisory Committee
Do you own property in the SouthPointe Special Improvement Maintenance District?	Yes
What type of property do you own in the SouthPointe Special Improvement Maintenance District?	Residential
What is the address of the property you own in the SouthPointe Special Improvement Maintenance District?	3335 Bobcat Lane
Contact Information	
FIRST NAME	Weston
LAST NAME	Burrer
HOME ADDRESS	3335 Bobcat Lane
CITY	Pueblo
STATE	CO

ZIP	81005
OFFICE ADDRESS	215 W 10th Street, Rm 5
CITY	Pueblo
STATE	CO
ZIP	81003
DAYTIME PHONE	7192504257
E-MAIL ADDRESS	weston.burrer@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF PUEBLO?	NO
OCCUPATION (or if RETIRED, your previous occupation)	Architect

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 licensed Architect and have served on numerous City boards in the past, including Planning and Zoning Commission, Zoning Board of Appeals, and Historic Preservation Commission.
2. Why are you interested in being appointed to this Board or Commission?	I have lived in this area since last 2017.
3. What Goals would you like to see this Board or Commission accomplish?	Make sure the public areas are maintained well and that our special district fees are used appropriately.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	*Field not completed.*

(Section Break)

Upload résumé, references and/or other pertinent information	Resume 2022.docx

Email not displaying correctly? View it in your browser.

Weston Charles Burrer
3335 Bobcat Lane
Pueblo, CO 81005
(719) 250-4257
weston.burrer@gmail.com

Work Experience:

Pueblo County Government
Pueblo, Colorado
Staff Architect
September 2021 to Present

- Performs professional and administrative Architectural work consisting of designing, preparing, and managing complex maintenance, construction, and alteration projects; develops and prepares program requirements, schematics, preliminary and complete working drawings, specifications, and construction documents.
- Leads or directs architectural activities involving the design and plan preparation of complex projects prepared by consultants.
Prepares, or coordinates, the preparation of complex architectural design work utilizing Computer Aided Design and Drafting (CADD) Systems; develops program requirements, plan layouts, schematics, preliminary plans, complete working drawings, specifications, and cost estimates.
- Independently travels to conduct field investigations to obtain data, measurements, and information needed to draft or design details for assigned projects; consults with clients to determine functional and spatial requirements of assigned projects and prepares information regarding design, specifications, materials, color, equipment, estimated costs, and construction time.
- Provides information and/or gives instructions regarding unique features of projects, code requirements, or County architectural standards; reviews plans and specifications prepared by consultants to determine compliance with program requirements and County architectural standards.
- Maintains design control; inspects construction operations and materials, reviews shop drawings submitted by contractors to determine if program requirements and architectural standards have been met, reviews and coordinates the work of units within the division or department, and resolves project design conflicts, design review problems, and budget and work scheduling problems; ensures projects are completed on schedule and communicates resolution of conflicts and problems to departmental representatives and project managers.
- Attends conferences and meetings involving division heads, other County officials, contract architects, and/or contractors to resolve problems; represents the Public Works Director and elected officials at official meetings as needed or requested.
- Project management responsibilities including, but not limited to, project planning, cost management, time management, quality management, contract administration, and safety management.
- Develops Requests for Proposals (RFP’s) and/or Requests for Quotes (RFQ’s) for various construction and maintenance contracts in compliance with the County purchasing policy; interviews contractors, sits at bid openings, and reviews contract documents submitted from contracted design professionals for compliance with applicable codes, standards, and local, state, and federal guidelines.

- Acts as Pueblo County's Americans with Disabilities Act (ADA) Compliance Officer; ensures physical barrier removal and access to programs and services, resolves difficult and sensitive citizen inquiries and complaints, receives and effectively processes public grievances, keeps the
- ADA Coordinator and Assistant County Attorney apprised of the appropriate remedies to physical barriers, and provides staff training in regard to physical delivery of programs and services.
- Obtains building permits for maintenance, construction, and renovation projects on behalf of the County; works with Regional Building to obtain permits and ensure proper inspections are conducted.

Weston C. Burrer, Architect
Pueblo, Colorado
Principal Architect
January 2016 to Present

- Research, plan, design and administer building projects, applying knowledge of design, construction procedures, zoning, building codes (IBC/IRC, ADA), applicable federal, state and local laws, building materials and development opportunities.
- Consult with clients to determine functional and spatial requirements of new structure or renovation, and negotiated the terms of contracts.
- Write, design and produce Historic Structure Assessments, State and Federal Historic Tax Credit Applications, Preservation Plans, and required paperwork for Low Income Housing Tax Credit compliance through the Colorado Housing and Finance Authority.
- Prepare information regarding design, specifications, materials, color, equipment, estimated costs (including takeoffs of complex shapes for area calculation) and construction time.
- Prepared various grant applications for funding of non-profit agency projects.
- Represented clients in obtaining bids from general contractors and awarding construction contracts.
- Conduct periodic on-site inspections of work during construction to monitor compliance with plans and specifications.
- Direct activities of workers engaged in preparing drawings and specification documents.
- Possess the ability to interpret maps, site plans, legal descriptions, setbacks, utilities and elevation information.
- Possess the familiarity of the Southern Colorado region, including Colorado Springs, Pueblo, Canon City and Trinidad.
- Possess the ability to resolve conflicts, both inside and outside the office.

Pueblo County Government
Pueblo, Colorado
Project Manager, Facilities Department
October 2012 to August 2021

- Manage complex, politically initiated and confidential special projects for various County elected officials
- Experienced in working closely with local, state and federal partners, offices and agencies
- Experienced in making detailed public presentations to various elected officials, boards and commissions; experienced in preparing staff reports and correspondence
- Represents the Facilities Director and elected officials at official meetings when requested

- Broad spectrum of responsibilities; covering all aspects of project management such as project planning, cost management, time management, quality management, contract administration and safety management.
- Reviewing and approving all utility bills, analysis of usage, implementation of strategies to reduce usage; represent Facilities Department on the Pueblo County Sustainability Plan Core Committee; currently implementing County-wide recycling program
- Determine and develop facility specific strategies, processes, operations and team coordination to execute projects related to controlled maintenance, repair, renovation and new construction of 32 buildings
- Develop several Requests for Proposals (RFP's) or Requests for Quotes (RFQ's) for various construction and maintenance contracts; interview contractors and sit at bid openings
- Review contract documents submitted from contracted design professionals for compliance with applicable codes and standards and review for compliance with County purchasing policy prior to release for bids or RFQ's
- Develop and track project budgets and schedules; attend weekly meetings of the contractor and design team, coordinate facilities resources and staff to supplement building turn-overs.
- Provide direction on resolution of contract disputes and non-performance
- Assist in the development of annual maintenance project lists for budget appropriation and once budget has been approved, follow through with management of the project list.
- As the County's point-of-contact, direct consultants and contractors, authorize change orders, can stop work or make field changes, evaluate changes to the scope of work, and coordinate the work to remain on time and in budget.
- Determine if facility recommendations are valid and include such recommendations in the next annual appropriation request.
- Complete project close-out, including advertising and release of retainage and receipt of lien waivers.
- Oversaw the construction of the new Pueblo County Sheriff's Office – Emergency Services Center, a $9M, 25,000 square foot facility designed for all aspects of emergency response. (Dec 2012 to April 2014) All funding was through FEMA and the Chemical Stockpile Emergency Preparedness Program, and as such was required to follow Davis-Bacon and Related Act wage rates, interviews and certified payroll. Was the owner's representative, working with governmental agencies, FEMA, the architectural team and the general contractor. After completion of construction, transitioned the building and grounds to the Facilities Department staff for cleaning and maintenance and subsequently accepted the responsibility as the facilities' support supervisor, or building engineer, to ensure smooth building operation as a critical 24/7/365 component of the region's dispatch and emergency response capabilities.
- Oversaw the installation of 28 new penal shower units in the Pueblo County Detention Center, totaling $429,000. Worked as the liaison between the Sheriff's office and the general contractor.
- Currently overseeing 16 projects, ranging from roof replacements to space planning buildings. Highly effective in organizing, planning and prioritizing the projects, and possess the ability to multi-task and remain flexible as projects can shift priority weekly
- Currently act as Pueblo County's American's with Disabilities Act Compliance Officer, ensuring physical barrier removal and access to programs and services. As the County ADA Point-of Contact, responsible for resolving difficult and sensitive citizen inquiries and complaints. Receives and processed public grievances effectively and keep the ADA Coordinator and Assistant County Attorney apprised of the appropriate remedies to physical barriers and provide staff training when delivery of programs and services are concerned.
- Coordinate surveys of County employees
- Proficient in the IBC 2015, ANSI A117.1, 2010 ADA Standards, and the NFPA 101 Life Safety Code.

- Report to the Senior Project Manager and the Facilities Director; although not over a subordinate staff, supervise and coordinate between 1-15 facilities and parks staff appropriate to each project.
- Work with a maintenance team of 26 and a parks team of 5 and possess excellent written and oral skills to coordinate the work of the team.
- As projects never go perfectly, possess the ability, when necessary, to use critical thinking, decision making and problem-solving skills to move past the issue.
- Prepare Requests for Proposals for annual maintenance contracts, design proposals from engineers and architects, materials suppliers and other vendors as necessary.

Hurtig, Gardner, Froelich Architects, Inc.
Pueblo, Colorado
Project Manager
February 2006 to September 2012

- Instrumental in the design of major development projects which included building reuse, and partnerships with PEDCO, Pueblo Urban Renewal Authority and the Colorado Springs Regional Economic Development Corporation; i.e. Doss Aviation, Waterfront at the Riverwalk, Point of the Pines Gardens (Colorado Springs).
- Managed 2 projects concurrently with a total expenditure of over $12 million in combined funding, with a portion of the funding from federal grants and tax incentives.
- Researched, planned, designed and administered building projects, applying knowledge of design, construction procedures, zoning, building codes (IBC/IRC, ADA), applicable federal, state and local laws, building materials and development opportunities.
- Consulted with clients to determine functional and spatial requirements of new structure or renovation, and negotiated the terms of contracts.
- Wrote, designed and produced Historic Structure Assessments, State and Federal Historic Tax Credit Applications, Preservation Plans, and required paperwork for Low Income Housing Tax Credit compliance through the Colorado Housing and Finance Authority.
- Prepared information regarding design, specifications, materials, color, equipment, estimated costs (including takeoffs of complex shapes for area calculation) and construction time.
- Prepared various grant applications for funding of non-profit agency projects.
- Represented clients in obtaining bids from general contractors and awarding construction contracts.
- Conducted periodic on-site inspection of work during construction to monitor compliance with plans and specifications. (20% of job time; approx. 1 year, 3 months of inspection experience since Feb. 2006)
- Directed activities of workers engaged in preparing drawings and specification documents.
- Possess the ability to interpret maps, site plans, legal descriptions, setbacks, utilities and elevation information.
- Possess the familiarity of the Southern Colorado region, including Colorado Springs, Pueblo, Canon City and Trinidad.
- Possess the ability to resolve conflicts, both inside and outside the office.

Education:

Master of Public Administration
Maxwell School of Citizenship and Public Affairs
Syracuse University
Syracuse, New York

Bachelor of Environmental Design, with emphasis in Architecture and Planning
University of Colorado
Boulder, Colorado

Licenses/Certifications:

Licensed Architect, State of Colorado, License No. ARC-404206
Certified Facility Manager (CFM®), International Facilities Management Association
Certified ADA Coordinator, University of Missouri

Leadership:

Regional Director, 2012 and 2013
American Institute of Architects, Colorado South Chapter Board of Directors
Chair, 2010, 2011 and 2012
Pueblo Historic Preservation Commission
Chair, 2011 and 2012
Pueblo Planning and Zoning Commission
Chair, 2011 and 2012
Pueblo Zoning Board of Appeals
President, Architecture and Planning Student Government (APSG)
College of Architecture and Planning, University of Colorado

Awards:

2022-2023 Founders' Fellow
American Society of Public Administration
Eagle Scout, Class of 1999
Troop 9, Rocky Mountain Council, Boy Scouts of America

Affiliations:

National Council of Architectural Registration Boards
American Institute of Architects
Colorado Preservation, Inc.
Historic Pueblo, Inc.
Pueblo County Historical Society
Old Historic Northside Organization (OHNO)

Publications:

"The WPA in Mineral Palace Park." Colorado Preservationist, Winter 2004-5, 18 (4):12.

Community:

American Institute of Architects, Colorado South Chapter
Regional Director, January 2012 to 2014
Pueblo County Historical Society
Board of Directors, May 2007 to May 2012 (2 3-year terms)
Pueblo Historic Preservation Commission
Commissioner, January 2009 to December 2012
Pueblo Planning and Zoning Commission
Commissioner, December 2009 to June 2014
Pueblo Zoning Board of Appeals
Board Member At-Large, July 2010 to June 2011
Liaison from Planning and Zoning Commission, July 2011 to August 2013
Pueblo 2020 Commission
Commissioner At-Large, January 2010 to September 2011
Pueblo South High School Alumni Foundation
Board of Directors, January 2009 to January 2011
Academic Affairs Committee (as President of APSG)
Committee of Student and Faculty Leaders
College of Architecture and Planning, University of Colorado, 2004-5
Budget Committee (as President of APSG)
Committee of Student and Faculty Leaders
College of Architecture and Planning, University of Colorado, 2004-5

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: **May 9, 2022**

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Robert P. Jagger, Deputy City Attorney

SUBJECT: A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INSTITUTE A CIVIL INTERPLEADER ACTION AND FOR DECLARATORY RELIEF RELATING TO DISPUTED CLAIMS TO UNION DUES DEDUCTIONS BETWEEN PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

SUMMARY:

The proposed Resolution authorizes the City Attorney to institute a civil interpleader action and for declaratory relief relating to disputed claims to union dues deductions between Pueblo Association of Government Employees and American Federation of State, County and Municipal Employees, AFL-CIO.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The following are the relevant facts with respect to the current issue relating to Pueblo Association of Government Employees ("PAGE") and American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME"):

1. The City and PAGE entered into a collective bargaining agreement effective January 1, 2019 through December 31, 2019 and a successor agreement effective January 1, 2020 through December 31, 2022 (collectively the "PAGE CBA").

2. Pursuant to the PAGE CBA, PAGE is recognized as the sole and exclusive representative of those employees of City and covered by the PAGE CBA ("Covered Employees").

3. At all relevant times, PAGE is and has been the employee organization selected pursuant to the requirement of §8-14(c), City Charter, to be the sole and exclusive bargaining agent for the Covered Employees.

4. Pursuant to the PAGE CBA, Covered Employees may file authorization for union dues deduction with the City which authorizes the City to deduct from the Covered Employees monthly regular earnings an amount certified by PAGE as union dues, initiation fees and assessment ("Union Dues Deduction") and remit same to PAGE.

5. With respect to the Union Dues Deductions for the months of October 2019 to present and continuing ("Disputed Deduction"), AFSCME has notified City that the Disputed Deduction should be paid to designated representatives of AFSCME and not to PAGE. AFSCME has further notified City that, if the Disputed Deductions are paid to PAGE, AFSCME will initiate litigation against the City seeking damages.

6. PAGE disputes AFSCME's claim to the Disputed Deductions. Originally, the parties simply wanted to have the City retain the funds in its liability account while the parties sought resolution of this dispute. Given the significant amount of time that has passed without resolution of this matter, PAGE has now requested that it be remitted the Disputed Deductions pursuant to the PAGE CBA. The current amount of the Dues Deductions through March of 2022 is $97,622.

7. The City has no obligation to either of the parties continue to retain the funds in its liability account, has no interest in the Disputed Deductions and should not incur any liability, expense or other costs as a result of the parties dispute.

The conflicting claims of AFSCME and PAGE to the Disputed Deductions exposes the City to potential multiple liability. The available court remedy is for the filing of a civil action for an order that the City be authorized to deposit of the Disputed Deductions into the registry of the District Court, that PAGE and AFSCME be required to interplead and settle between themselves their rights to the Disputed Deductions and that City be discharged from all liability related to the Disputed Deductions.

FINANCIAL IMPLICATIONS:

None other than costs and expenses related to the proposed civil action.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not pass the Resolution and retain the Disputed Deductions in City's liability account. Such action would, however, expose the City to potential claims by PAGE.

RECOMMENDATION:
Approval of the Resolution

RESOLUTION NO. 14883

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INSTITUTE A CIVIL INTERPLEADER ACTION AND FOR DECLARATORY RELIEF RELATING TO DISPUTED CLAIMS TO UNION DUES DEDUCTIONS BETWEEN PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

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

SECTION 1.

The City Attorney is authorized to institute a civil interpleader action and for declaratory relief relating to disputed claims to union dues deductions between Pueblo Association of Government Employees and American Federation of State, County and Municipal Employees, AFL-CIO.

SECTION 2.

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

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # N-1

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 9, 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 AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A COLORADO LIBRARY DISTRICT AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2022 KIDS READ SUMMER CHALLENGE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL HOUSEHOLDS AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $328,500 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign, an Amendment to the Intergovernmental Agreement with the Pueblo-City County Library District ("Library") and Pueblo County to provide local fiscal relief funds to local households for economic recovery purposes.

PREVIOUS COUNCIL ACTION:

On May 24, 2021, by Ordinance No. 9943, City Council approved an Intergovernmental Agreement with the Library and Pueblo County ("Original IGA") to sponsor the Library's Kids Read Project and authorized the transfer of up to $500,000 in financial support for the Library's 2021 Summer Reading Challenge from Project CI2113 American Rescue Plan Act.

BACKGROUND

The 2021 Summer Reading Challenge was a success beyond all expectations and the Library, the City and Pueblo County wish to establish a 2022 Summer Reading Challenge. The Original IGA must be amended in order to establish and fund the 2022 Summer Reading Challenge.

FINANCIAL IMPLICATIONS

To encourage students to read this summer and to provide financial support local households, the Library will pay each young person $100 between June and August, 2022 who checks out ten books from a neighborhood Library and provides a description of their reading experience to a librarian employed by the Library.

The Library will invoice the City and the County, on a periodic basis, for the costs of the Project at the rate of $100.00 for each participant who successfully checks out ten books from a neighborhood library and provides a description of their reading experience to a librarian employed by the Library.

Under the proposed Amendment to the Original IGA, the City will make available to the Library an additional $328,500 from Project CI2113 American Rescue Plan Act in support of the 2022 Summer Reading Challenge.

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 "2022 Pueblo Summer Reading Challenge."

RECOMMENDATION

Approval of the Ordinance

Attachments:
Proposed Ordinance
Proposed Amendment to the Original IGA.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE PUEBLO CITY-COUNTY LIBRARY DISTRICT, A COLORADO LIBRARY DISTRICT AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE COUNTY OF PUEBLO, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, RELATING TO THE 2022 KIDS READ SUMMER CHALLENGE PROJECT TO PROVIDE FINANCIAL ASSISTANCE TO LOCAL HOUSEHOLDS AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $328,500 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR PURPOSES THEREOF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

The Amendment to the Intergovernmental Agreement ("Amendment") between the Pueblo City-County Library District, a Colorado library district and the City of Pueblo, a Colorado municipal corporation and the County of Pueblo, a political subdivision of the State of Colorado, dated May 23, 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 for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

THIS AMENDMENT TO INTERGOVERNMENTAL AGREEMENT (hereinafter "Amendment") is made and entered into effective the 23rd day May, 2022, by and between the Pueblo City-County Library District, a Colorado library district (hereinafter referred to as "Library") and the City of Pueblo, a Colorado municipal corporation, (hereinafter referred to as "City") and Pueblo County, a political subdivision of the State of Colorado, (hereinafter referred to as "County"). Library, City and County are sometimes referred to herein as a "Party" and collectively, as the "Parties."

Recitals

WHEREAS, the Parties entered into an Intergovernmental Agreement dated May 24, 2021 (the "Agreement"); and

WHEREAS, the purpose of this Amendment is to increase the amount of funds available for the project and to extend the term of the Agreement.

Agreement

In consideration of the mutual covenants, agreements and promises in this Amendment and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as set forth in this Amendment:

1. Article II of the Agreement is hereby amended and restated as follows:

II. OBLIGATIONS OF THE CITY AND COUNTY

A. The Parties agree that certain funds received by the City and County from the U.S. Treasury pursuant to the American Recovery Plan Act shall be made available for payment to the Library for financial support of the Kids Read – Summer Reading Challenge Project as follows:

Year	City Contribution	County Contribution	Total	Carryover Funds
2021	$ 500,000	$ 500,000	$ 1,000,000	$ 343,000
2022	328,500	328,500	657,000	
Total	$ 828,500	$ 828,500	$ 1,657,000	

B. City and County agree to pay, within thirty (30) days of receipt, invoices received from the Library in connection with the project, on a 50% / 50% basis.

2. Article III Section A of the Agreement is hereby amended and restated as follows:

III. MISCELLANEOUS

The Parties agree that their performance under this Agreement shall be subject to the following provisions:

A**.** The term of this Agreement shall commence on the date first set forth in the Agreement and shall terminate on December 31, 2023, unless terminated sooner as provided in the Agreement. The Parties may terminate the Agreement at any time and for any reason by giving thirty (30) days prior written notice to the other Parties. The Agreement may only be extended by written agreement of all Parties. Unspent funds from the 2022 calendar year, if any, shall be returned to the City and County on a 50% / 50% basis or, in the sole discretion of the Library, shall be carried over and made available to be spent by the Library for the 2023 Kids Read Summer Reading Challenge.

4. Except as modified by this Amendment, the provisions of the Agreement shall remain unchanged and in full force and effect and fully binding on the Parties, their successors and assigns and the Agreement and this Amendment shall be construed together as a single integrated document.

IN WITNESS WHEREOF, this Amendment is executed by the Parties hereto in their respective names as of the date first above written.

ATTEST: PUEBLO CITY-COUNTY LIBRARY DISTRICT

By: _____ By: _____

ATTEST: CITY OF PUEBLO

By: _____ By: _____
City Clerk Mayor

ATTEST: PUEBLO COUNTY, COLORADO

By: _____ By: _____
Clerk to the Board Chair, Board of County Commissioners

City Clerk's Office Item # N-2

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marissa Stoller, City Clerk

FROM: Andra Ahrens, Interim Wastewater Director

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $65,031 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SUSTAINABILITY STUDY FOR THE WASTEWATER DEPARTMENT AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance accepts an agreement between the City of Pueblo and Brown and Caldwell, Inc. for consulting engineering services relating to identifying sustainable energy sources, techniques to use or sell the biogas the Water Reclamation Facility produces.

PREVIOUS COUNCIL ACTION:

On November 12, 2018, the City Council Approved Resolution No. 14081, selecting Brown and Caldwell, Inc as the Engineer of Record for the Wastewater Treatment Department.

BACKGROUND:

The Wastewater Department is requesting Brown & Caldwell, Inc. to evaluate different types of sustainable energy producing technologies and their associated costs for implementation. This study will allow the Wastewater Department to determine what sustainable technologies are feasible and cost effective to implement at the Water Reclamation facility or in the collection system. The Wastewater Department would like to do this study to determine if money may be saved and carbon emissions may be reduced.

FINANCIAL IMPLICATIONS:

The cost of the agreement with Brown and Caldwell to provide design services for the evaluation will not exceed $65,031. Funds are available from the Professional Services Budget.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

The no-action alternative would be the status quo, which may cost the rate payer more money in the future with rising energy costs.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Professional Engineering Services Agreement between the City of Pueblo and Brown and Caldwell, Inc.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $65,031 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SUSTAINABILITY STUDY AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the Pueblo Wastewater Department operates a Water Reclamation Facility and collection system providing municipal wastewater treatment; and

WHEREAS, consulting engineering services are required with respect to identifying the best sustainable technologies to use throughout the Wastewater Department; and

WHEREAS, Brown and Caldwell is the consulting Engineer of Record and is the most qualified to serve the Pueblo Wastewater Department for such project; NOW, THEREFORE,

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

SECTION 1.

An agreement by and between the City of Pueblo, a Municipal Corporation, and Brown and Caldwell, Inc., a copy of which is attached hereto and made part hereof by reference ("Agreement"), after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Work Performed under the Agreement may include, but not limited to, the following items:

Phase 100 - Project Management and Administration
Phase 200 – Technology Screening Evaluation
Phase 300 – Technical Memorandum

SECTION 3.

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

SECTION 4.

Funds for work performed under this agreement shall be from the Professional Services Budget

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 Agreement approved to implement the transactions described therein.

SECTION 6.

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

Action by City Council:

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

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

PROPOSED STANDARD FORM OF
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT made and entered this _____day of _____, 2022 by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner") and Brown and Caldwell, Inc., a California corporation, 1697 Cole Boulevard, Golden, Colorado 80401, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional engineering and related services for Owner in connection with the **Pueblo Sustainability Study**, 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 and/or construction management] services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[x] - Study and Report Phase

[x] - Preliminary Design (Schematic) Phase

[ ] - Final Design Phase

[ ] - 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, architectural, construction management and planning services as generally stated herein and as more specifically set forth in Appendix A. Engineer shall also provide any landscape engineering, architectural, 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 in Appendix A – Scope of Services and as generally identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services. In the event of a conflict, the Scope of Services set forth in Appendix A shall prevail.

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 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 indicated in the attached Scope of Service (Appendix A):

(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) Furnish electronic copies of the Report to present and review it in person with Owner.

2.2 Preliminary Design (Schematic) 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 indicated in the attached Scope of Service (Appendix A):

(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 electronic copies of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall:

(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 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 3 (three) copies of each above referenced submittal document to Owner for Owner's use, and shall review same in person with Owner.

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:

(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 Appendix A 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. 3 (three) copies of these final bid documents shall be furnished to Owner. Unless otherwise specified in Appendix A, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2013 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.

(f) Prepare and periodically update a Project Schedule for Owner's review and acceptance, which shall include the schedule for the performance of the Engineer's services and a construction schedule for the components of the work, including phasing of construction, and times for commencement and completion of the several construction contracts. In the Project Schedule, the Engineer shall coordinate and integrate the Engineer's services and the Owner's responsibilities with anticipated construction schedules, highlighting critical and long lead times.

(g) Provide recommendations and information to Owner regarding the allocation of responsibilities for safety programs among contractors.

(h) Advise the Owner on Engineer's recommended division of the Project construction work into individual categories or work and separate contracts, and make recommendations as required so that the work of the several contractors is coordinated, all responsibilities have been assigned to the appropriate contract, the likelihood of jurisdictional disputes has been minimized and proper coordination has been provided for phased construction.

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:

I. Engineering Functions.

(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 Appendix A - 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 general accordance and compliance with the construction contract documents.

(d) Promptly advise the Owner in writing of any observed omissions, substitutions, defects or deficiencies noted in the work of any contractor, subcontractor, supplier or vendor on the Project.

(e) Reject any work on the Project that does not conform to the contract documents.

(f) On request of the 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 general 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 made periodic observations of the Project during construction and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in general accordance with the Drawings, Specifications and other contract documents.

(i) Subject to written concurrence by 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 so 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 the Wastewater Department of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Engineer and Contractor.

II. Construction Management Functions by Engineer.

(a) Perform all duties and functions specifically identified to be performed by the Construction Manager under the terms of the construction contracts, if any.

(b) Provide administrative, management and related services to coordinate scheduled activities and responsibilities of the construction contractors with each other and with the Owner and the Engineer, including monitoring agreed-upon budgets and the Project Schedule based upon the executed Contract Documents.

(c) Schedule and conduct meetings to discuss such matters as procedures, progress and scheduling. Engineer shall prepare and promptly distribute minutes of the meetings to the Owner and Contractors.

(d) Update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of shop drawings, product data and samples, and delivery of items requiring long lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. Engineer shall update the Project construction schedule as needed to show current conditions. If any update indicates that the previously approved Project construction schedule may not be met, Engineer shall recommend corrective action to Owner.

(e) Consistent with the various bidding and contract documents, coordinate the sequence of construction and assignment of space in areas where contractors are or will be performing work.

(f) Observe performance of the contractors and recommend courses of action to the Owner when requirements of any contract are not being fulfilled.

(g) Monitor the approved estimate of construction cost for the Project, and show actual costs for activities in progress and estimates for uncompleted tasks by way of comparison with approved estimates. Advise the Owner of any variances between actual and estimated costs.

(h) Review the safety programs developed by each of the contractors solely for purpose of coordinating the safety programs with those of the other contractors. Engineer's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the contractors, subcontractors or others not directly employed by Engineer, including any health or safety programs and precautions required by such construction work. Engineer has no duty to inspect, observe, correct or report on health or safety deficiencies of the contractors.

(i) Schedule and coordinate the sequence of construction by and among the contractors in accordance with the contract documents and the latest approved Project construction schedule. Engineer's responsibility under this subsection shall not extend to direct control over or charge of the means, methods, techniques, sequences and procedures of any contractor necessary for completing all portions of the construction work in accordance with the contract documents and any compliance with applicable laws and regulations.

(j) Maintain at the Project site for Owner one record copy of all contracts, plans, specifications, addenda, change orders, approved shop drawings, approved product data and approved submittals, and other documents in good order prepared in part on the basis of information compiled and furnished by others, and record drawings may not always represent the exact location, type of various components or exact manner in which Project was finally constructed, all of which shall be delivered to Owner upon completion of the Project or upon Owner's request. Engineer is not responsible for any errors or omissions in the information from others that are incorporated into the record drawings.

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 in breach of applicable standards of care.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner to the extent caused by Engineer's negligent act or omission.

(c) Engineer's professional responsibility shall comply with the generally-accepted standard of care applicable to the type of engineering and architectural and construction management services provided in effect at the time services are rendered and 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 and shall provide all necessary safety equipment for said employees. Notwithstanding the foregoing, Engineer is not responsible for the health and safety duties of others, including compliance with health or safety programs and precautions.

(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. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Appendix C - "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 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 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 time table 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 Appendix B - "Fee Schedule".

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. Engineer shall rely on information provided without verification unless otherwise agreed to in Appendix A. Owner shall notify of any known or potential health or safety hazards existing at or near the project site.

(d) Arrange 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) If Engineer's scope of work includes services during construction, Owner will approve acceptable draft language prepared by Engineer for inclusion in Owner's contract with the construction contractor which require the construction contractor to indemnify and hold harmless Engineer, its officers, employees, agents, and consultants against claims, suits, demands, liabilities, losses, damages, and costs, including reasonable attorneys' fees and all other costs of defense, arising out of the performance of the work of the contractor, breach of contract, or willful misconduct of the contractor or its subcontractors, employees, and agents.

Owner will approve acceptable draft language prepared by Engineer for inclusion in Owner's contract with the construction contractor which require (a) the contractor to name Engineer, its directors, officers and employees as additional insureds on the contractor's general liability insurance and/or Owner's and Contractor's Protective policy (OCP), and any builder's risk, or other property insurance purchased by Client or the contractor to protect work in progress or any materials, supplies, or equipment purchased for installation therein; and (b) the contractor to furnish contractor's certificates of insurance evidencing that Engineer, its officers, employees, agents, and consultants are named as additional insureds on contractor's general liability and property insurance applicable to the Project. Contractor's policies shall be primary and any such insurance carried by the Engineer shall be excess and noncontributory. The certificates shall provide that Engineer be given 30 days' written notice prior to any cancellation thereof.

(i) 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.

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 Appendix A - Scope of Services and Section 1 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 $65,031.00 in the aggregate, and not to exceed those maximum amounts set forth in Appendix B - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Appendix B as to each phase of work indicated in Section 1.1 of this Agreement, the maximum amount of compensation for any phase shall not exceed the amount specified in Appendix B for such phase.

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 30 days of the date of billing, provided that sufficient documentation has been furnished., With respect to construction phase services, Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services 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 Appendix B - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, or similar expenses unless otherwise provided and listed in Appendix B - "Fee Schedule."

5.5 No compensation shall be paid to Engineer for services required and expenditures incurred in correcting Engineer's negligent errors or omissions.

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 The Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon 10 days written notice, either for cause or for convenience. Upon such termination, Engineer shall cease all work and stop incurring expenses, and shall promptly deliver to the Owner all data, Drawings, Specifications, reports, estimates, calculations, summaries and all other information, 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 Appendix B - "Fee Schedule" 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 Owner or Engineer. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in paragraph 5.1 and Appendix B.

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 consultants, or to perform services with that level of care and skill ordinarily exercised by professional Engineers specializing in the design of Sanitary Sewer Outfalls and Sewer Crossing Design or to perform work in a manner deemed satisfactory by Owner's Director of Public Works, then in that event, Engineer's entire right to compensation shall be limited to payment at the rates specified in Appendix B for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for his 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 Engineer in the performance of this Agreement ("Work Product") shall be the sole property of the Owner upon payment to Engineer therefore 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 and indemnify Engineer from all loss, claims, injury and judgments arising from the use of such designs, Drawings or Specifications for such other project. In no

event shall Engineer publish its Work Product developed pursuant to this Agreement except (i) with advance, written consent of Owner, which consent may be granted or withheld in Owner's sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

7.2 Insurance and Indemnity.

(a) Engineer agrees that he has procured and will maintain during the term of this Agreement, such insurance as will protect him from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any of his employees or of any person other than his 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 Owner.

(ii) Commercial General and Automobile Liability Insurance with limits not less than One Million and No/100 Dollars ($1,000,000.00)per occurrence for personal injury, including but not limited to death and bodily injury, and One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00) for excess umbrella liability.

(iii) Professional Liability Insurance with coverage of not less than $1,000,000.00 covering claims arising from the negligent acts, errors or omissions in the services performed by Engineer for Owner under this Agreement. This policy shall provide coverage for all professionals providing services under this Agreement by or through the Engineer, including coverage for Engineer's activities performed in both its engineering and construction manager capacities.

(c) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, to the extent caused by the negligent acts, errors or omissions of Engineer, his employees, subcontractors and consultants.

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 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 Wastewater, Attention: Andra Ahrens, Director, 1300 S. Queens Avenue, Pueblo, Colorado, 81001, or to the Engineer, Brown and Caldwell, Inc., at the address listed above. 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.

7.4 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 Appendix or attachment to this Agreement, the provision in the Appendix or attachment shall control and supersede the conflicting provision in this Agreement.

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 Engineer may be assigned by him without the written consent of the Owner. Notwithstanding the foregoing, if the authorized scope of work includes construction activities or the oversight of construction, Engineer may, at its discretion and upon notice to Owner, assign all of its contractual rights and obligations with respect to such activities or services to Brown and Caldwell Constructors, its wholly owned affiliate.

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 Engineer and by Owner's Director of Public Works.

7.7 Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado.

7.8 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, national origin, disability or age. Engineer shall endeavor to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, 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 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 as of the time of any such determination this entire Agreement shall be void and terminated pursuant to the provisions of Section 6, without waiving any claims or defenses

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 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.

7.11 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. Such requirements shall be provided by Owner and incorporated into individual Agreements as applicable.

7.12 Force Majeure. Neither party shall be responsible for delays caused by circumstances beyond its reasonable control including but not limited to governmental action, statute, ordinance, rule or regulation, strike or other labor troubles, fire, acts of God, or other incidents outside of either party’s control that makes performance or acceptance impossible or impractical. The Consultant shall not be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control created from any force majeure event.

SECTION 8. DISPUTES.

8.1 Any unresolved 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 decided in a state court of competent jurisdiction located in Pueblo, Colorado.

SECTION 9. APPENDICES.

9.1 The following Appendices are attached to and made a part of this Agreement:

Appendix A - "Scope of Services" consisting of 9 (nine) pages.

Appendix B - "Fee Schedule" consisting of 2 (two) pages.
Including Schedule of Personnel and Duties

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 in accordance with applicable standards of

care to implement applicable ADA requirements and other federal, state and local laws, rules codes, ordinances and regulations as they apply to the Project. Notwithstanding, unless otherwise specified in the Scope of Services, Owner shall have sole responsibility as between Client and Consultant for compliance with the Americans With Disabilities Act ("ADA") 42 U.S.C. 12101 et. Seq. and the related regulations.

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 Owner for the full amount of any employer contribution required to be paid by the Owner to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the Owner under this Agreement. The Engineer shall submit the questionnaire to Owner.

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, Purchasing Director

Attest_____
City Clerk

[S E A L]

BROWN AND CALDWELL, INC.

By_____
Mary Kay Provaznik, Denver Local Leader

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

_____
Director of Finance

APPROVED AS TO FORM

_____
City Attorney

Attachments: Appendix A – Scope of Services
Appendix B – Fee Schedule

APPENDIX A

Brown and Caldwell Proposal for:
Sustainability Study

Prepared for
City of Pueblo
December 10, 2021

Project Overview

Brown and Caldwell (BC) will provide assistance to the City of Pueblo (COP), James R. Dilorio Water Reclamation Facility by performing a high-level feasibility study to identify potential cost-effective ways to improve energy efficiency through operations and/or utilization of alternative technologies. This effort is being categorized as a Sustainability Study.

Any changes to the contract must be authorized by the COP Wastewater Director and negotiated with the BC Project Manager.

Services will include:

- Review of provided operational and energy use data
- Identification of opportunities for energy efficiency
- Cursory review of alternative technologies (as defined further below under Phase 200) for evaluation of feasibility and cost effectiveness;Cost effectiveness will be a high-level evaluation of capital and operational costs
- Provide recommended short-list of potentially viable capital projects that would require a more detailed evaluation prior to a final decision on implementation of the technology and preliminary design

This Scope of Services includes the following phases:

Phase 100 – Project Management and Administration

Phase 200 – Technology Screening Evaluation

Phase 300 – Technical Memorandum

One attachment is also included with this Scope of Services:

Attachment 1 – Project Schedule

COP WW Responsibility

Pueblo WW will provide BC all available and relevant information to aid in the Sustainability Study. This includes, but is not limited to:

- Operational data: BC will request operational data specific to the plant (i.e., digester gas production data, digester gas chemical composition, etc.)
- Power consumption data: BC will request power consumption data specific to the plant

BC's Opinion of Probable Costs (Cost Estimate)

Pueblo acknowledges that construction cost estimates, financial analyses and feasibility projections are subject to many influences including, but not limited to, price of labor and materials, unknown or latent conditions of existing equipment or structures, and time or quality of performance by third parties. Pueblo acknowledges that such influences may not be precisely forecasted and are beyond the control of BC and that actual costs incurred may vary substantially from the estimates prepared by BC. BC does not warrant or guarantee the accuracy of construction or development cost estimates. Any costs provided by BC as part of this high-level feasibility study are not a result of full design or evaluation, should not be used for CIP planning purposes, but rather to help comparatively inform the short-list of potentially feasible technologies to pursue further in a future scope of work.

Phase 100 – Project Management and Administration

Project Management (PM) will consist of activities necessary to plan, oversee, direct, and manage engineering resources to complete the design, support bid-phase activities, and assist during construction. In addition, PM activities include monthly invoicing and status reporting.

Invoicing will occur monthly and will be prepared and submitted to the COP via email in an approved format. Invoices shall include total contract amount, total charges to date, previous billings, outstanding balance, current amount remaining, and total amount due.

Monthly project status reports will be prepared and submitted to the COP along with the monthly invoices. These reports will include summary of services completed since the previous report, current project schedule and budget status, project issues and potential changes, and project schedule updates if changes have been made and agreed upon by the COP.

Deliverables:

- Monthly invoices and progress reports
- Comment logs containing substantive QC comments and approved resolutions will be kept and may be made available to COP upon request

Phase 200 – Technology Evaluation

Objectives

As part of this project, BC will perform a cursory evaluation of the following technologies for feasibility and sustainability opportunities:

- Cogeneration
- Hydropower turbines
- Solar power
- Gas upgrading for pipeline injection or fleet vehicle use
- Fleet conversion
- Heat pumps
- Biological treatment
- Side-stream treatment
- Wind
- Energy efficiency study
- Food-to-waste co-digestion
- Grant opportunities
- Acid plus
- District heating

To support the feasibility study and achieve a recommended short-listed set of alternatives for a more detailed evaluation, cost impacts (capital and operational) will be reviewed. This evaluation does not produce a full cost analysis to determine an estimated net present value or other detailed financial analyses comparing revenue to capital costs, operation and maintenance (O&M), and repair and replacement (R&R) costs. While not included in this scope, if adequate opportunity for cost savings and energy sustainability is identified through this evaluation, a future business case

evaluation with a full O&M cost analyses on a few recommended alternatives may be beneficial to Pueblo for CIP and financial planning purposes.

Task 201: Cogeneration

A biogas utilization option such as combined heat and power (CHP), also commonly referred to as cogeneration, is a candidate technology for Pueblo where biogas can be cleaned up and combusted in internal combustion engines connected to an electrical generator to produce electricity for the plant or for sale back to the electric utility. The exhaust and jacket water systems are also plumbed to cool the engines which produces hot water that can be used to heat process fluids (i.e., digester contents) or buildings. This evaluation will include review of existing data and potential costs.

Assumptions

- Technology is limited to lean-burn and turbocharged internal combustion engines
- Biogas will require gas conditioning to remove contaminants (e.g., H2S, siloxanes, etc.) before use in the engine
- This evaluation is to determine the suitability of available cogeneration systems and the associated gas conditioning systems, and a cursory look at capital costs of such systems

Task 202: Hydropower turbines

At the point of discharge into the Arkansas River, there is the potential to utilize hydropower turbines to generate power for the facility. Hydropower turbines that don't affect the waterflow could potentially generate power at several locations within the plant and in the effluent channel. Twelve million gallons of water flows through the plant daily that can be used to operate the turbines. BC will evaluate the feasibility of hydropower turbines by calculating the approximate amount of power that may be generated and comparing that to the potential approximate costs of the system.

Assumptions

- This task is to review the technical viability of hydroturbines at the facility and, if technically viable, a cursory look at the estimated capital costs
- COP will provide water flow rates and elevations at the various sites that hydropower may be installed at the facility

Task 203: Solar

COP evaluated additional solar in 2017, but it was determined that 10 acres solar would be needed to produce enough power to make battery storage cost effective. The cost of battery storage has come down, but additional land may still be needed. Smaller solar fields could be added to offset more of the daily energy cost, but peak demand charges would not be reduced. Battery storage is necessary to offset peak demand to provide the most benefit. BC will evaluate how much solar would be required to make battery storage cost effective and describe the additional land requirements to make such a project possible.

Assumptions:

- COP will provide 2 years of monthly electric bills.

Task 204: Gas upgrading (RNG and CNG)

Beneficial reuse of digester gas could potentially allow the COP to redirect the biogas from being combusted in a boiler or waste gas burner to instead create a usable revenue generating product gas. A variety of technologies convert biogas to a renewable natural gas (RNG) product for injection into a natural gas pipeline or for use as compressed biomethane (CNG) in a vehicle fleet. Contaminants of concern in biogas that need to be removed in order to meet RNG and CNG standards are H_2S, moisture, siloxanes, and carbon dioxide (CO_2). Revenues include selling renewable identication numbers (RINs) and the sale of RNG or CNG. This analysis will review the suitability and viability of the available technologies and potential revenue stream generation, but will not serve as a full business case evaluation.

Assumptions:

- This evaluation is to determine the viability and potential suitability of available gas upgrading technologies for COP and a cursory look at capital costs of such a system.

Task 205: Fleet conversion

The biogas (methane) produced in the digesters can also be collected and processed to remove the hydrogen sulfide, carbon dioxide, moisture, carbon dioxide, and other trace contaminants (i.e., siloxanes) to provide a gaseous fuel (biomethane or CNG) to power vehicles. Considerations to be evaluated for this alternative is fleet vehicle opportunities (i.e., garbage trucks, busses, etc.) and their proximity to the treatment plant site. This will be a high-level review of existing fleet, potential for fleet conversion to CNG, and feasibility of potential biogas upgrades required.

Assumptions

- COP can provide information about the existing fleet (number and type of vehicles and approximate storage locations within Pueblo)
- Only bus fleets or sanitation fleets will be considered
- This evaluation is to determine the viability and potential suitability of upgrading the existing fleet of vehicles to operate on CNG, and a cursory look at capital costs of such upgrades

Task 206: Heat pumps

The wastewater in the collection system or even in the plant effluent maintains relatively constant temperatures, varying only a few degrees from summer to winter. This low-level energy is ideal for heat recovery that can harness this thermal source for heating and cooling. The recovered heat from the effluent could be used for process heating and building heating similar to how heat produced by a CHP system is used for those same purposes..

This evaluation will include reviewing information on existing heating system temperature and heat demands, establish if heat pumps are feasible (e.g., if they can meet required temperature and capacity), and development of a high-level cost approximation.

Assumptions

- Client has hot water system operating data and/or design data, and information on boilers (age, size, condition) and will provide to BC
- Assume direct effluent cooling, hybrid heat pump / boiler design
- Capital cost estimate will be major equipment cost with 4.0 multiplier

Task 207: Biological treatment

Biological wastewater treatment is energy-intensive, and it is a significant contributor to the COP's energy footprint. During previous projects, BC has helped the COP lower the energy requirements for biological treatment using advanced aeration control strategies, resulting in significant energy savings (approximately $150,000 per year). For this task, BC will review the current operation of the aeration system and controls and look for further optimization opportunities. For this, the existing BioWin model developed and calibrated by BC under previous projects will be employed. First, the model results will be compared with current plant operation and performance to establish a baseline for energy footprint and performance. Then, the BioWin model will be used to evaluate possible optimization opportunities to reduce energy requirements for treatment while meeting the existing Regulation 85's requirements.

Assumptions:

- COP to provide detailed operational data from the treatment plant for the past two years
- BC will analyze existing plant operation data and identify opportunities for optimization
- BC will use the existing biological process model to pre-screen optimization alternatives

Task 208: Side-stream treatment

Sidestream treatment of anaerobically digested dewatering centrate has proven to be a cost-effective and energy-efficient solution for wastewater treatment plants. The removal of nitrogen in sidestream using deammonification, where anammox bacteria is used to remove nitrogen without oxygen and carbon, is a highly sustainable practice now employed by many utilities worldwide. At COP, the sidestream treatment could provide overall nitrogen load reduction to the biological treatment, a reduction in ammonia spikes associated with centrifuge operation, and an overall reduction in aeration demands for biological treatment. Furthermore, sidestream treatment opens the possibility to co-digestion opportunities at the plant without negatively impacting the final effluent quality from the treatment plant. The BioWin process model developed under previous tasks will be used to analyze the viability of sidestream treatment from a process and economic standpoint. In addition, the process model will be used to develop sidestream process design criteria that specific sidestream technology providers will utilize. Submittals, including cost proposals from technology providers, will be reviewed, and a detailed comparison will be carried out.

Assumptions:

- COP to provide existing sidestream quality data for the past two years. If data is not available, BC will assume the results predicted by the BioWin model for the pre-screening phase
- BC will analyze existing data around centrate
- BC will use the existing biological process modeling results and proposals from a selected number of vendors to pre-screen sidestream alternatives

Task 209: Wind

BC will evaluate publicly available data to determine whether wind energy generation is a viable technology for COP to pursue.

Assumptions

- Data will be publicly available and representative of conditions at COPs facility

Task 210: Energy efficiency

BC will review conditions of energy efficiency to determine whether COP should pursue it as an opportunity to increase efficiencies at the facility.

Assumptions:

- BC will evaluate publicly available data/guidelines on what is covered for review in an energy efficiency study
- BC may contact Black Hills Energy to determine applicability of the facility, should budget allow

Task 211: Food-to-waste co-digestion

Food waste is the second largest category of municipal solid waste (MSW) sent to landfills in the United States, accounting for approximately 18% of the waste stream. Food waste is highly biodegradable and has a much higher volatile solids destruction rate (86-90%) than biosolids. Anaerobic digestion of food waste has many benefits for COP, including an increase in methane generation which can be used as an energy source. Wastewater treatment facilities can expect to see cost savings from incorporating food waste into anaerobic digesters due to production of on-site power and tipping fee for accepting the food waste. For this study, BC will evaluate the impact of co-digestion on the plant energy footprint and effluent quality using a desktop mass balance analysis coupled with steady-state BioWin model simulations. Typical design parameters for different feedstocks characteristics will be based on BC's experience with other municipalities. Energy mass balances (e.g., Sankey diagrams) will be generated to understand the impact of food waste digestion on the energy footprint and sustainability for COP.

Assumptions:

- A market for foot waste diversion to the JR Dilorio WRF is available within the City of Pueblo and surrounding communities
- Food waste characteristics based on available information and literature unless the information is readily available and to be provided to BC
- Additional food waste quantities to be added until the capacity of the existing anaerobic digestion system is met

Task 212: Grant opportunities

BC will research if grant opportunities exist for the evaluated technologies. This is important because a grant funding option could be the different between making a technology feasible for COP or not. BC recommends that a further evaluation of grant opportunities is conducted during the next phase of evaluation, after the short-list is developed and focused research is more easily achieved.

Assumptions

- BC will not be compiling any of the application details for the grant opportunities
- BC will not be applying for any of the grants listed as maybe being an option for funding (either entirely or partially) any technology

Task 213: Acid Plus

Acid Plus is a new invention of BC's that is eing tested as part of a WRF job at the University of Massachusetts – Amherst and City College of New York. The process should allow struvite harvesting upstream of methane-phase digesters (thereby reducing maintenance). It can also divert considerable H2S in the acid-phase biogas to waste (so that it does not need to be removed from methane-phase

biogas, making biogas treatment easier). Finally, existing digestion capacity may be increased by integrated use of recuperative thickening; potentially providing capacity for co-digestion.

Assumptions

- Acid Plus will be assumed to "work" prior to any even-laboratory-scale proof of such. COP is discouraged from proceeding until such at time that COP has comfort with the suitability of its implementation at the plant

Task 214: District heating

The quantity of recoverable heat in the facility's effluent may exceed the amount of heat required by the WRF. If a partnership could be established with a large nearby heat consumer (e.g. a hospital or university) to provide hot water for heating, a large heat pump system (described in Task 207) could be implemented to provide heat for the WRF as well as additional consumers. The additional consumers would pay a negotiated fee for the heat provided by the WRF.

For this task, BC will contact up to three potential nearby partners to collect information on their heat system. This task will identify any technically feasible partners based on compatibility with their existing system and proximity to the WRF.

Assumptions

- Only a cursory investigation will be conducted for providing District Heating to the CSU-Pueblo campus

Task 215: QC/Technical reviews

Each task listed above has hours allotted for quality control (QC)/technical review. This task includes hours for the client service manager (CSM) to conduct an overall QC of the work, as a whole, to ensure it meets client needs and expectations.

Phase 300 – Technical memorandum

Task 301: Draft

BC will summarize findings in a draft technical memorandum (TM) submitted to COP. After receiving comments from COP, BC will develop a final TM for submittal.

Task 302: Final

The final TM will be developed from one round of COP comments. The final TM will summarize the results of the aforementioned evaluations, and provide a list of potential cost-effective ways to improve energy efficiency through operations and/or utilization of alternative technologies. This list will inform the next scope of work to evaluate these potential technologies further.

QA/QC

Prior to the draft Technical Memorandum (TM), BC will conduct an internal QA/QC review of materials to be submitted. Review will include senior level discipline specific review, plus a technical readability review.

Deliverables

The following deliverables will be provided as part of this project

- BC will provide for review a draft TM summarizing the above evaluations and a recommendation of technologies to pursue
- After incorporating one round of client comments, BC will submit a final TM

Appendix B: Fee Schedule

Pueblo, City Dept of Wastewtr (CO) -- Pueblo-Sustainability Study

Phase	Phase Description	Kepley, Samantha A	Rose, Lisa J	Kell, Kevin A	Jimenez, Jose A	Buhman, Darrell L	Zemke, Peter E	Willis, John	Andrews, Nancy E	Brune, Lia	Forsberg, Dane C	Regmi, Pusker R	Total Labor Hours	Total Labor Effort	Total Effort
		PM	PA												
		$143	$101	$214	$240	$196	$184	$240	$214	$163	$122	$184			
100	**Project Management & Administration**	20	8	16	0	0	0	0	0	0	0	0	**44**	**$7,092**	**$7,092**
200	**Technology Evaluation**	12	0	4	4	62	17	32	9	78	16	40	**274**	**$50,444**	**$50,444**
201	Cogeneration	0	0	0	0	16	0	0	1	15	0	0	**32**	$5,795	**$5,795**
202	Hydropower turbines	0	0	0	0	7	0	0	4	7	0	0	**18**	$3,369	**$3,369**
203	Solar	0	0	0	0	0	0	0	0	0	16	0	**16**	$1,952	**$1,952**
204	Gas upgrading (RNG and CNG)	0	0	0	0	33	0	0	3	28	0	0	**64**	$11,674	**$11,674**
205	Fleet conversion	0	0	0	0	5	0	6	1	6	0	0	**18**	$3,612	**$3,612**
206	Heat pumps	0	0	0	0	1	17	0	0	22	0	0	**40**	$6,910	**$6,910**
207	Biological treatment	0	0	0	2	0	0	0	0	0	0	16	**18**	$3,424	**$3,424**
208	Side-stream treatment	0	0	0	1	0	0	0	0	0	0	8	**9**	$1,712	**$1,712**
209	Wind	0	0	0	0	0	0	4	0	0	0	0	**4**	$960	**$960**
210	Energy efficiency	6	0	0	0	0	0	0	0	0	0	0	**6**	$858	**$858**
211	Food-to-waste co-digestion	0	0	0	1	0	0	8	0	0	0	16	**25**	$5,104	**$5,104**
212	Grant opportunities	6	0	0	0	0	0	2	0	0	0	0	**8**	$1,338	**$1,338**
213	Acid Plus	0	0	0	0	0	0	8	0	0	0	0	**8**	$1,920	**$1,920**
214	District heating	0	0	0	0	0	0	4	0	0	0	0	**4**	$960	**$960**
215	QC/Technical reviews	0	0	4	0	0	0	0	0	0	0	0	**4**	$856	**$856**
300	**Technical Memorandum**	0	0	8	0	11	0	0	4	17	0	0	**40**	**$7,495**	**$7,495**
301	Draft	0	0	4	0	7	0	0	2	11	0	0	**24**	$4,449	**$4,449**
302	Final	0	0	4	0	4	0	0	2	6	0	0	**16**	$3,046	**$3,046**
	GRAND TOTAL	**32**	**8**	**28**	**4**	**73**	**17**	**32**	**13**	**95**	**16**	**40**	**358**	**$65,031**	**$65,031**

APPENDIX B

Brown and Caldwell Fee Schedule

Level	Engineering	Technical/Scientific	Administrative	Hourly Rate
A			Office/Support Services I	$67
B	Drafter Trainee	Field Service Technician I	Word Processor I Office/Support Services II	$74
C	Assistant Drafter	Field Service Technician II	Word Processor II Office/Support Services III	$81
D	Drafter Engineering Aide Inspection Aide	Field Service Technician III	Accountant I Word Processor III Office/Support Services IV	$92
E	Engineer I Senior Drafter Senior Illustrator Inspector I	Geologist/Hydrogeologist I Scientist I Senior Field Service Technician	Accountant II Word Processor IV	$101
F	Engineer II Inspector II Lead Drafter Lead Illustrator	Geologist/Hydrogeologist II Scientist II	Accountant III Area Business Operations Mgr Technical Writer Word Processing Supervisor	$122
G	Engineer III Inspector III Senior Designer Supervising Drafter Supervising Illustrator	Geologist/Hydrogeologist III Scientist III	Accountant IV Administrative Manager	$143
H	Senior Engineer Principal Designer Senior Construction Engineer Senior Engineer	Senior Geologist/Hydrogeologist Senior Scientist	Senior Technical Writer	$163
I	Principal Engineer Principal Construction Engineer Supervising Designer	Principal Geologist/Hydrogeologist Principal Scientist	Corp.Contract Administrator	$184
J	Supervising Engineer Supervising Constr. Engineer Supervising Engineer	Supervising Scientist Supervising Geologist/ Hydrogeologist	Assistant Controller	$196
K	Managing Engineer	Managing Geologist/Hydrogeologist Managing Scientist	Area Bus Ops Mgr IV	$214
L	Chief Engineer Executive Engineer	Chief Scientist Chief Geologist/Hydrogeologist	Corp Marketing Comm. Mgr.	$240
M	Vice President			$240
N - P	Senior Vice President President/Executive Vice President Chief Executive Officer			$242

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: May 9, 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 CI2208 FOR UNION AVENUE BRIDGE REPAIR PROJECT, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-096 (24927) IN THE AMOUNT OF $100,500. TRANSFERRING THE FUNDS IN THE AMOUNT OF $100,500 FROM BRIDGE REPAIRS PROJECT, HUAN05 TO THE UNION AVENUE BRIDGE REPAIR PROJECT, CI2208, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $210,000

SUMMARY:

This Ordinance creates Project No. CI2208 for Union Avenue Bridge Repair Project, approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") in the amount of $100,500, transfers funds in the amount of $100,500 from Bridge Repairs Project, HUAN05 to CI2208, Union Avenue Bridge Repair Project, and budgets and appropriates funds totaling $210,000 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Union Avenue Bridge, located between West B Street and Corona Avenue, is a critical link from Downtown to South Pueblo. It spans across the Arkansas River, levee, pedestrian trail, Union Pacific Railroad (UPRR) and Burlington Northern & Santa Fe Railway (BNSF). It is nearly a century old, and near the end of its service lift. It was

built in 1925, and has a combination of cast-in-place concrete tee-beams and steel deck trusses. Minor alterations have been made, dating back to 1988. Recent inspection reports have determined that the overall bridge superstructure is rated as “poor,” the deck and substructure were rated as “fair” and it has a status of “structurally deficient” which highlights the importance to rehabilitate or replace the structure.

The City of Pueblo was awarded an Off-System Bridge Program in the amount of $100,500.00 for the following improvements:

- Remove and replace broken/missing balusters
- Patch cracks/missing concrete in balusters and pedestrian rails
- Repair bridge sidewalk expansion joint plates
- Replace bridge sidewalk expansion joint plates
- Remove and replace or grind portions concrete sidewalk (tripping hazards)
- Repair outside face concrete bridge deck spalling
- Clean joint and replace strip seal
- Apply self-leveling concrete coating

The match requirement for the federally funded grant is 20% of the award for a total of $25,125. The City is providing the required match plus an overmatch of $75,375 for a total match of $100,500.

FINANCIAL IMPLICATIONS:

Funds in the amount of $100,500 will be provided by CDOT and funds in the amount of $100,500 will be transferred from Bridge Repairs Project, HUAN05. The funds from CDOT and the City, in the amount of $210,000, shall be budgeted and appropriated for the project, CI2208.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the CDOT Off-System Bridge Grant funds.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
City-State of Colorado draft IGA for the Union Avenue Bridge Repair Project
Grant Certification

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT CI2208 FOR UNION AVENUE BRIDGE REPAIR PROJECT, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: BRO M086-096 (24927) IN THE AMOUNT OF $100,500, TRANSFERRING THE FUNDS IN THE AMOUNT OF $100,500 FROM BRIDGE REPAIRS PROJECT, HUAN05 TO THE UNION AVENUE BRIDGE REPAIR PROJECT, CI2208, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $210,000

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

SECTION 1.

The Union Avenue Bridge Repair Project, CI2208, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between Pueblo, a Colorado municipal corporation, and State of Colorado, acting by and through the Colorado Department of Transportation, Project: BRO M086-096 (24927), Union Avenue Bridge, 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 Union Avenue Bridge (BRO M086-096 (24927)) in the amount of $100,500.00 are hereby budgeted and appropriated for the Union Avenue Bridge Repair Project, No. CI2208.

SECTION 4.

Funds in the amount of $100,500.00 are hereby transferred from Bridge Repairs Project, HUAN05 to Union Avenue Bridge Repair Project, CI2208.

SECTION 5.

Funds in the amount of $100,500.00 are hereby budgeted and appropriated for the Union Avenue Bridge Repair Project, CI2208.

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 _____.

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT
Signature and Cover Page

State Agency Department of Transportation			**Agreement Routing Number** 22-HA2-XC-00058
Local Agency CITY OF PUEBLO			**Agreement Effective Date** The later of the effective date or March 31, 2022
Agreement Description Union Avenue Bridge			**Agreement Expiration Date** March 30, 2032
Project # BRO M086-096 (24927)	**Region #** 2	**Contract Writer** DM	**Agreement Maximum Amount** $125,625.00

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: _____

TABLE OF CONTENTS

1. PARTIES 2
2. TERM AND EFFECTIVE DATE 2
3. AUTHORITY 3
4. PURPOSE 4
5. DEFINITIONS 4
6. SCOPE OF WORK 7
7. PAYMENTS 11
8. REPORTING - NOTIFICATION 15
9. LOCAL AGENCY RECORDS 16
10. CONFIDENTIAL INFORMATION-STATE RECORDS 16
11. CONFLICTS OF INTEREST 17
12. INSURANCE 18
13. BREACH 20
14. REMEDIES 20
15. DISPUTE RESOLUTION 21
16. NOTICES AND REPRESENTATIVES 22
17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION 22
18. GOVERNMENTAL IMMUNITY 23
19. STATEWIDE CONTRACT MANAGEMENT SYSTEM 24
20. GENERAL PROVISIONS 24
21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3) 27
22. FEDERAL REQUIREMENTS 28
23. DISADVANTAGED BUSINESS ENTERPRISE (DBE) 28
24. DISPUTES 28

EXHIBIT A, SCOPE OF WORK
EXHIBIT B, SAMPLE OPTION LETTER
EXHIBIT C, FUNDING PROVISIONS (Budget)
EXHIBIT D, LOCAL AGENCY RESOLUTION
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS
EXHIBIT N, FEDERAL TREASURY PROVISIONS
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM
EXHIBIT R, APPLICABLE FEDERAL AWARDS
EXHIBIT S, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement ("Local Agency"), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the "State" or "CDOT"). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase ("Phase Performance Period(s)"). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e**., or the expiration of "Special Funding" if applicable, whichever is sooner. The State's obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties' respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on 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 ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in **§16**.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") 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)
Matt Pettit, Local Agency Coordinator
Colorado Dept of Transportation
5615 Wills Blvd
Pueblo, CO 81008
719-248-0378
matthew.pettit@state.co.us

For the Local Agency

CITY OF PUEBLO
Kelly Grisham, Senior Planner, Union Ave Bridge
211 East D Street
Pueblo, CO 81003
719-553-2254
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to

enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the

State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is $100,000 or greater, either on the Effective Date or at 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

i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

ii. Local Agency shall indemnify, save, and hold harmless the Indemnified Parties against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Local Agency's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.,* C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of

whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts 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.

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.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT A

SCOPE OF WORK

Union Ave Bridge
BRO M086-096
24927

The local agency will be responsible for the design and construction of repairs to the Union Avenue Bridge. These improvements include the following:

- remove and replace broken/missing balusters,
- patch cracks/missing concrete in balusters and pedestrian rails,
- repair and replace bridge sidewalk expansion joint plates,
- remove and replace or grind portions of concrete sidewalk,
- repair outside face concrete brick deck spalling,
- clean joint and replace strip seal,
- apply self-leveling concrete coating and,
- BNSF & UPRR coordination and flagger.

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.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

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

Pueblo & BRO M086-096 (24927)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be $125,625.00, which is to be funded as follows:

1. BUDGETED FUNDS

a. Federal Funds (80% of BRO Award)	$100,500.00
b. Local Agency Matching Funds (20% of BRO Award)	$25,125.00
TOTAL BUDGETED FUNDS	**$125,625.00**

2. OMB UNIFORM GUIDANCE

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	Assistance Listing # Highway Planning and Construction	ALN 20.205
d.	Is the Award for R&D?	No
e.	Indirect Cost Rate (if applicable)	N/A
f.	Amount of Federal Funds Obligated by this action	$0
g.	Amount of Federal Funds Obligated to date (including this action)	$0

3. ESTIMATED PAYMENT TO LOCAL AGENCY

a.	Federal Funds Budgeted	$100,500.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	$0.00
	TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	**$100,500.00**

4. FOR CDOT ENCUMBRANCE PURPOSES

a.	Total Encumbrance Amount	$125,625.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	$0.00
	NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	**$125,625.00**

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 24927.10.30	Performance Period Start*/End Date TBD - TBD	Design 3020	$0.00
WBS Element 24927.20.10	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 $125,625.00 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 $125,625.00, 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 $125,625.00, 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 $100,500.00. For CDOT accounting purposes, the federal funds of $100,500.00 and the Local Agency funds of $25,125.00 will be encumbered for a total encumbrance of $125,625.00, 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 Contract Administration Checklist

COLORADO DEPARTMENT OF TRANSPORTATION

LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

Project No.	STIP No.	Project Code	Region
BRO M086-096	SR27001.031	24927	02

Project Location	Date
City of Pueblo	03/29/2022

Project Description: Union Avenue Bridge Repair, B Street and Corona Ave

Local Agency	Local Agency Project Manager
City of Pueblo	Kelly Grisham
CDOT Resident Engineer	**CDOT Project Manager**
Lachelle Davis	Matthew Pettit

INSTRUCTIONS:
This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the *CDOT Local Agency Desk Reference (Local Agency Manual).* LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource.

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, # will denote that CDOT must concur or approve.

Tasks that will be performed by Headquarters staff are indicated with an X in the CDOT column under Responsible Party. 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.

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		TIP / STIP AND LONG-RANGE PLANS		
	2.1	Review Project to ensure it is consistent 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). *Please write in "NA", if Not Applicable.*		x
		PROJECT DEVELOPMENT		
	5.1	Determine Delivery Method on Infrastructure Projects	X	
1	5.2	Prepare Design Data - CDOT Form 463	X	X
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement • Project Development • Construction Contract Administration (including Fabrication Inspection Services)	 X X	 # #
3,3A	5.5	Conduct Design Scoping Review Meeting	X	
3,6	5.6	Conduct Public Involvement	X	
3	5.7	Conduct Field Inspection Review (FIR)	X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
4	5.8	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5	5.9	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
3	5.10	Obtain Utility and Railroad Agreements	X	#
3	5.11	Conduct Final Office Review (FOR)	X	
3A	5.12	Justify Force Account Work by the Local Agency	X	#
3B	5.13	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
3	5.14	Document Design Exceptions - CDOT Form 464	X	#
3	5.15	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.16	Ensure Authorization of Funds for Construction		x
	5.17	Electronic Signatures	X	X
	5.18	Records Management	X	#
	PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist).		x
	6.2	Determine Applicability of Davis-Bacon Act This project ☐ is ■ 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 719-562-5516 CDOT Resident Engineer Date		x
	6.3	Set On-the-Job Training Goals (CDOT Region EEO/Civil Rights Specialist) *"NA", if Not Applicable*		x
3	6.4	Title VI Assurances	X	#
6,7		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 of CONSTRUCTION PROJECTS			
6,7	7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7	7.2	Advertise for Bids	X	
7	7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7	7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7	7.5	Open Bids	X	
7	7.6	Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. *Please write in "NA", if Not Applicable.*		x
		Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals. *"NA", if Not Applicable.*		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
7,8	7.9	Award Contract	X	#
8	7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
	CONSTRUCTION MANAGEMENT			
8	8.1	Issue Notice to Proceed to the Contractor	X	
8	8.2	Project Safety	X	
8	8.3	Conduct Conferences:		
		Pre-construction Conference (Appendix B) • Fabrication Inspection Notifications	X	
		Pre-survey • Construction staking • Monumentation	X X	
		Partnering (Optional)	X	#
		Structural Concrete Pre-Pour (Agenda is in *CDOT Construction Manual)*	X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
		Concrete Pavement Pre-Paving (Agenda is in *CDOT Construction Manual)*	X	
		HMA Pre-Paving (Agenda is in *CDOT Construction Manual)*	X	
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Charles Roy _____ 719-553-2271 _____ Local Agency Professional Engineer or CDOT Resident Engineer — Phone number	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	
		Fabrication Inspection and documentation	X	
9	8.6	Approve Shop Drawings	X	#
9	8.7	Perform Traffic Control Inspections	X	
9	8.8	Perform Construction Surveying	X	
9	8.9	Monument Right-of-Way	X	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent) Provide the name and phone number of the person authorized for this task. Charles Roy _____ 719-553-2271 _____ Local Agency Representative — Phone number	X	
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
9B	8.12	Prepare and Authorize Change Orders	x	#
9B	8.13	Submit Change Order Package to CDOT	x	
9A	8.14	Prepare Local Agency Reimbursement Requests	x	
9	8.15	Monitor Project Financial Status	X	#
9	8.16	Prepare and Submit Monthly Progress Reports	X	
9	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. Lachelle Davis _____ 719-562-5516 _____ CDOT Resident Engineer — Phone number		x
9	8.19	Ongoing Oversight of DBE Participation	x	
	MATERIALS			
9,9C	9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required **prior to** installation of steel	X	
9,9C	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
9C	9.3	Perform Project Acceptance Samples and Tests	X	
9C	9.4	Perform Laboratory Verification Tests	X	
9C	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	# #

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY LA	CDOT
9C	9.6	Approve Sources of Materials	X	
9C	9.7	Independent Assurance Testing (IAT). Local Agency Procedures ☐ CDOT Procedures ☐ • Generate IAT schedule • Schedule and provide notification • Conduct IAT	 X X X	
9C	9.8	Approve mix designs • Concrete • Hot mix asphalt	 X X	 # #
9C	9.9	Check Final Materials Documentation	X	#
9C	9.10	Complete and Distribute Final Materials Documentation	X	#
		CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE		
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
8,9	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	#
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. • Complete CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements. • Complete CDOT Form 838 – OJT Trainee / Apprentice Record. • Complete CDOT Form 200 - OJT Training Questionnaire	 X X X	
9	10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	#
9	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
10	11.2	Write Final Project Acceptance Letter	X	
10	11.3	Advertise for Final Settlement	X	
11	11.4	Prepare and Distribute Final As-Constructed Plans	X	
11	11.5	Prepare EEO Certification and Collect EEO Forms	X	#
11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	#
11	11.8	Obtain CDOT Form 1419 from the Contractor and Submit to the CDOT Project Manager	X	
	11.9	(FHWA Form 47 discontinued)	N/A	
	11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		x
11	11.11	Process Final Payment		X
	11.12	Complete and Submit CDOT Form 950 - Project Closure		x
11	11.13	Retain Project Records	X	
11	11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	X

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS 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.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

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 discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. **Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. **"Award"** means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

1.1.1. Grants;
1.1.2. Contracts;
1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
1.1.4. Loans;
1.1.5. Loan Guarantees;
1.1.6. Subsidies;
1.1.7. Insurance;
1.1.8. Food commodities;
1.1.9. Direct appropriations;
1.1.10. Assessed and voluntary contributions; and
1.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award ***does not*** include:

1.1.12. Technical assistance, which provides services in lieu of money;
1.1.13. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
1.1.14. Any award classified for security purposes; or
1.1.15. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. **"Contract"** means the contract to which these Supplemental Provisions are attached and includes all Award types in **§1.1.1** through **1.1.11** above.

1.3. **"Contractor"** means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. **"Data Universal Numbering System (DUNS) Number"** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: http://fedgov.dnb.com/webform.

1.5. **"Entity"** means all of the following as defined at 2 CFR part 25, 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 Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.

1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.

1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.

1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.

2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.

2.1.2. "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.

3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND 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 F to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

a) Description of structure and objectives
b) Description of relation to COVID-19
c) Identification of impacted and/or disproportionately impacted communities
d) Capital Expenditures
    i. Presence of capital expenditure in project
    ii. Total projected capital expenditure
    iii. Type of capital expenditure
    iv. Written justification

v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

a) Amount of total project used for evidence-based programs
b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

a) Sector of employer
b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

a) Description of project structure and objectives
b) Description of project's response to COVID-19
c) Identification of impacted and/or disproportionately impacted communities
d) Amount of total project used for evidence-based programs and description of evaluation plan *(not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36)*
e) Number of workers enrolled in sectoral job training programs
f) Number of workers completing sectoral job training programs
g) Number of people participating in summer youth employment programs
h) Capital Expenditures
    i. Presence of capital expenditure in project
    ii. Total projected capital expenditure
    iii. Type of capital expenditure
    iv. Written justification
    v. Labor reporting

Household Assistance (2.1-2.8)

a) Number of households served
b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*
c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) *(Federal guidance may change this requirement in July 2022)*

Healthy Childhood Environments (2.11-2.13)

a) Number of children served by childcare and early learning *(Federal guidance may change this requirement in July 2022)*
b) Number of families served by home visiting *(Federal guidance may change this requirement in July 2022)*

Education Assistance (2.14, 2.24-2.27)

a) National Center for Education Statistics ("NCES") School ID or NCES District ID
b) Number of students participating in evidence-based programs *(Federal guidance may change this requirement in July 2022)*

Housing Support (2.15, 2.16, 2.18)

a) Number of people or households receiving eviction prevention services *(Federal guidance may change this requirement in July 2022)*
b) Number of affordable housing units preserved or developed *(Federal guidance may change this requirement in July 2022)*

Small Business Economic Assistance (2.29-2.33)

a) Number of small businesses served

Assistance to Non-Profits (2.34)

a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

a) Sector of employer
b) Purpose of funds
c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
b) Numbers of workers served
c) Employer sector for all subawards to third-party employers
d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county's average annual wage
e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

a) Projected/actual construction start date (month/year)
b) Projected/actual initiation of operations date (month/year)
c) Location (for broadband, geospatial data of locations to be served)
d) Projects over $10 million
    i. Prevailing wage certification or detailed project employment and local impact report

ii. Project labor agreement certification or project workforce continuity plan
iii. Prioritization of local hires
iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
c) Median Household Income of service area
d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
    i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
    ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to *(Federal guidance may change this requirement in July 2022)*:
    i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
    ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum

speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

a) Program income earned and expended to cover eligible project costs

8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.

8.1.2.1. Subrecipient 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 applicable to all projects in Expenditure Categories 1 and 2.

8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.

8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.

8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.

8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and

location (for broadband, geospatial location data). For projects over $10 million:

8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.

8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.

8.1.3.8.2. Whether the project prioritizes local hires.

8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit G – 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 E and submit to State Agency with signed grant agreement.

13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than $300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;

15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;

15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;

15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

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	✓	✓	✓

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: CDOT Off-System Bridge Grant

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

4/26/22
Date

Title: Senior Planner

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: May 9, 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 A PORTION OF THE ALLEY BETWEEN MAHREN AVENUE AND EGAN AVENUE

SUMMARY:

The applicants are requesting to vacate approximately twenty-five (25') of the alley between Mahren Avenue and Egan Avenue below East Mesa Avenue to decrease illegal dumping and vandalism.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The applicants are requesting to vacate a portion of a dead-end alley which is. is approximately twenty-five (25) feet in length, and fifteen (15) feet wide, covering an 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 applicants 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 will 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.

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 alley will remain in its current configuration.

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 26, 2022
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. _____

AN ORDINANCE VACATING A PORTION OF THE ALLEY BETWEEN MAHREN AVENUE AND EGAN AVENUE

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

SECTION 1.

The following described alley:

A PORTION OF A 15 FT ALLEY ADJACENT TO LOT 7, AGRAM SUBDIVISION, COUNTY OF PUEBLO, STATE OF COLORADO

is 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

ATTEST

_____
City Clerk

ALLEY VACATION WITHIN AGRAM SUBDIVISION

Wien, Laibach & Agram Subdivision
Section 6, Township 21 South, Range 64 West, 6th P.M.

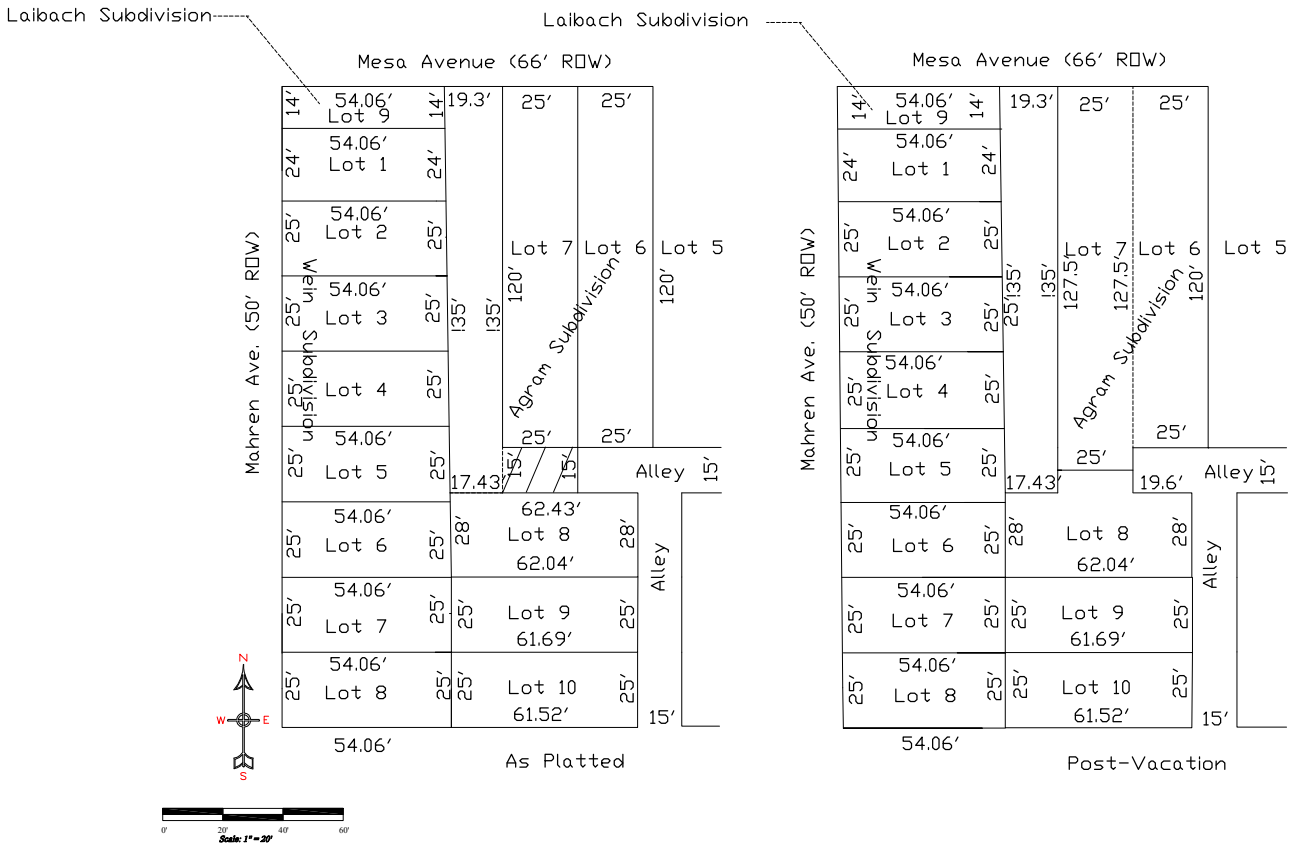
LEGAL DESCRIPTION

A portion of a 15 ft. Alley adjacent to Lot 7 Block 1, Agram, County of Pueblo, State of Colorado.

Purpose: To alleviate the use of the alley for illegal dumping.

Prepared by: Amella Surveying

Gary C. Amella Professional Land Surveyor — Date



Revised 3/24/22

Amella SURVEYING
501 N. Main # 105 LLW
Pueblo, Colorado
(719) 543-1974

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. **<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.

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

   <u>REFERRAL AGENCIES AND COMMENTS:</u>
   - 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.

   <u>Recommended Action:</u>
   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

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-21-02 Mahren Alley Vacation
S-21-09 Pueblo Springs Apartments

DATE: April 26, 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-21-02

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 a portion of the alley between Mahren Ave and Egan Ave
APPLICANT:	Mark Acosta, Ronald Nunez, and Mario Parra-Oritz
OWNER:	City of Pueblo
LOCATION:	Generally located to the east of Mahren Ave, west of Egan Ave, and south of East Mesa Ave
CONCURRENT REQUESTS:	None

Request:
Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave to decrease illegal dumping and vandalism.

Staff review and findings:
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 will 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-No comment[BO1]
- 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

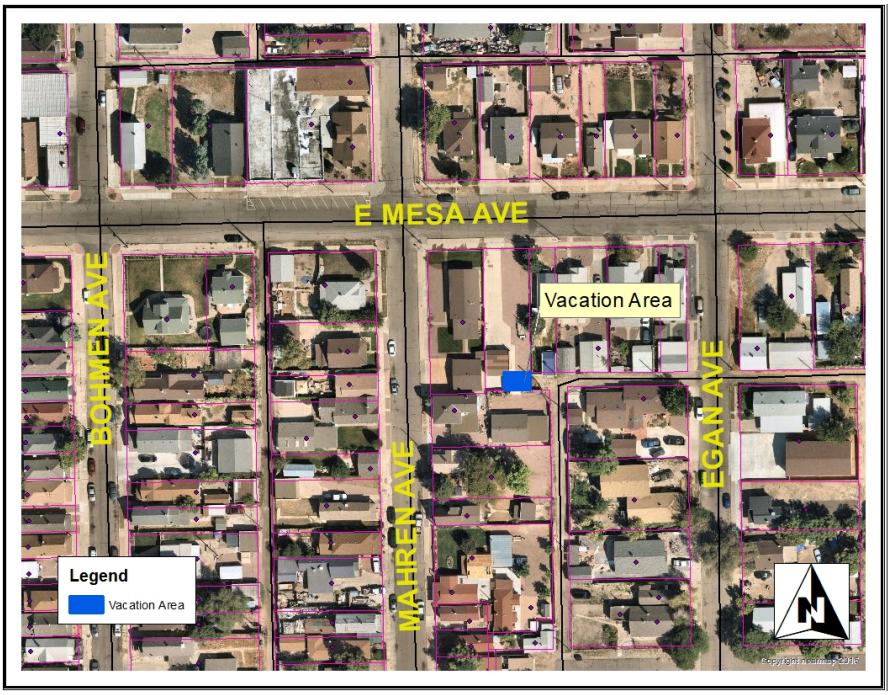
Recommended Action:
Staff recommends that the Vacation be APPROVED with the following condition.

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 (provide date). All revisions must be complete and approved by Public Works prior to City Council Review.

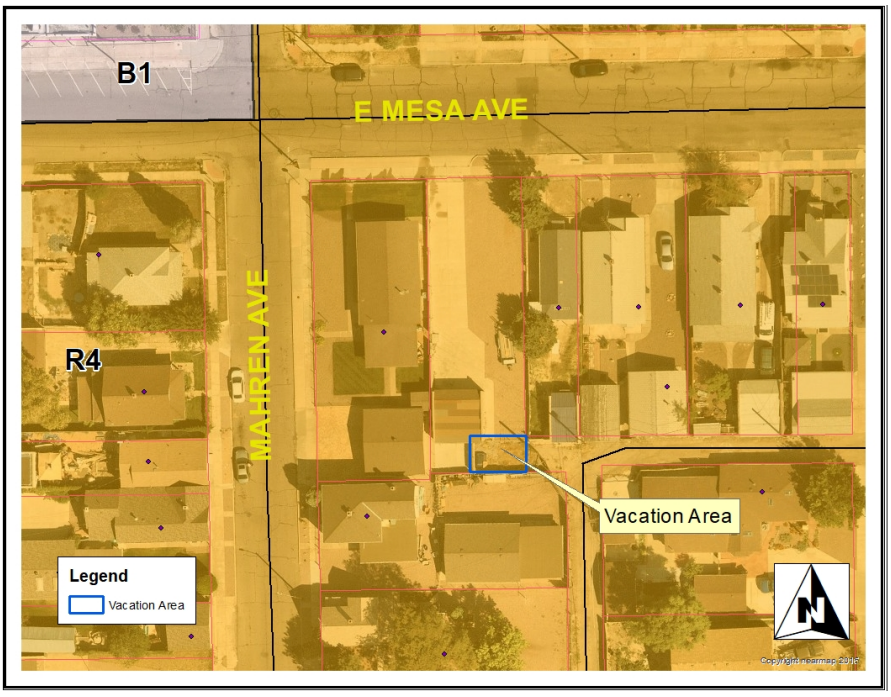
ATTACHMENTS:

A. Aerial Map
B. Zoning Map
C. Site Photographs
D. Vacation Plat
E. Vacation Application
F. Citizen Feedback

ATTACHMENTS:

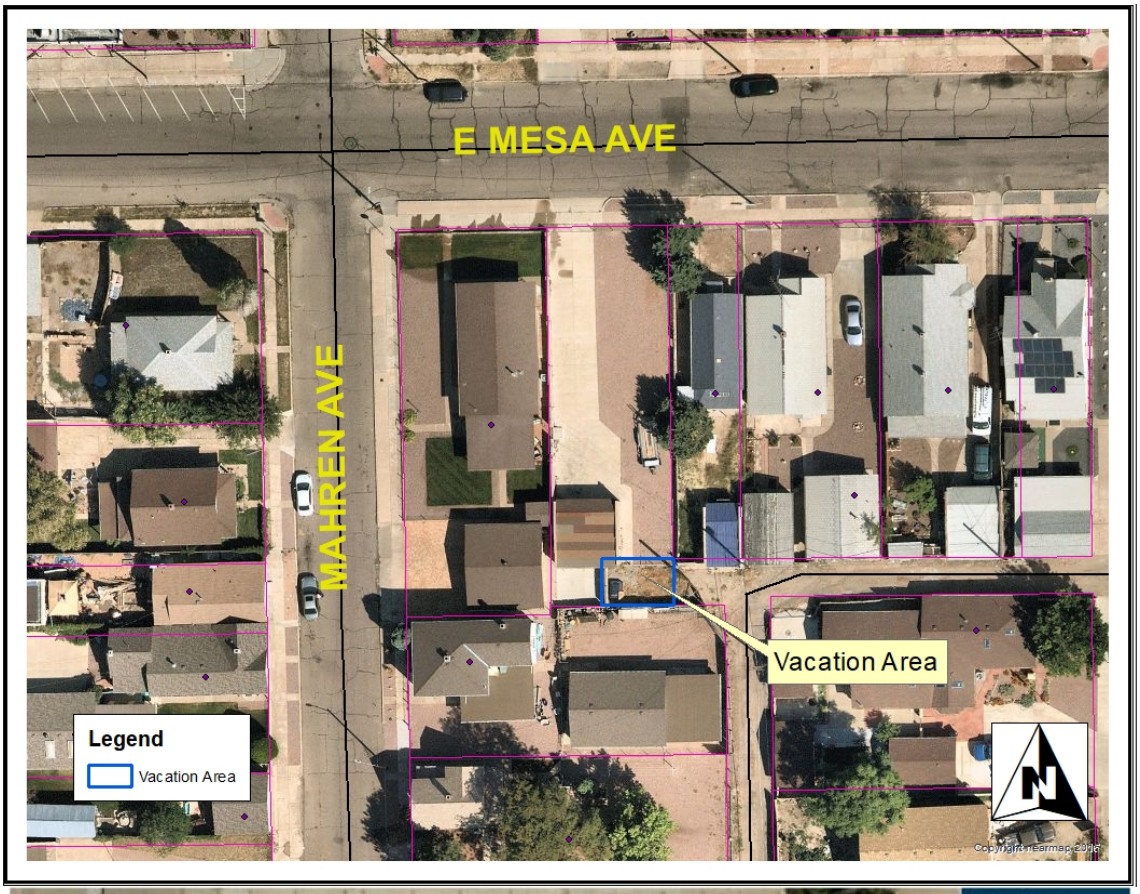


A. Aerial Photograph



B. Zoning Map

Attachment C. Site Photos






MAHREN AVE
Mahren Avenue
Search
Search by Addres
Enter address or

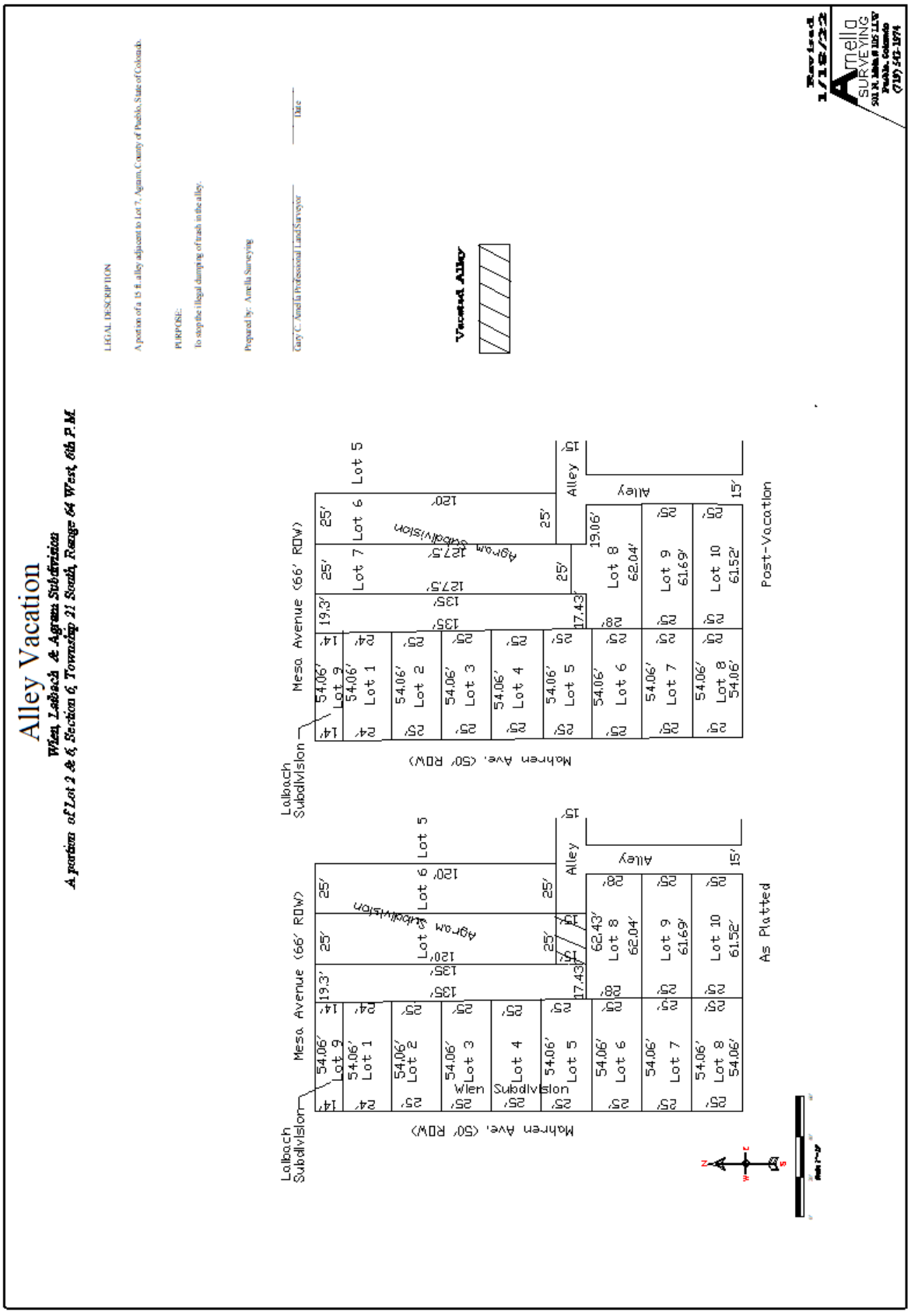




Public Notice



Attachment D: Vacation Plat – Revisions Required



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 #: _____

Contact Info

Property Owner		**Applicant**	
Name: MARK ACOSTA		Name:	
Company		Company:	
Address: 1212 MAHREN AVE	Zip: 81006	Address:	Zip:
Phone: 719 924 3050		Phone: ( )	
Email: mark.acosta@juno.com		Email:	
Engineer		**Surveyor**	
Name:		Name: GARY AMELLA	
Company:		Company: AMELLA SURVEYING	
Address:	Zip:	Address: 54 MAC ARTHUR RD	Zip: 81001
Phone: ( )		Phone: 719 543-1974	
Email:		Email:	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location: (address or general description) 1212 MAHREN AVE BACK ALLEY

Parcel No(s):

Existing Zone: R-4 | Proposed Zone (if applicable):

PUD Name (if applicable):

Project Scope

Project Name:

- ☐ 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)

10/11/19

(Continued from previous page)

Project Information

Provide a brief description of the proposed request:
(separate narrative as Attachment A also required) TO VACATE ALLEY STUB BEHIND 1212 MAHREN AVE AND MESA AVE. To curtail dumping and vandalism

What is the total acreage included in the project? 14'x25' 675Sqft

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:

Attachments

Attachment Checklist

The following list of attachments are required to accompany all applications:

- ☐ A. Detailed explanation of the request as listed above. Be specific
- ☐ B. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted.
- ☐ C. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us)
- ☐ D. 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:	MARK ACOSTA	
Signature:	M A A	Date: 25 JUN 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:

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: NUÑEZ RENALDO + GENIEVE		Name:	
Company		Company:	
Address: 702 E. MESA AVE	Zip: 81006	Address:	Zip:
Phone: (719) 545-4180		Phone: ( )	
Email: NUÑEZ 256@MSN.COM		Email:	
Engineer		**Surveyor**	
Name:		Name: Gary Amella	
Company:		Company: Amella Surveying	
Address:	Zip:	Address: 54 MacArthur Rd	Zip: 81001
Phone: ( )		Phone: (719 5682536	
Email:		Email: Amella Surveying@yahoo.com	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location: (address or general description) 702 E. Mesa, 1212 Mahrey Ave

Parcel No(s): 1406327005, 1406327004, 1406326016

Existing Zone: R-4 | Proposed Zone (if applicable):

PUD Name (if applicable):

Project Scope

Project Name:

- ☐ 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:
(separate narrative as Attachment A also required)

Vacate a portion of alley, in order to curtail dumping & vandalism on said alley

What is the total acreage included in the project? 6075 sq ft

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:

Attachments

Attachment Checklist

The following list of attachments are required to accompany all applications:

- ☐ A. Detailed explanation of the request as listed above. Be specific
- ☐ B. CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted.
- ☐ C. Pueblo County Assessor's Property Information print out (www.co.pueblo.co.us)
- ☐ D. 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:	RONALD S. NUÑEZ (GENIEVE)	
Signature:	Ronald A. Nuñez Genieve Nuñez	Date: JUNE 28, 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:

PUEBLO
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: Maria Alba P.		Name:	
Company Mapa Rufin		Company:	
Address: 708 Meza	Zip: 81006	Address:	Zip:
Phone: (719) 717-10-31		Phone: ( )	
Email:		Email:	
Engineer		**Surveyor**	
Name:		Name: Gary Amella	
Company:		Company: Amella Surveying	
Address:	Zip:	Address: 54 MacArthur Rd	Zip: 81001
Phone: ( )		Phone: (719) 543 1974	
Email:		Email: Amella Surveying @yahoo.com	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location:
(address or general description)

Parcel No(s): 1406327004

Existing Zone: R-4 | Proposed Zone (if applicable):

PUD Name (if applicable):

Project Scope

Project Name:

- ☐ 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:
To vacate a portion of alley South of LOT 6 Block 1 A-gram. in order to eliminate people dumping illegally

What is the total acreage included in the project? 0.07

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:

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:	Maria Alba Parra cortez	
Signature:	Maria Alba P.	Date: 5/11/21

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:

Attachment F: Citizen Feedback

February 27, 2022

TO: City of Pueblo Planning and Community Development

211 East D street Pueblo CO 81003

FROM: Dr. Heidi Wodiuk

8448 Hwy78W Beulah, CO 81023

To whom it may concern at the city of Pueblo Planning and Community Development,

My name is Dr. Heidi Wodiuk and I received your post card dated February 18, 2022 regarding V-21-02 that you are asking to take 25 feet out of the alley way due to trash issues.

Are you serious that you are that incompetent and need to take out a alley way just for TRASH. WTF this request does not meet the law nor merit such actions legally what so ever. If you can NOT take care of your city than it appears we need to ask congress to outsource the City of pueblo power for marshal law intervention.

Taking out a alley way that is required for EMS, Fire department and law enforcement access to these homes as too for these home owners to have multiple access to their homes as legally required in a city is a violation of safety laws state and federal.

To even ask for such crimes to being rendered in our city due to TRASH issues is just asinine showing the real problem of the City of pueblo CO to being unsound in bad faith motives. It appears this operation is tax laundering and will be reported to the FBI and many others as this appears to be a false front to something else much bigger.

To conclude with my advice to this issue you asked me for in sending me a post card; we'll my advice and professional and personal opinion and advice for you is CEASE AND DESIST. The city and Pueblo have done way too much harm to taxpaying citizens and terrorizing our homes and city people for too long. The city of pueblo and its actors tore down my home 1917 west 15th street pueblo CO 81003 without due process in fake eminent domain case and the city was notified and did NOTHING to protect me nor my land and property and now I and Oprah Winfrey suffer major losses/hardships/duress/threats/etc. as a result of this city of pueblo greed and complete disregard to our rights as land and property owners.

Sincerely,



Dr. Heidi Wodiuk

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Mark Acosta, Ronald Nunez, and Mario Parra-Oritz** for the approval of the following application(s):

V-21-02 Mahren Ave Alley Vacation Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave to decrease illegal dumping and vandalism.

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

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Mark Acosta, Ronald Nunez, and Mario Parra-Oritz** for the approval of the following application(s):

V-21-02 Mahren Ave Alley Vacation Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave to decrease illegal dumping and vandalism.

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

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Mark Acosta, Ronald Nunez, and Mario Parra-Oritz** for the approval of the following application(s):

V-21-02 Mahren Ave Alley Vacation Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave to decrease illegal dumping and vandalism.

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

February 18, 2022

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Mark Acosta, Ronald Nunez, and Mario Parra-Oritz** for the approval of the following application(s):

V-21-02 Mahren Ave Alley Vacation Vacate approximately twenty-five feet (25') of the alley between Mahren Ave and Egan Ave below East Mesa Ave to decrease illegal dumping and vandalism.

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

CASE NUMBER V-21-02

CERTIFICATION

I hereby certify that I did this day cause written notice of the public hearing on the Alley Vacation: located to the north of 1212 Mahren Avenue 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 Alley Vacation: located to the north of 1212 Mahren Avenue, 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	OwnerSta	OwnerZip
FLIPPING PUEBLO LLC	109 CARRILLON LN	PUEBLO	CO	81005-3351
GARCIA ANTHONY A	1128 MAHREN AVE	PUEBLO	CO	81006-1122
GODINEZ ANDREA V	1131 EGAN AVE	PUEBLO	CO	81006-1118
GRISWOLD SHEILAH M	1203 MAHREN AVE	PUEBLO	CO	81006-1011
TRUJILLO JENAY M	1208 BOHMEN AVE	PUEBLO	CO	81006-1004
MARRON JOHN SCOTT	1210 BOHMEN AVE	PUEBLO	CO	81006-1004
MARTINEZ FRED W + MURRAY JENNIE T	1211 EGAN AVE	PUEBLO	CO	81006-1005
IBARRA LUIS A + IBARRA LORETTA E	1211 RUSS AVE	PUEBLO	CO	81006-1039
ACOSTA MARK ADRIAN + SILVA ADRIEN	1212 MAHREN AVE	PUEBLO	CO	81006-1012
ACOSTA MARK A + SILVA ADRIENNE L +	1213 MAHREN AVE	PUEBLO	CO	81006-1011
CASAUS CHARLES J	1214 MAHREN AVE	PUEBLO	CO	81006-1012
CHAVEZ RAYMOND DAVID	1219 EGAN AVE	PUEBLO	CO	81006-1005
NELSON MARK	1219 MAHREN AVE	PUEBLO	CO	81006-1011
BAROS AMANDA LEA + COATS LESIA A	1221 MAHREN AVE	PUEBLO	CO	81006-1011
QUINTANA CHRISTINE + RAEANN	1222 BOHMEN AVE	PUEBLO	CO	81006-1004
VIGIL GUADALUPE + MARRUJO FERNAN	1222 EGAN AVE	PUEBLO	CO	81006-1006
MOSSBERGER TIM	1223 EGAN AVE	PUEBLO	CO	81006-1005
CALZADILLAS MIGUEL	1223 MAHREN AVE	PUEBLO	CO	81006-1011
MYERS-MOSER CINDY S	1224 BOHMEN AVE	PUEBLO	CO	81006-1004
SOLIS LORRAINE A	1226 EGAN AVE	PUEBLO	CO	81006-1006
CRUZ PAUL R + CRUZ COLEEN D	1227 MAHREN AVE	PUEBLO	CO	81006-1011
GODINEZ DE LERMA JUANA I	1228 MAHREN AVE	PUEBLO	CO	81006-1012
AGUERO MICHELLE ANGELIQUE + GETTL	1229 EGAN AVE	PUEBLO	CO	81006-1005
BREGAR DARLA K	1229 MAHREN AVE	PUEBLO	CO	81006-1011
DE HERRERA MELVIN JR	1230 MAHREN AVE	PUEBLO	CO	81006-1012
MARTINEZ JOHN JUAN ALONZO + AKA	1232 MAHREN AVE	PUEBLO	CO	81006-1012
ORTIZ MARIO ALBERTO PARRA	1232 PINE ST	PUEBLO	CO	81004-2940
TOTA DANIEL	2214 VRAIN ST	COLORADO	CO	80909
A L BOUNDARIES LLC	2218 7TH AVE	PUEBLO	CO	81003-1821
QUINTANA CHARLES C + SOTO QUINTAN	23837 GALE RD	PUEBLO	CO	81006-2025
ALCALA MANUEL	2909 GEM DR	PUEBLO	CO	81005-3809
SNAVE WEST LLC	375 FLYNN CT	COLORADO	CO	80911-3352
MCCRACKEN JOSEPH	4826 E KENTUCKY AVE	GLENDALE	CO	80246-2238
MONTEZ RAMONA + ALBERT + LONNIE J	539 HEWITT ST	PUEBLO	CO	81005-1522
BANEGAS FIDELIA	5545 ANAHEIM WAY	DENVER	CO	80239-3734
PACHECO TERESA M	5901 HARPER LN	PUEBLO	CO	81008-2036
MARTINEZ ANGEL C	605 E MESA AVE	PUEBLO	CO	81006-1020
SUNGOD ENTERPRISES LLC	615 E MESA AVE	PUEBLO	CO	81006-1020
ATILANO CARLOS	676 W CAPISTRANO AV	PUEBLO WE	CO	81007-3154
NUNEZ RONALD S + GENIEVE	702 E MESA AVE	PUEBLO	CO	81006-1023
SUZUKI MASATO	705 E MESA AVE	PUEBLO	CO	81006-1022
MATA RYAN	708 W 10TH ST	PUEBLO	CO	81003-2209
BYROM TRUETT + BYROM JULIE	709 E MESA AVE	PUEBLO	CO	81006-1022
JIMENEZ MARY G	710 E MESA AVE	PUEBLO	CO	81006-1023
COX DANNY LEE	714 E MESA AVE	PUEBLO	CO	81006-1023
KOCHEVAR MARY ANN + DURAN TRINA	717 E MESA AVE	PUEBLO	CO	81006-1022
SWAGER MELANIE A + JACK B	718 E MESA AVE	PUEBLO	CO	81006-1023

JABLONSKI VIRGINIA L	719 E MESA AVE	PUEBLO	CO	81006-1022
LERMA JOSE N + ROSA M	801 E MESA AVE	PUEBLO	CO	81006-1024
COLLIER CINDY L	807 E MESA AVE	PUEBLO	CO	81006-1024
CREPPEL CLAY A	810 E MESA AVE	PUEBLO	CO	81006-1025
WINFREY OPRAH GAIL + WODIUK DR HE	8448 STATE HWY 78	BEULAH	CO	81023-9722
QUIJADA LARA CARLOS ANDRES	921 E 14TH ST	PUEBLO	CO	81001-2926
R + D PROPERTIES LLC	PO BOX 2418	PUEBLO	CO	81004-0418

City Clerk's Office Item # N-5

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: May 9, 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 OF LOT 1 OF THE PUEBLO SPRINGS APARTMENTS SUBDIVISION FROM A-1, AGRICULTURAL ONE ZONE DISTRICT TO R-5, MULTIPLE-RESIDENTIAL AND OFFICE ZONE DISTRICT

SUMMARY:

The applicant is requesting to rezone Lot One (15.01 acres) of the Pueblo Springs Apartments Subdivision from A-1, Agricultural One to R-5, Multiple-Residential and Office District to facilitate the development of a new apartment complex.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance No. 10055 on November 22, 2021.

BACKGROUND:

The subject property was annexed into the city in November of 2021 and rezoned A-1 as an interim zoning classification until the time of development, as allowed by the approved Annexation Agreement (rezoning case Z-21-12). The current request is to rezone the western 15 acres of the property, proposed Lot 1, Pueblo Springs Apartments Subdivision, to R-5 Multiple Residential and Office district for the purposes of constructing twelve multifamily residential structures containing a total of 199 dwelling units. "Residence, multifamily" is a Use By Right in the proposed R-5 Zone District. The area is designated as Urban Residential Future Land Use Category, which allows for garden apartments (low-rise apartment structures) along collector and arterial roads. The proposed Pueblo Springs Apartments are situated at the southeast corner of West Pueblo Boulevard (expressway) and West 31st Street (collector) and are three stories with ample outdoor recreation amenities. The surrounding area is home to two large multifamily developments, a senior living facility and market rate apartment complex. The adjacent properties to the south, east, and west are all vacant prairie and as such there is no negative impact to surrounding residential neighborhoods. The R-5 zoning, and proposed multifamily development are well situated for direct access to Pueblo

Boulevard and Highway 50. The applicant has provided a commercial site plan detailing the 199-unit apartment complex. The western most portion of the rezoning site will be reserved for open space and utilize the bluff as a noise barrier from Pueblo Boulevard. The apartment complex will also have a clubhouse, pool, and walking trails; combined with the bluff, the site provides the minimum 20-percent Landscape Open Space. The proposed rezoning is in conformance with the Pueblo Regional Comprehensive Plan and is compatible with the surrounding multifamily development.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 8, 2021, Regular Meeting, voted 7-0 to recommend approval.

STAKEHOLDER PROCESS:

The Planning Department sent a 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 would 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 December 8, 2021 Public Hearing
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING RESTRICTIONS OF LOT 1 OF THE PUEBLO SPRINGS APARTMENTS SUBDIVISION FROM A-1, AGRICULTURAL ONE ZONE DISTRICT TO R-5, MULTIPLE-RESIDENTIAL AND OFFICE ZONE DISTRICT

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 A-1, Agricultural One Zone District to R-5, Multiple-Residential and Office Zone District:

REZONE A-1 TO R-5

A portion of the South one-half of the Northwest one-quarter of the Northwest one-quarter of Section 22, Township 20 South, Range 65 West of the 6th P,M. and a portion of the South one-half of 31st Street as platted in Park West Business Campus, Filing No. 5, according to the recorded plat thereof, as filed for record on May 8, 2008 at Reception No. 1768305 in the County of Pueblo, State of Colorado, being more particularly described as follows:

Basis of Bearings: The West Line of the NorthWest one-quarter of Section 22, Township. 20 South, Range 65 West, of the 6TH Principal Meridian monumented with a number 6 rebar with a 3 1/4 inch diameter Brass Cap, to bear N. 00°32'37" W. and all bearings being relative thereto.

Commencing at Northwest corner of said Section 22, said point being on the west line of Park West Business Campus, Filing No. 7, according to the recorded plat thereof, as filed for record on March 16, 2012 at Reception No. 1901886 in the Pueblo County records and being on the east line of Colorado State Highway No. 45 as presently located; thence S. 00°32’37” E. along said the west line of said Section 22, the west line of said Park West Business Campus, Filing No. 7 and the east line of said Colorado State Highway No. 45, a distance of 696.76 feet to the south right-of-way line of 31st Street and the Point of Beginning; thence N. 00°32’37” W. along the said west line of Park West Business Campus, Filing No. 7, a distance of 40.00 feet to the center of 31st Street right-of-way; thence N. 88°41’55” E. along the said centerline of the right-of-way of 31st Street, a distance of 1,256.40 feet; thence S. 01°18’05” E., a distance of 198.87 feet; thence S. 88°39’35” W., a distance of 164.26 feet; thence S. 01°20’25” E., a distance of 89.00 feet; thence S. 88°39’35” W., a distance of 196.65 feet; thence S. 01°20’25” E., a distance of 107.40 feet; thence S. 88°39’35” W., a distance of 101.69 feet; thence S. 01°20’00” E., a distance of 260.73 feet to the south line of the South one-half of the Northwest one-quarter of the Northwest one-quarter of said Section 22; thence S. 88°39’35” W. along the south line of said South one-half, a distance of 802.76 feet to the Southwest corner of said South one-half and the east line of Colorado State Highway No. 45 as presently located; thence N. 00°32’37” W. along the west line of said South one-half and said east line of Colorado State Highway No. 45, a distance of 616.90 feet to the south right-of-way line of 31st Street and the Point of Beginning.

Containing 15.01 acres, more or less.

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 _____.

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

EXHIBIT "B"
ZONING EXHIBIT

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO

SCALE: 1" = 200'

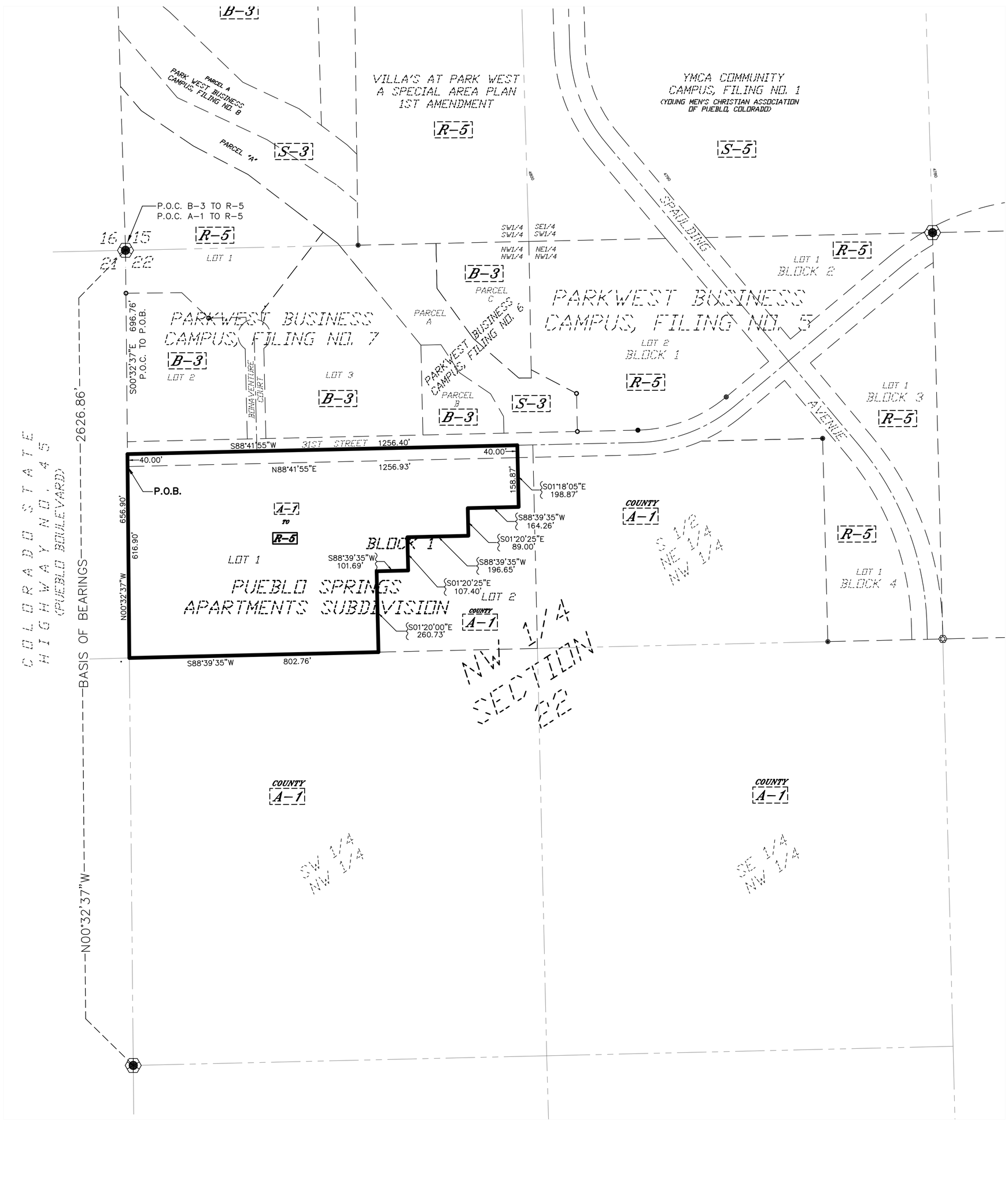
0 100' 200' 400'

LEGEND

- FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER BRASS CAP, DEPARTMENT OF INTERIOR–BLM (APPROPRIATELY STAMPED)
- FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER ALUMINUM CAP, (P.L.S. NO. 12933) (APPROPRIATELY STAMPED)
- FOUND NO. 4 REBAR WITH ORANGE PLASTIC CAP, (P.L.S. NO. 25869)
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, (P.L.S. NO. 12933)
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- PROPOSED ZONING BOUNDARY
- A–1 EXISTING ZONING
- R–5 PROPOSED ZONING

BASIS OF BEARINGS:

THE WEST LINE OF NW 1/4 OF SECTION 22, T. 20 S,, R. 65 W, OF THE 6TH P.M. TO BEAR N. 00°32'37" W.



LAND DESCRIPTION

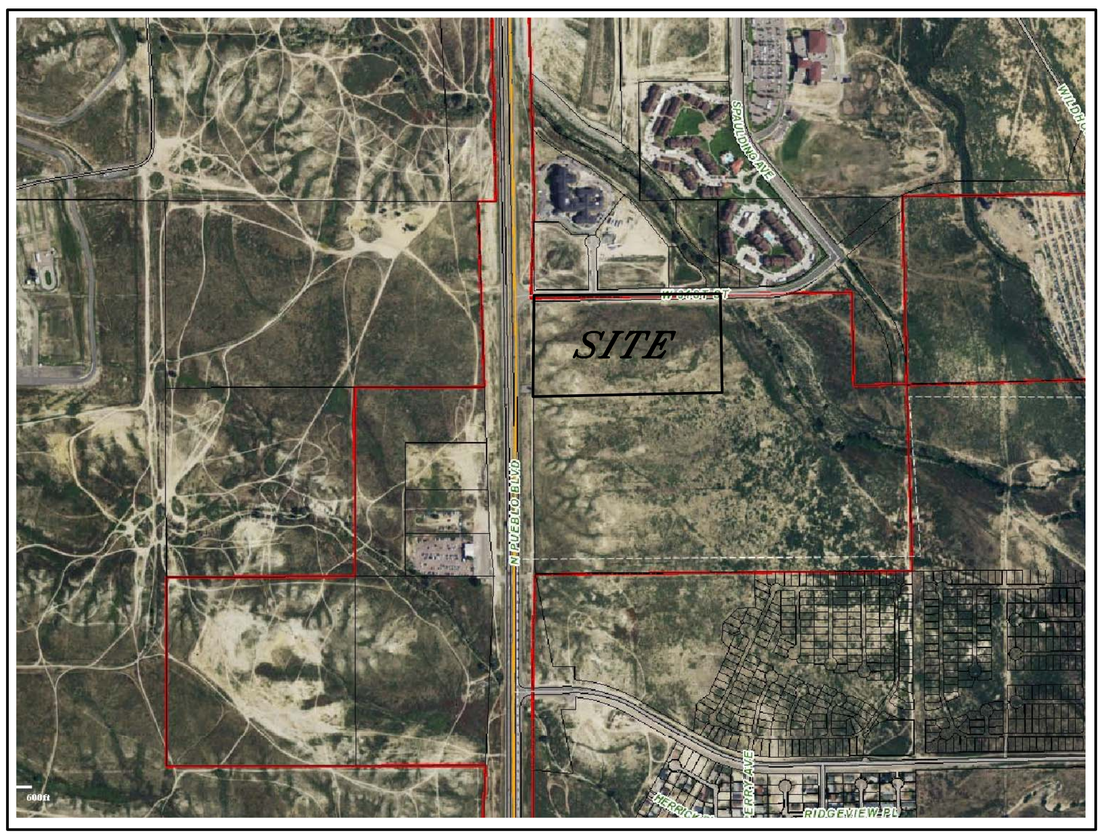
REZONE A–1 TO R–5

A portion of the South one–half of the Northwest one–quarter of the Northwest one–quarter of Section 22, Township 20 South, Range 65 West of the 6th P.M. and a portion of the South one–half of 31st Street as platted in Park West Business Campus, Filing No. 5, according to the recorded plat thereof, as filed for record on May 8, 2008 at Reception No. 1768305 in the County of Pueblo, State of Colorado, being more particularly described as follows:

Basis of Bearings: The West Line of the NorthWest one–quarter of Section 22, Township. 20 South, Range 65 West, of the 6TH Principal Meridian monumented with a number 6 rebar with a 3 1/4 inch diameter Brass Cap, to bear N. 00°32'37" W. and all bearings being relative thereto.

Commencing at Northwest corner of said Section 22, said point being on the west line of Park West Business Campus, Filing No. 7, according to the recorded plat thereof, as filed for record on March 16, 2012 at Reception No. 1901886 in the Pueblo County records and being on the east line of Colorado State Highway No. 45 as presently located; thence S. 00°32'37" E. along said the west line of said Section 22, the west line of said Park West Business Campus, Filing No. 7 and the east line of said Colorado State Highway No. 45, a distance of 696.76 feet to the south right–of–way line of 31st Street and the Point of Beginning; thence N. 00°32'37" W. along the said west line of Park West Business Campus, Filing No. 7, a distance of 40.00 feet to the center of 31st Street right–of–way; thence N. 88°41'55" E. along the said centerline of the right–of–way of 31st Street, a distance of 1,256.40 feet; thence S. 01°18'05" E., a distance of 198.87 feet; thence S. 88°39'35" W., a distance of 164.26 feet; thence S. 01°20'25" E., a distance of 89.00 feet; thence S. 88°39'35" W., a distance of 196.65 feet; thence S. 01°20'25" E., a distance of 107.40 feet; thence S. 88°39'35" W., a distance of 101.69 feet; thence S. 01°20'00" E., a distance of 260.73 feet to the south line of the South one–half of the Northwest one–quarter of the Northwest one–quarter of said Section 22; thence S. 88°39'35" W. along the south line of said South one–half, a distance of 802.76 feet to the Southwest corner of said South one–half and the east line of Colorado State Highway No. 45 as presently located; thence N. 00°32'37" W. along the west line of said South one–half and said east line of Colorado State Highway No. 45, a distance of 616.90 feet to the south right–of–way line of 31st Street and the Point of Beginning.

Containing 15.01 acres, more or less.



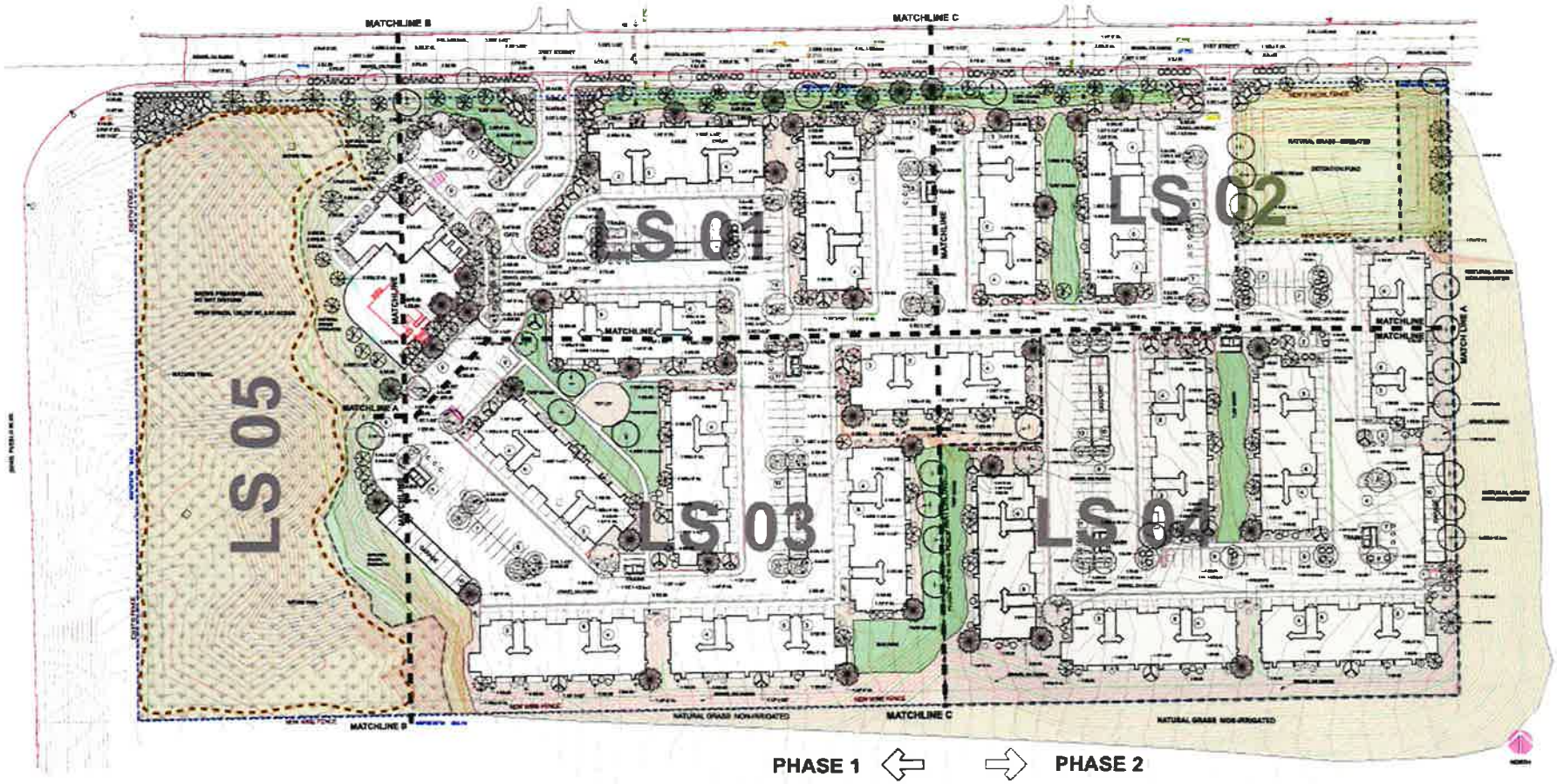
VICINITY MAP

NOT TO SCALE

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

LANDSCAPE TABLE OF CONTENTS

LS 00 - LANDSCAPE PLAN KEY
LS 01 - PLANTING PLAN SECTION 1 AT 1"=20'
LS 02 - PLANTING PLAN SECTION 2 AT 1"=20'
LS 03 - PLANTING PLAN SECTION 3 AT 1"=20'
LS 04 - PLANTING PLAN SECTION 4 AT 1"=20'
LS 05 - PLANTING PLAN SECTION 5 AT 1"=20'
LS 06 - PLANT/MATERIAL LIST & NOTES
LS 07 - INSTALLATION DETAILS



PHASE 1: LANDSCAPE REQUIREMENTS PER PUEBLO CODE 9 - 17-4-7 / LANDSCAPE PERFORMANCE STANDARDS

LANDSCAPE SETBACK:

SH 45 PUEBLO BLVD: 618.80 FT ON 617 LF
TOTAL LANDSCAPE SETBACK AREA: 6,170 SF

LANDSCAPE SETBACK REQUIREMENTS WERE WAIVED BY THE LANDUSE ADMINISTRATER.

W. 31ST STREET: 1,268.86 LF OR 1,257 LF
TOTAL LANDSCAPE SETBACK AREA: 12,570 SF

1 TREE/30LF = 46 TREES REQUIRED
46 TREES PROVIDED

5 SHRUBS/30LF = 200 SHRUBS REQUIRED
708 SHRUBS PROVIDED

70% LLM = 8,799 SF
70% LLM PROVIDED 8,800 SF

PARKING LOT LANDSCAPE:

MORE THAN 5 SPACES IN LINE REQUIRES AN ISLAND OR END CAPS
NO MORE THAN 10 TO 15 CONSECUTIVE SPACES ARE ALLOWED WITHOUT ISLAND OR END CAPS.

MINIMUM DIMENSION OF ISLAND/END CAP IS 9 FT X 18 FT
(1) SHADE TREE AND (4) SHRUBS REQUIRED PER ISLAND.
ISLANDS LARGER REQUIRE ADDITIONAL SHRUB PER ADD 25 SF

(36) SHADE TREES REQUIRED
(36) SHADE TREES PROVIDED

(144) SHRUBS REQUIRED.
(148) SHRUBS PROVIDED.

PARKING LOT SCREEN:

(24) SHRUBS AT PARKING CONTIGUOUS WITH STREET
24 SHRUBS PROVIDED.

LANDSCAPE OPEN SPACE: (LOS)

ZONE DISTRICT R-3,
20% LOS REQUIRED
70% LLM REQUIRED

TOTAL AREA: 603,450 SF
REQUIRED 20% LOS: 120,690 SF

PROVIDED 20% LOS:

BALCONIES: 16,916 SF
SWIMMING POOL: 6,516 SF
LANDSCAPE/GRASS: 97,951 SF
TOTAL LOS PROVIDED: 120,982

* 70% LLM REQUIRED: 46,966 SF
1 TREE/1,000 SF LOS: 97 TREES REQUIRED/PROVIDED.

LAWN AND NATURAL GRASS AREA = 104,971 SF

NATIVE PRESERVE AREA. LANDSCAPE OPEN SPACE FOR PHASE 1 & 2 = 2.97 AC.

PHASE 2: LANDSCAPE REQUIREMENTS PER PUEBLO CODE 9 - 17-4-7 / LANDSCAPE PERFORMANCE STANDARDS

LANDSCAPE SETBACK:

W. 31ST STREET: 56.00 LF
TOTAL LANDSCAPE SETBACK AREA: 560 SF

1 TREE/30LF = 1 TREES REQUIRED
5 SHRUBS/30LF = 5 SHRUBS REQUIRED
70% LIVING LANDSCAPE MATERIAL = 392 SF
100% LLM PROVIDED

PARKING LOT SCREEN:

NO PARKING CONTIGUOUS WITH STREET

PARKING LOT LANDSCAPE:

MORE THAN 5 SPACES IN LINE REQUIRES AN ISLAND OR END CAPS
NO MORE THAN 10 TO 15 CONSECUTIVE SPACES ARE ALLOWED WITHOUT ISLAND OR END CAPS.

MINIMUM DIMENSION OF ISLAND/END CAP IS 9 FT X 18 FT
(1) SHADE TREE AND (4) SHRUBS REQUIRED PER ISLAND.
ISLANDS LARGER REQUIRE ADDITIONAL SHRUB PER ADD 25 SF

(16) SHADE TREES REQUIRED
(16) SHADE TREES PROVIDED

(72) SHRUBS REQUIRED
(72) SHRUBS PROVIDED.

LANDSCAPE OPEN SPACE: (LOS)

ZONE DISTRICT R-5, 20% LOS, 70% LLM REQUIRED

TOTAL AREA: 304,728 SF
REQUIRED 20% LOS: 60,945 SF

PROVIDED 20% LOS.

BALCONIES: 6,486 SF
LANDSCAPE/GRASS: 51,349 SF
TOTAL LOS PROVIDED: 60,945 SF

*70% LLM REQUIRED: 31,340 SF
1 TREE/1,000 SF LOS: 61 TREES REQUIRED/PROVIDED.

NATIVE PRESERVE AREA. LANDSCAPE OPEN SPACE FOR PHASE 1 & 2 = 2.97 AC.

WJZ Enterprises, LLC
Landscape Architecture
11 Temple Drive
Pueblo, CO 81005
(719) 320-8483

SHEET DESCRIPTION:
LANDSCAPE PLAN

PUEBLO SPRINGS APARTMENTS
Northeast Corner N. Pueblo Blvd. & West 31st St.

REVISIONS:
1st SUB 11-26-21

DATE:
5/16/2021

JOB NUMBER:
00001

DRAWN BY:
WJZ

CHECKED BY:
WJZ

SCALE:
NA

SHEET:
LS 00

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Bob Schilling
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, December 8, 2021 – 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 3:30 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, Bob Schilling, 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, Planner; Bart Mikitowicz, Planner; Danielle Baxter, Planner; and Joe Martellaro, Associate Engineer II.

APPROVAL OF AGENDA

A Motion was made by Bailey to amend the agenda to move SNC-21-04 to the last item on the agenda, Seconded by Schilling.

Motion passed 7-0.

PUBLIC MEETING AND ACTION

1. **Z-21-18 Pueblo Springs Apartments:** Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

   Staff Report by Wade Broadhead, Planner

   The applicant is requesting to rezone Lot One (15.01 acres) of the Pueblo Springs Apartments Subdivision from A-1, Agricultural One to R-5, Multiple-Residential and Office District to facilitate the development of a new apartment complex.

BACKGROUND:

The subject property was annexed into the city in November of 2021 and rezoned A-1 as an interim zoning classification until the time of development, as allowed by the approved Annexation Agreement (rezoning case Z-21-12), The current request is to rezone the western 15 acres of the property, proposed Lot 1, Pueblo Springs Apartments Subdivision, to R-5 Multiple Residential and Office district for the purposes of erecting a twelve building, 199 unit apartment complex for Phase 1. "Residence, multifamily" is a Use by Right in the proposed R-5 Zone District. The area is designated as Urban Residential Future Land Use Category, which allows for garden apartments (low-rise apartment structures) along collector and arterial roads. The proposed Pueblo Springs Apartments are situated at the southeast corner of W. Pueblo Boulevard (expressway) and W. 31st Street (collector) and are three stories with ample outdoor recreation amenities. The immediate area is now home to two large multifamily developments, a senior living facility and market rate apartment complex. The adjacent properties to the south, east, and west are all vacant prairie and as such there is no negative impact to surrounding residential neighborhoods. The R-5 Zoning and apartment complex are well situated for direct access to Pueblo Boulevard and Highway 50 and easy access to the south, east, and west and keeping high density uses directly along major arterials that can reduce neighborhood congestion.

The applicant has provided a commercial site plan detailing the 199-unit apartment complex. The site plan shows twelve structures located on Lot One to be constructed in Phase 1. The western portion of the rezoning site will be reserved for open space to protect the low bluffs and utilize the landscape as a noise barrier from Pueblo Boulevard and the applicant has enough space to meet the 20% Open Space requirement. The apartment complex will have a clubhouse, pool, and walking trails. The applicant hopes to secure funding for Phase Two on Lot two shortly. City departments are reviewing the commercial plans and have made all modifications to guarantee utility and vehicular access to the two-lot subdivision. The proposed rezoning is in conformance with the Pueblo Regional Comprehensive Plan and is in conformance with the existing pattern of development in the immediate area.

ANALYSIS:

Comprehensive Plan Compliance:
The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan designation of *Urban Residential* area states 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." The proposed rezoning site is located east of N. Pueblo Boulevard, which is an expressway and south of W. 31st Street, which is a Collector Road, meeting the criteria for multifamily residential development within the Urban Residential land use designation. The proposed R-5, Mixed-Residential and Office District is in conformance with the actual development of the immediate area and in conformance with the Comprehensive plan.

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

HEARING: Emery Chuckly, 5671 N Oracle Rd, Suite 1102, Tucson, AZ, represented the application.

No one spoke in support or opposition for the application.

COMMISSION ACTION:
Motion to recommend approval of the rezoning made by Bailey, second by Pasternak.

MOTION PASSED 7-0

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Bob Schilling
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-21-18

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Wade Broadhead, Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	December 8, 2021
SUBJECT:	Rezone from A-1, Agricultural One to R-5, Multiple-Residential and Office District
APPLICANT:	Emery Chukly Pueblo Springs Apartments, LLC.
PROPERTY OWNER:	Emery Chukly, Pueblo Springs Apartments, LLC.
LOCATION:	Generally locatd at the southeast corner of the intersection of W. Pueblo Blvd and 31st Streets
CONCURRENT REQUESTS:	S-21-09 Pueblo Springs Apartments Subdivision

REQUEST:
Th applicant is requesting to rezone Lot One (15.01 acres) of the Pueblo Springs Apartments Subdivision from A-1, Agricultural One to R-5, Multiple-Residential and Office District to facilitate the development of a new apartment complex.

BACKGROUND AND ANALYSIS:
The subject property was annexed into the city in November of 2021 and rezoned A-1 as an interim zoning classification until the time of development, as allowed by the approved Annexation Agreement (rezoning case Z-21-12), The current request is to rezone the western 15 acres of the property, proposed Lot 1, Pueblo Springs Apartments Subdivision, to R-5 Multiple Residential and Office district for the purposes of erecting a twelve building, 199 unit apartment complex for Phase 1. "Residence, multifamily" is a Use By Right in the proposed R-5 Zone District. The area is designated as Urban Residential Future Land Use Category, which allows for garden apartments (low-rise apartment structures) along collector and arterial roads. The proposed Pueblo Springs Apartments are situated at the southeast corner of W. Pueblo Boulevard (expressway) and W. 31st Street (collector) and are three stories with ample outdoor recreation amenities. The immediate area is now home to two large multifamily developments, a senior living facility and market rate apartment complex. The adjacent properties to the south, east, and west are all vacant prairie and as such there is no negative impact to surrounding residential neighborhoods. The R-5 Zoning and apartment complex are well situated for direct access to Pueblo Boulevard and Highway 50 and easy access to the south, east, and west and keeping high density uses directly along major arterials that can reduce neighborhood congestion.

The applicant has provided a commercial site plan detailing the 199-unit apartment complex. The site plan shows twelve structures located on Lot One to be constructed in Phase 1. The western portion of the rezoning site will be reserved for open space to protect the low bluffs and utilize the landscape as a noise barrier from Pueblo Boulevard and the applicant has enough space to meet the 20% Open Space requirement. The apartment complex will have a clubhouse, pool, and walking trails. The applicant hopes to secure funding for Phase Two on Lot two shortly. City departments are reviewing the commercial plans and have made all modifications to guarantee utility and vehicular access to the two-lot subdivision. The proposed rezoning is in conformance with the Pueblo Regional Comprehensive Plan and is in conformance with the existing pattern of development in the immediate area.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The subject property is undeveloped and currently being subdivided.

- **Neighborhood Compatibility:**

North	B-3 and R-5, Apartments and Office uses
East	County A-1, undeveloped prairie.
South	County A-1, undeveloped prairie
West	PUD and S-1, Honor Farm Open Space and undeveloped land

- **Comprehensive Plan Compliance:**
- The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan designation of *Urban Residential* area states 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." The proposed rezoning site is located east of N. Pueblo Boulevard, which is an expressway and south of W. 31st Street, which is a Collector Road, meeting the criteria for multifamily residential development within the Urban Residential land use designation. The proposed R-5, Mixed-Residential and Office District is in conformance with the actual development of the immediate area and in conformance with the Comprehensive plan.

ABILITY TO COMPLY WITH THE PROPOSED ZONE DISTRICT:

- **Minimum lot size and area:**
  The proposed 13.85 acre lot meets the 8,000 square foot minimum lot area. Based on number of units the minimum lot size is 199,000 square feet and the property contains over 600,000 square feet.
  The proposed lot has a 1,300-foot lot width, which meets the minimum 50-foot lot width.
- **Lot coverage:**
  - The R-5 Zone District allows a maximum lot coverage of 50-percent.

- Staff is reviewing the commercial site plan currently and the proposed lot coverage is well below the 50 percent.

- **Zone District Performance Standards:**

The R-5 Zone District Performance Standards (Sec. 17-4-4(b)) provide the requirements relating to minimizing the impact of the development on the surrounding, since the proposed development is planned at 199 units it will be following Section 17-4-4(b)(2) below:

(1) Three (3) to Five (5) family unit structures shall have one thousand five hundred (1,500) square feet of lot area per dwelling area.
(2) Six (6) or more family dwelling unit structures shall have a minimum of eight thousand (8,000) of lot area or one thousand (1,000) square feet per dwelling unit, whichever is greater and, other permitted uses shall provided at least five thousand (5,000) square feet of lot area. Residential structures, if one (1) to three (3) habitable stories, shall provide at least twenty percent (20%) in landscaped open space; or if four or more habitable stories, shall provide at least fifty percent of the parcel in landscaped open space. The performance standards in Section 17-4-5 shall apply in the R-5 District.

The applicant would need 199,000 square feet of lot area to conform and presently they have approximately 600,000 square feet for development, leaving enough for the 20% required landscaped area after accounting for the required 199,000 square feet.

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 a new apartment use.**

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 is attached to the staff report and currently under commercial site plan review.**

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

- Comments **The applicant will begin development 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 applicant will phase development based on available funding.**

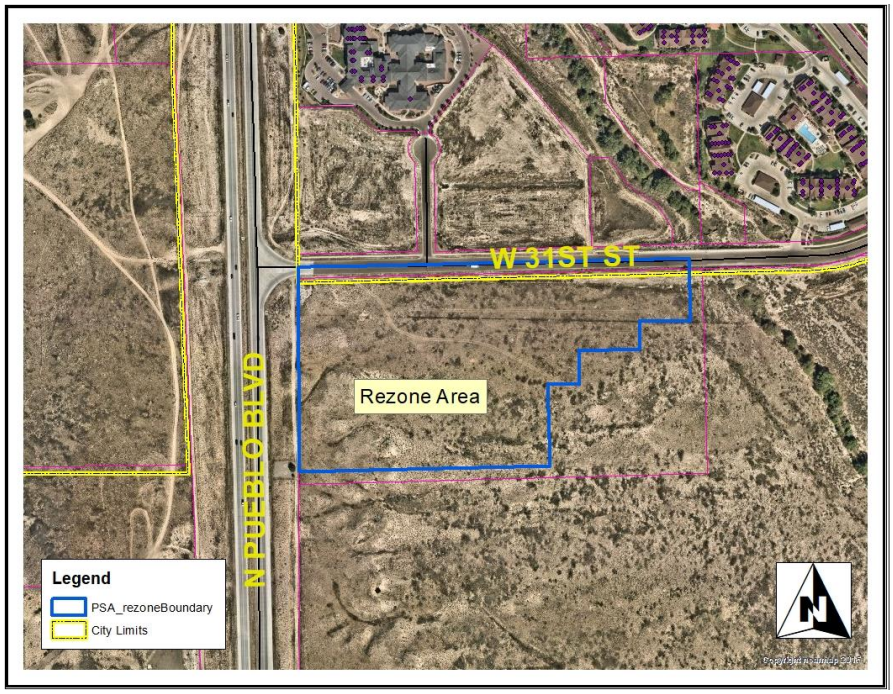
RECOMMENDED ACTION:

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

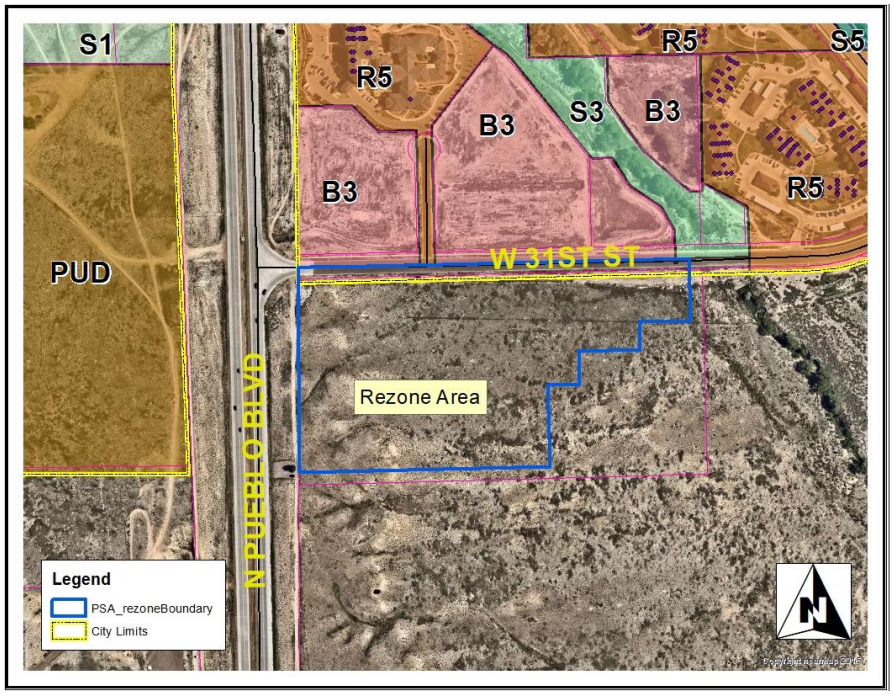
TTACHMENTS:

- **A. Arial Photograph**
- **B. Zoning Map**
- **C. Comprehensive Plan Map**
- **D. Site Photographs**
- **E. R-5 Zone District Information Sheet**
- **F. Application**
- **G. Project Description**
- **H. Rezoning Exhibit**
- **I. Proposed Site Plan**

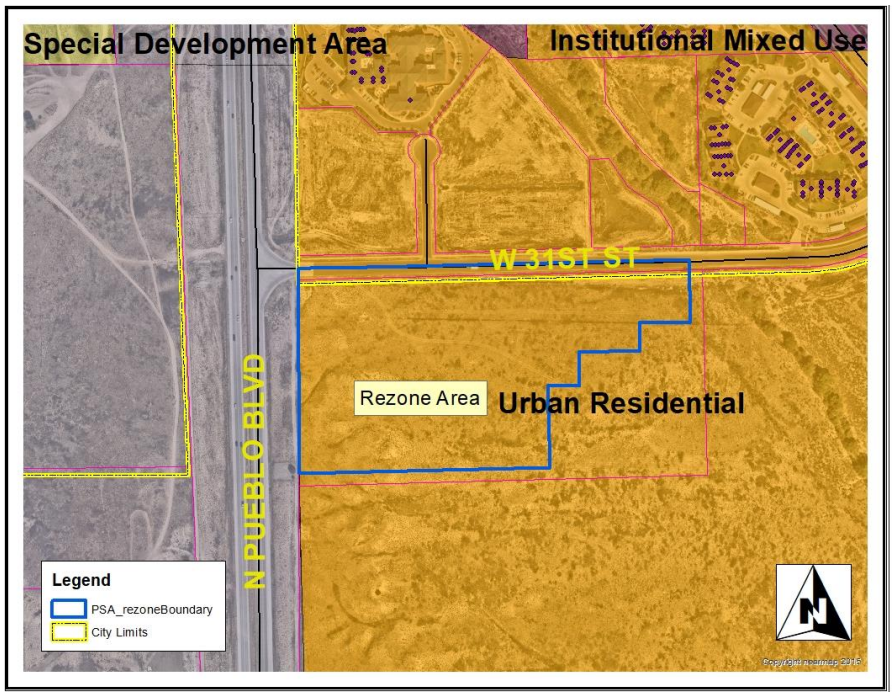
ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map



C. Comprehensive Plan Map



Public Notice Poster



Site overview photo looking west toward the low hills.

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Zone District: R-5 (Multiple-residential and Office District)

Purpose. The standards of this district (R-5) are designed to retain and provide areas of high density multifamily dwelling unit structures with limited commingling of professional offices and studios.

Setbacks:	Front	25’	Side	5’	Rear	15’
Coverage:	50%					
Floor Area Ratio	2	Floor Area / Land Area				
Max. Height	Unlimited	(See Section 17-4-6 for additional setbacks required for structures over 35’ in height)				
Minimum Lot Width:	50’					
Minimum Lot Size:	3,000 Square Feet (*1)					

(*1) Three (3) to five (5) family dwelling unit structures shall have one thousand five hundred (1,500) square feet of lot area per dwelling unit.

(*1) Six (6) or more family dwelling unit structures and other permitted uses shall have a minimum of eight thousand (8,000) square feet of lot area or one thousand (1,000) square feet per dwelling unit, whichever is greater and, if one (1) to three (3) habitable stories, shall provide at least twenty percent (20%) of the parcel in landscaped open space; if over four (4) habitable stories, shall provide at least fifty percent (50%) of the parcel in landscaped open space. Up to one-half (1/2) of the required open space may be in the form of balconies of at least four (4) feet wide on roofs developed and maintained as garden or recreation areas, but in no case shall space provided for off-street parking, loading or road access ways be counted as open space; and provided that the other permitted uses shall provide a parcel of land at least five thousand (5,000) square feet.

Single Family Homes:	§ 17-4-11 Single family home placement standards
Performance standards:	§ 17-4-4(b)
Outdoor Lighting	§ 17-4-52 Outdoor Lighting Performance Standards.
Off Street Parking	§ 17-4-43 Off-street parking non-residential.
Landscape:	Required. § 17-4-7
Public Sidewalks:	§ 17-4-44

Permitted Uses § 17-4-51(c)

Uses by right.

1. Accessory community garden
2. Accessory heliport, emergency medical
3. Art gallery
4. Assisted living facility
5. Beauty salon or barbershop
6. Bed and breakfast home
7. Bed and breakfast inn
8. Boarding-house
9. Child care center
10. Civic club
11. Home, Children
12. Home, Disabled
13. Home, elderly
14. Hospital
15. Manufactured home, one-family
16. Mixed Use
17. Museum
18. Office, general
19. Office, medical
20. Office, professional
21. Parking lot
22. Religious institution
23. Residence, condominium
24. Residence, multi-family
25. Residence, one-family
26. Residence, three and four family
27. Residence, townhouse
28. Residence, two-family (duplex)
29. Urgent care facility
30. Wedding facility

Uses by review.

1. Accessory commissary
2. Accessory drive-thru
3. Accessory emergency generator
4. Accessory pigeon and dove keeping
5. Adult day service center
6. Broadcasting studio
7. Catering service
8. Charitable institution
9. Commercial, established
10. Community center
11. Crematory
12. Financial institution
13. Funeral home
14. General service
15. Group care facility
16. Halfway house
17. Heliport, emergency medical
18. Hospice care facility
19. Instructional studio
20. Massage establishment
21. Mortuary
22. Nursing home
23. Parks, trails and open space
24. Public utilities
25. Recreation facilities, indoor
26. Restaurant
27. Restaurant, carry-out
28. School, trade
29. Student Housing
30. Theater, general

Conditional uses:

1. Accessory antenna
2. Accessory commercial patio
3. Accessory medical marijuana home cultivation
4. Accessory solar array
5. Artist studio
6. Child care home
7. Community garden
8. Development in floodplain
9. Home based business
10. Legal non-conforming uses
11. Live-work unit
12. Temporary construction yard
13. Temporary mobile food vendor
14. Temporary model home (sales office)

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: Emery S. Chuckly	
Company: Pueblo Springs Apartments, LLC, a Colorado limited liability company	
Address: 5671 North Oracle Rd, Ste 1102, Tucson AZ	Zip: 85704
Phone: ( ) 520-742-2114	Email: echuckly@gmail.com
Applicant	
Name: same as owner	
Company:	
Address:	Zip:
Phone: ( )	Email:
Person or Firm Representing (If Different From) Owner or Applicant	
Name: Michael Cuppy	
Company: NorthStar Engineering and Surveying, Inc.	
Address: 111 E 5th Street, Pueblo CO.	Zip: 81003
Phone: ( ) 719-544-6823	Email: mcuppy@northstar-co.com
*The **applicant** will be the primary contact unless otherwise noted.*	

Project Location: 31st Street, S 1/2, NW 1/4, NW 1/4, section 22, T20S R65W
(address or general description)

Parcel# 522000056

Legal Description: S 1/2, NW 1/4, NW 1/4, Section 22, T20S, R65W

Subdivision: Pueblo Springs Apartments Sub Acreage: 15.01

Existing Zone District: A-1	**Proposed Zone District:** R-5

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 property is currenlty zoned A-1. This rezone to R-5 would allow the property to be developed as apartments which is the intended use. This rezone request will be followed by a subdivision of the annexed property to facilitate the proposed development.

Description of area surrounding proposed development:

The site lies south of the existing 31st Street with the Villas at Parkwest developement to the north side of 31st. Pueblo Blvd. lies to the west and undeveloped rangeland lies to the south and east.

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.

Proposed development includes apartments and other various site improvements to support the apartments. Existing 31st Street has the capacity and utilities to support the developement. New detention/drainage facilities will be installed on-site at the time of development. This development is compatible with the existing adjacent development.

☑ 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: End of 2021

Estimated date for completion of project: End of 2022

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

The applicant acknowledges the economic responsibility and has the capability of accomplishing the development for which the zoning amendment is requested.

☑ 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	

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:	EMERY S. CHUCKT	
Signature:		Date: Oct 6 2021
Applicant, if different from Property Owner		
Print Name:		
Signature:		Date:

Project Narrative
Pueblo Springs Apartments

The property is currently in the zoned A-1. This subdivision and zoning map amendment will be the next steps in developing a future multi-family apartment development adjacent to 31st Street. The site lies south of existing 31st Street with the Villas at Parkwest Apartments development adjacent to the north side of 31st Street. The site is currently undeveloped and the existing 31st Street roadway as existing infrastructure suitable for this proposed development.

EXHIBIT "B"
ZONING EXHIBIT

A PARCEL OF LAND IN THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO

SCALE: 1" = 200'

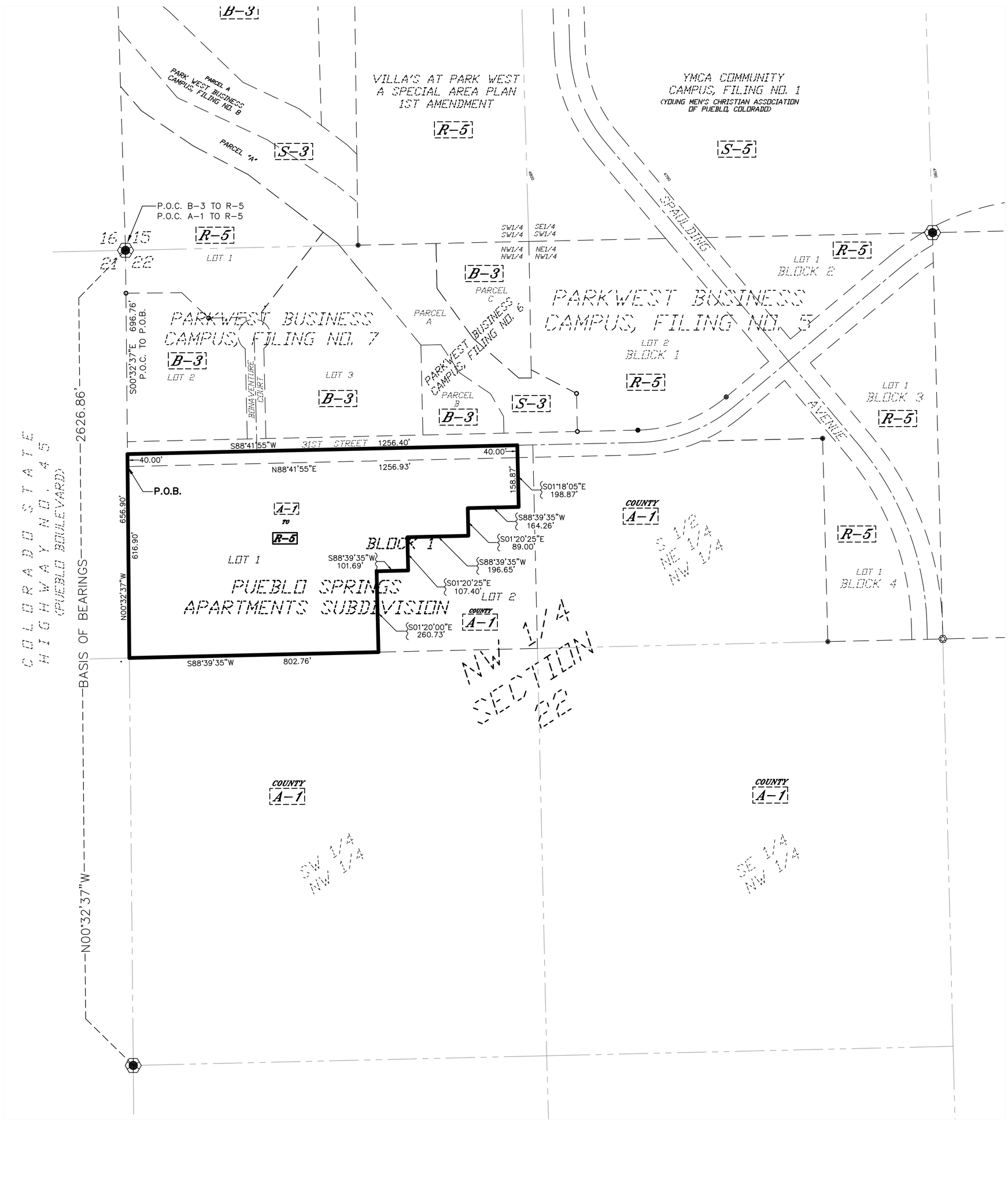
0 100' 200' 400'

LEGEND

- FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER BRASS CAP, DEPARTMENT OF INTERIOR–BLM (APPROPRIATELY STAMPED)
- FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER ALUMINUM CAP, (P.L.S. NO. 12933) (APPROPRIATELY STAMPED)
- FOUND NO. 4 REBAR WITH ORANGE PLASTIC CAP, (P.L.S. NO. 25869)
- FOUND NO. 4 REBAR WITH YELLOW PLASTIC CAP, (P.L.S. NO. 12933)
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- PROPOSED ZONING BOUNDARY
- A–1 EXISTING ZONING
- R–5 PROPOSED ZONING

BASIS OF BEARINGS:

THE WEST LINE OF NW 1/4 OF SECTION 22, T. 20 S,, R. 65 W, OF THE 6TH P.M. TO BEAR N. 00°32'37" W.



LAND DESCRIPTION

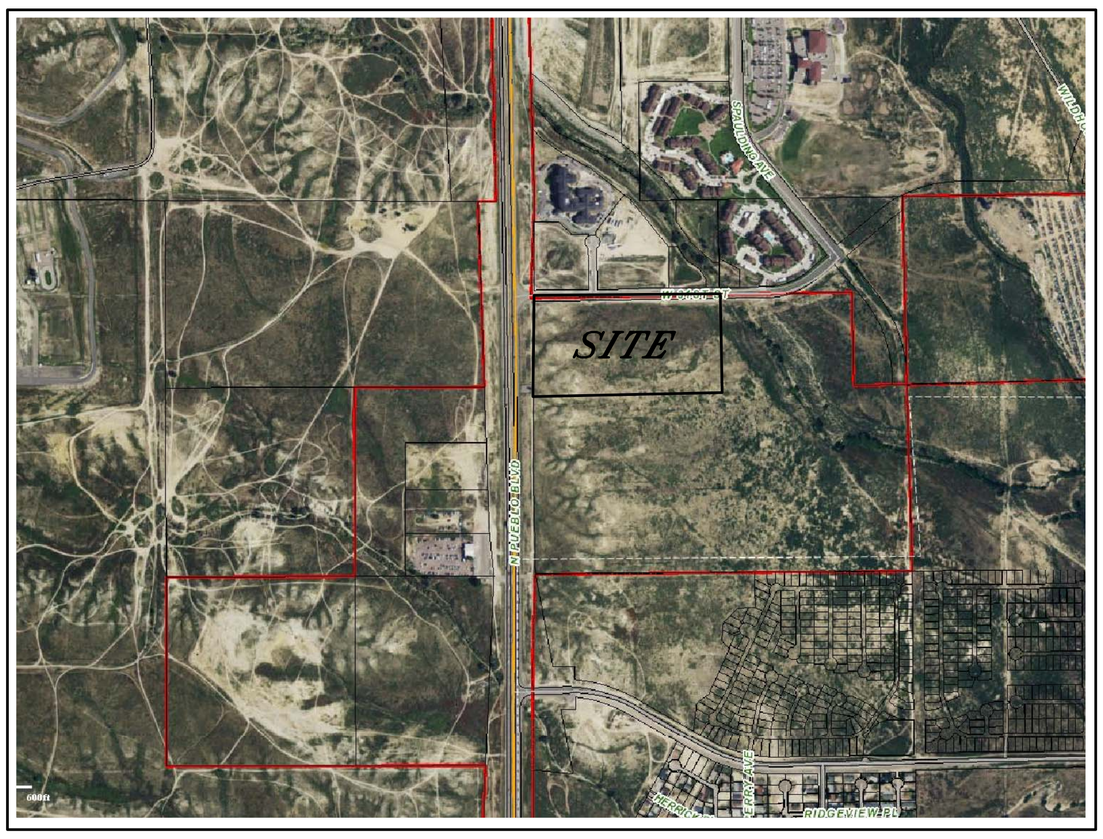
REZONE A–1 TO R–5

A portion of the South one–half of the Northwest one–quarter of the Northwest one–quarter of Section 22, Township 20 South, Range 65 West of the 6th P.M. and a portion of the South one–half of 31st Street as platted in Park West Business Campus, Filing No. 5, according to the recorded plat thereof, as filed for record on May 8, 2008 at Reception No. 1768305 in the County of Pueblo, State of Colorado, being more particularly described as follows:

Basis of Bearings: The West Line of the NorthWest one–quarter of Section 22, Township. 20 South, Range 65 West, of the 6TH Principal Meridian monumented with a number 6 rebar with a 3 1/4 inch diameter Brass Cap, to bear N. 00°32'37" W. and all bearings being relative thereto.

Commencing at Northwest corner of said Section 22, said point being on the west line of Park West Business Campus, Filing No. 7, according to the recorded plat thereof, as filed for record on March 16, 2012 at Reception No. 1901886 in the Pueblo County records and being on the east line of Colorado State Highway No. 45 as presently located; thence S. 00°32'37" E. along said the west line of said Section 22, the west line of said Park West Business Campus, Filing No. 7 and the east line of said Colorado State Highway No. 45, a distance of 696.76 feet to the south right–of–way line of 31st Street and the Point of Beginning; thence N. 00°32'37" W. along the said west line of Park West Business Campus, Filing No. 7, a distance of 40.00 feet to the center of 31st Street right–of–way; thence N. 88°41'55" E. along the said centerline of the right–of–way of 31st Street, a distance of 1,256.40 feet; thence S. 01°18'05" E., a distance of 198.87 feet; thence S. 88°39'35" W., a distance of 164.26 feet; thence S. 01°20'25" E., a distance of 89.00 feet; thence S. 88°39'35" W., a distance of 196.65 feet; thence S. 01°20'25" E., a distance of 107.40 feet; thence S. 88°39'35" W., a distance of 101.69 feet; thence S. 01°20'00" E., a distance of 260.73 feet to the south line of the South one–half of the Northwest one–quarter of the Northwest one–quarter of said Section 22; thence S. 88°39'35" W. along the south line of said South one–half, a distance of 802.76 feet to the Southwest corner of said South one–half and the east line of Colorado State Highway No. 45 as presently located; thence N. 00°32'37" W. along the west line of said South one–half and said east line of Colorado State Highway No. 45, a distance of 616.90 feet to the south right–of–way line of 31st Street and the Point of Beginning.

Containing 15.01 acres, more or less.



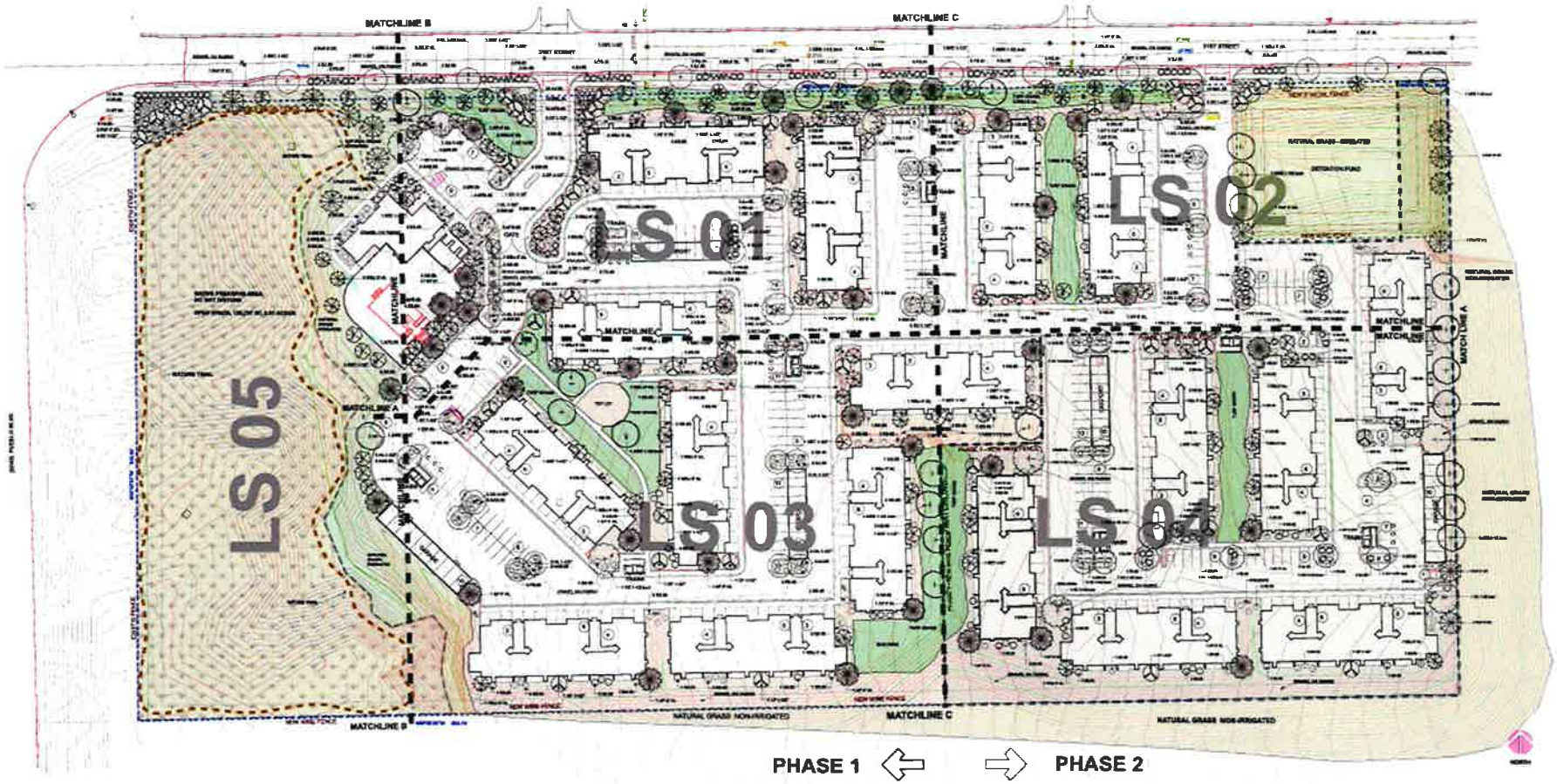
VICINITY MAP

NOT TO SCALE

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

LANDSCAPE TABLE OF CONTENTS

LS 00 - LANDSCAPE PLAN KEY
LS 01 - PLANTING PLAN SECTION 1 AT 1"=20'
LS 02 - PLANTING PLAN SECTION 2 AT 1"=20'
LS 03 - PLANTING PLAN SECTION 3 AT 1"=20'
LS 04 - PLANTING PLAN SECTION 4 AT 1"=20'
LS 05 - PLANTING PLAN SECTION 5 AT 1"=20'
LS 06 - PLANT/MATERIAL LIST & NOTES
LS 07 - INSTALLATION DETAILS



PHASE 1: LANDSCAPE REQUIREMENTS PER PUEBLO CODE 9 - 17-4-7 / LANDSCAPE PERFORMANCE STANDARDS

LANDSCAPE SETBACK:

SH 45 PUEBLO BLVD: 618.80 FT ON 617 LF
TOTAL LANDSCAPE SETBACK AREA: 6,170 SF

LANDSCAPE SETBACK REQUIREMENTS WERE WAIVED BY THE LANDUSE ADMINISTRATER.

W. 31ST STREET: 1,268.86 LF OR 1,257 LF
TOTAL LANDSCAPE SETBACK AREA: 12,570 SF

1 TREE/30LF = 46 TREES REQUIRED
46 TREES PROVIDED

5 SHRUBS/30LF = 200 SHRUBS REQUIRED
708 SHRUBS PROVIDED

70% LLM = 8,799 SF
70% LLM PROVIDED 8,800 SF

PARKING LOT LANDSCAPE:

MORE THAN 5 SPACES IN LINE REQUIRES AN ISLAND OR END CAPS
NO MORE THAN 10 TO 15 CONSECUTIVE SPACES ARE ALLOWED WITHOUT ISLAND OR END CAPS.

MINIMUM DIMENSION OF ISLAND/END CAP IS 9 FT X 18 FT
(1) SHADE TREE AND (4) SHRUBS REQUIRED PER ISLAND.
ISLANDS LARGER REQUIRE ADDITIONAL SHRUB PER ADD 25 SF

(36) SHADE TREES REQUIRED
(36) SHADE TREES PROVIDED

(144) SHRUBS REQUIRED.
(148) SHRUBS PROVIDED.

PARKING LOT SCREEN:

(24) SHRUBS AT PARKING CONTIGUOUS WITH STREET
24 SHRUBS PROVIDED.

LANDSCAPE OPEN SPACE: (LOS)

ZONE DISTRICT R-3,
20% LOS REQUIRED
70% LLM REQUIRED

TOTAL AREA: 603,450 SF
REQUIRED 20% LOS: 120,690 SF

PROVIDED 20% LOS:

BALCONIES: 16,916 SF
SWIMMING POOL: 6,516 SF
LANDSCAPE/GRASS: 97,951 SF
TOTAL LOS PROVIDED: 120,982

* 70% LLM REQUIRED: 46,966 SF
1 TREE/1,000 SF LOS: 97 TREES REQUIRED/PROVIDED.

LAWN AND NATURAL GRASS AREA = 104,971 SF

NATIVE PRESERVE AREA. LANDSCAPE OPEN SPACE FOR PHASE 1 & 2 = 2.97 AC.

PHASE 2: LANDSCAPE REQUIREMENTS PER PUEBLO CODE 9 - 17-4-7 / LANDSCAPE PERFORMANCE STANDARDS

LANDSCAPE SETBACK:

W. 31ST STREET: 56.00 LF
TOTAL LANDSCAPE SETBACK AREA: 560 SF

1 TREE/30LF = 1 TREES REQUIRED
5 SHRUBS/30LF = 5 SHRUBS REQUIRED
70% LIVING LANDSCAPE MATERIAL = 392 SF
100% LLM PROVIDED

PARKING LOT SCREEN:

NO PARKING CONTIGUOUS WITH STREET

PARKING LOT LANDSCAPE:

MORE THAN 5 SPACES IN LINE REQUIRES AN ISLAND OR END CAPS
NO MORE THAN 10 TO 15 CONSECUTIVE SPACES ARE ALLOWED WITHOUT ISLAND OR END CAPS.

MINIMUM DIMENSION OF ISLAND/END CAP IS 9 FT X 18 FT
(1) SHADE TREE AND (4) SHRUBS REQUIRED PER ISLAND.
ISLANDS LARGER REQUIRE ADDITIONAL SHRUB PER ADD 25 SF

(16) SHADE TREES REQUIRED
(16) SHADE TREES PROVIDED

(72) SHRUBS REQUIRED
(72) SHRUBS PROVIDED.

LANDSCAPE OPEN SPACE: (LOS)

ZONE DISTRICT R-5, 20% LOS, 70% LLM REQUIRED

TOTAL AREA: 304,728 SF
REQUIRED 20% LOS: 60,945 SF

PROVIDED 20% LOS.

BALCONIES: 6,486 SF
LANDSCAPE/GRASS: 51,349 SF
TOTAL LOS PROVIDED: 60,945 SF

*70% LLM REQUIRED: 31,340 SF
1 TREE/1,000 SF LOS: 61 TREES REQUIRED/PROVIDED.

NATIVE PRESERVE AREA. LANDSCAPE OPEN SPACE FOR PHASE 1 & 2 = 2.97 AC.

WJZ Enterprises, LLC
Landscape Architecture
11 Temple Drive
Pueblo, CO 81005
(719) 320-8483

SHEET DESCRIPTION:
LANDSCAPE PLAN

PUEBLO SPRINGS APARTMENTS
Northeast Corner N. Pueblo Blvd. & West 31st St.

REVISIONS:
1st SUB 11-26-21

DATE:
5/16/2021

JOB NUMBER:
00001

DRAWN BY:
WJZ

CHECKED BY:
WJZ

SCALE:
NA

SHEET:
LS 00

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

CASE NUMBER Z-21-18

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 Pueblo Springs Apartments 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.

11-23-21
(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 Pueblo Springs Apartments, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Own	OwnerZip
C H H LLC + QWANZO LLC + C/O THOM/	102 N CASCADE AVE ST	COLORADO SPRIN	CO	80903-1409
VILLAS AT PARK WEST I LP + VILLAS AT P	1603 LBJ FWY STE 800	DALLAS	TX	75234-6061
HAYES ELAINE R TR + RUBERSON BR +	4016 RIDGE DR	PUEBLO	CO	81008-1720
PUEBLO SPRINGS APARTMENTS, LLC + C	5671 N ORACLE RD STE	TUCSON	AZ	85704-3855

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: May 9, 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 PUEBLO SPRINGS APARTMENTS SUBDIVISION

SUMMARY:

The applicant is requesting to create an 18.55-acre, two lot subdivision for the purposes of constructing an apartment complex.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance No. 10055 on November 22, 2021.

BACKGROUND:

Pueblo Springs Apartments development is located at the intersection of Pueblo Boulevard and West 31st Street. The subject property was annexed and zoned to A-1 as a holding zone until development plans were finalized (via rezoning case Z-21-12). The applicant is proposing to create a two-lot subdivision for multifamily residential development, which will be constructed in two phases. The initial phase will be constructed on Lot 1. The property slopes from Pueblo Boulevard to the east. A substantial small hill/bluff buffers the property from Pueblo Boulevard and will be retained as open/natural area. The proposed development has no internal streets, so a 20-foot public utility and sanitary sewer easement has been added to the plat to ensure access to all proposed apartment buildings and utilities. Lot Two will have a relatively narrow frontage along 31st Street and the plat shows this area will be obstructed by a stormwater retention pond, so the applicant has added a 20-foot access easement to Lot 2 through the easterly portion of Lot 1. The owner is requesting deferred filings for construction plans and profiles, offsite easements, and the Subdivision Improvement Agreement. The applicant is requesting a waiver for fees in lieu of park dedication based on the onsite amenities (which include a clubhouse, pool, and grassed open space) and preservation of open space on the western side of the parcel. The fee waiver Resolution will be presented to City Council on December 13, 2021.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their December 8, 2021 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.

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 December 8, 2021 Public Hearing
Memorandum from the Department of Public Works Dated April 26, 2022
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE PUEBLO SPRINGS APARTMENTS SUBDIVISION

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

SECTION 1.

The final plat of the Pueblo Springs Apartments Subdivision, being a subdivision of land legally described as:

PUEBLO SPRINGS APARTMENTS SUBDIVISION
LAND DESCRIPTION

A portion of the South one-half of the Northwest one-quarter of the Northwest one-quarter of Section 22, Township 20 South, Range 65 West of the 6th P,M. in the County of Pueblo, State of Colorado, being more particularly described as follows:

Basis of Bearings: The West Line of the NorthWest one-quarter of Section 22, Township. 20 South, Range 65 West, of the 6TH Principal Meridian monumented with a number 6 rebar with a 3 1/4 inch diameter Brass Cap, to bear N. 00°32'37" W. and all bearings being relative thereto.

Commencing at Northwest corner of said Section 22, said point being on the west line of Park West Business Campus, Filing No. 7, according to the recorded plat thereof, as filed for record on March 16, 2012 at Reception No. 1901886 in the Pueblo County records and being on the east line of Colorado State Highway No. 45 as presently located; thence S. 00°32’37” E. along said the west line of said Section 22, the west line of said Park West Business Campus, Filing No. 7 and the east line of said Colorado State Highway No. 45, a distance of 696.76 feet to the south right-of-way line of 31st Street and the Point of Beginning; thence N. 88°41’55” E. along the said south right-of-way line of 31st Street, a distance of 1,306.93 feet to the east line of the South one-half of the Northwest one-quarter of the Northwest one-quarter of said Section 22; thence S. 01°18’05” E. along said east line of the said South one-half, a distance of 615.96 feet to the Southeast corner of the said South one-half; thence S. 88°39’35” W. along the south line of the said South one-half, a distance of 1,315.09 feet to the Southwest corner of said South one-half and the east line of Colorado State Highway No. 45 as presently located; thence N. 00°32’37” W. along the west line of said South one-half and said east line of Colorado State Highway No. 45, a distance of 616.90 feet to the Present City limits line and the Point of Beginning.

Containing 18.55 acres, 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 _____.

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

PUEBLO SPRINGS APARTMENTS

A PARCEL OF LAND IN THE S 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO

– DEDICATION –

KNOW ALL MEN BY THESE PRESENTS: That Pueblo Springs Apartments, LLC, a Colorado Limited Liability Company c/o Emery Chukly, Manager of ESH Development, LLC, a Colorado Limited Liability Company being sole owner of the following property:

All of the South one–half of the Northwest one–quarter of the Northwest one–quarter of Section 22, Township 20 South, Range 65 West of the 6th P.M., being more particularly described as follows:

Considering the west line of the Northwest one–quarter of Section 22, Township 20 South, Range 65 West of the 6th P.M. to bear N. 00°32'37" W., and all bearings contained herein being relative thereto.

Commencing at Northwest corner of said Section 22, said point being on the west line of Park West Business Campus, Filing No. 7, according to the recorded plat thereof, as filed for record on March 16, 2012 at Reception No. 1901886 in the Pueblo County records and being on the east line of Colorado State Highway No. 45 as presently located; thence S. 00°32'37" E. along said the west line of said Section 22, the west line of said Park West Business Campus, Filing No. 7 and the east line of said Colorado State Highway No. 45, a distance of 696.75 feet to the South right–of–way line of 31st Street as platted in Park West Business Campus, Filing No. 5, according to the recorded plat thereof, as filed for record on May 8, 2008 at Reception No. 1768305 in the County of Pueblo, State of Colorado and the Point of Beginning; thence N. 88°41'55" E. along the said South right–of–way line, a distance of 1,306.93 feet to the east line of the South one–half of the Northwest one–quarter of the Northwest one–quarter of said Section 22; thence S. 01°18'05" E. along said east line of the said South one–half, a distance of 615.96 feet to the Southeast corner of the said South one–half; thence S. 88°39'35" W. along the south line of the said South one–half, a distance of 1,315.09 feet to the Southwest corner of said South one–half and the east line of Colorado State Highway No. 45 as presently located; thence N. 00°32'37" W. along the west line of said South one–half and said east line of Colorado State Highway No. 45, a distance of 616.90 feet to the said Centerline and the Point of Beginning.

Containing 18.55 acres, more or less.

Have caused the aforegoing described property to be surveyed, platted and subdivided into lots, and a block and has shown hereon certain easements for public utility, sanitary sewer, detention and ingress/egress the same to be numbered, platted, subdivided, dimensioned as shown on the annexed plat, for the purpose of creating a subdivision to be known as PUEBLO SPRINGS APARTMENTS SUBDIVISION.

All public utility, sanitary sewer, detention, 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).

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).

IN WITNESS WHEREOF, Emery Chukly, Manager of ESH Development, LLC, a Colorado Limited Liability Company c/o Pueblo Springs Apartments, LLC sets his hand and seal this _____, day of _____, _____A.D.:

ESH Development, LLC
a Colorado Limited Liability Company
as manager of
Pueblo Springs Apartments, LLC
a Colorado Limited Liability Company

_____
Emery Chukly, Manager of ESH Development, LLC

STATE OF _____)
)SS
COUNTY OF_____)

I,_____, a Notary Public in and for the County of _____, State of _____, do hereby certify that Emery Chukly, Manager of ESH Development, LLC, a Colorado Limited Liability Company as manager of Pueblo Springs Apartments, LLC, a Colorado Limited Liability Company 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 Limited Liability Company.

WITNESS my hand and notarial seal this _____, day of _____, _____A.D.:

My Commission Expires:
Address:

_____ _____
Notary Public Date

– 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. _____.

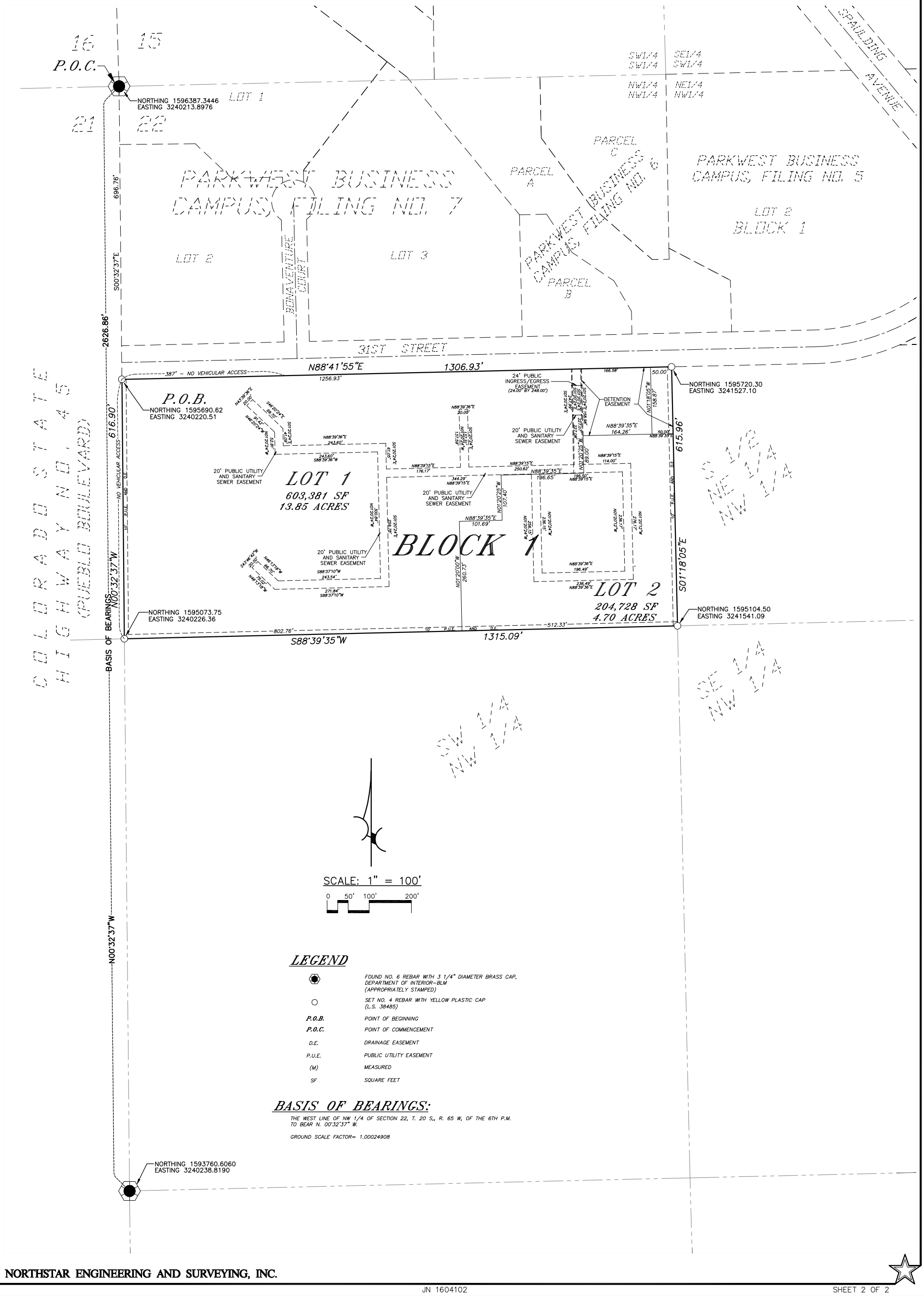
This is to certify that the plat of PUEBLO SPRINGS APARTMENTS has been approved for recording in the office of the Pueblo County Clerk and Recorder of Pueblo County, Colorado.

_____ _____
City Clerk Date

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

PUEBLO SPRINGS APARTMENTS SUBDIVISION

A PARCEL OF LAND IN THE S 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO



LEGEND

⬢	FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER BRASS CAP, DEPARTMENT OF INTERIOR–BLM (APPROPRIATELY STAMPED)
○	SET NO. 4 REBAR WITH YELLOW PLASTIC CAP (L.S. 38485)
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
(M)	MEASURED
SF	SQUARE FEET

BASIS OF BEARINGS:

THE WEST LINE OF NW 1/4 OF SECTION 22, T. 20 S,, R. 65 W, OF THE 6TH P.M. TO BEAR N. 00°32'37" W.

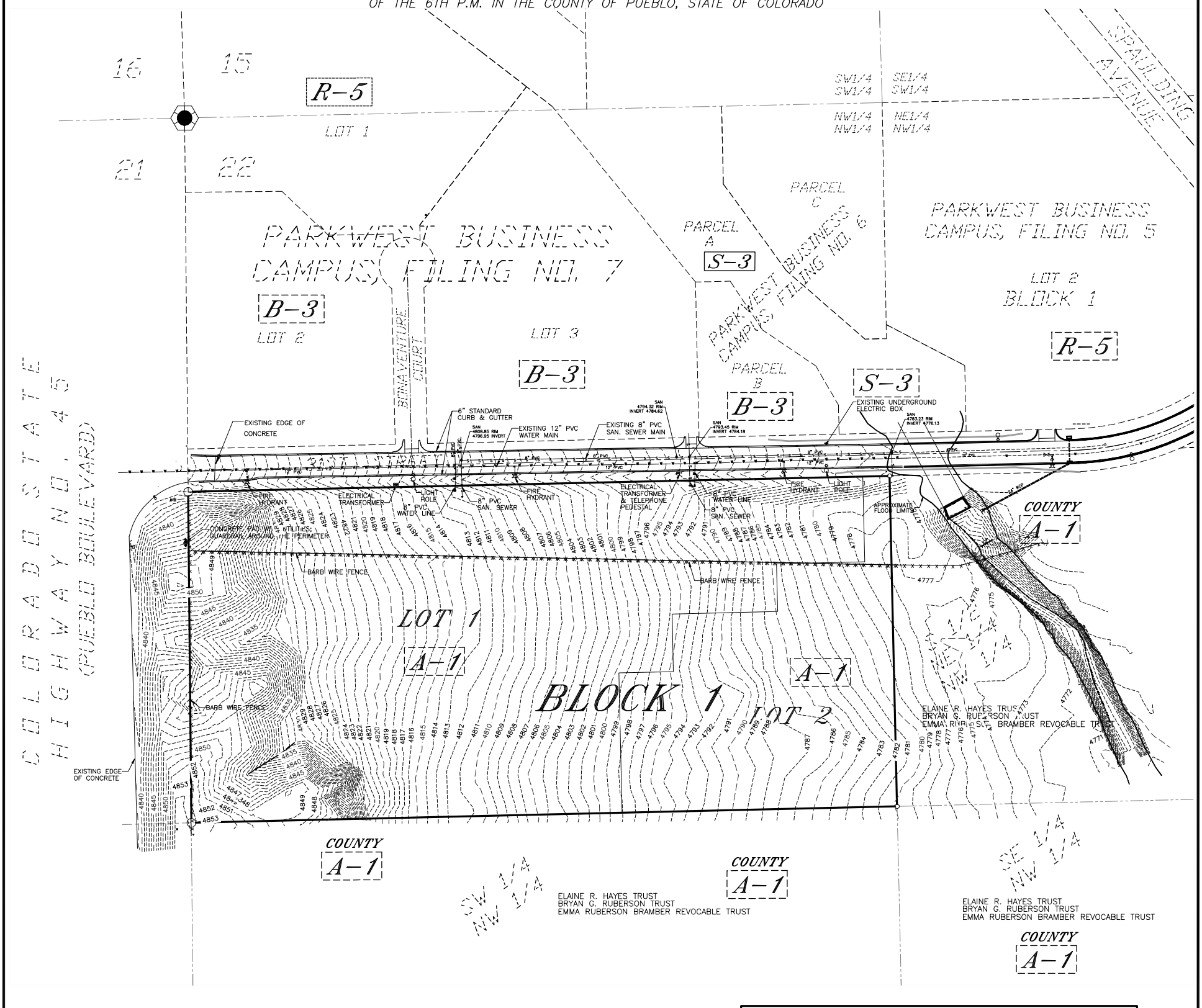
GROUND SCALE FACTOR= 1.00024908

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

SUPPLEMENTAL MAP OF:

PUEBLO SPRINGS APARTMENTS SUBDIVISION

A PARCEL OF LAND IN THE S 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO



SCALE: 1" = 100'

0 50' 100' 200'

BENCHMARK:

FOUND NGS MARKER JK0978 (W 430 1984)
STAINLESS STEEL ROD W/O SLEEVE
NORTHING: 1596445.57
EASTING: 3240211.01
NAVD 88 ELEVATION= 4824.74

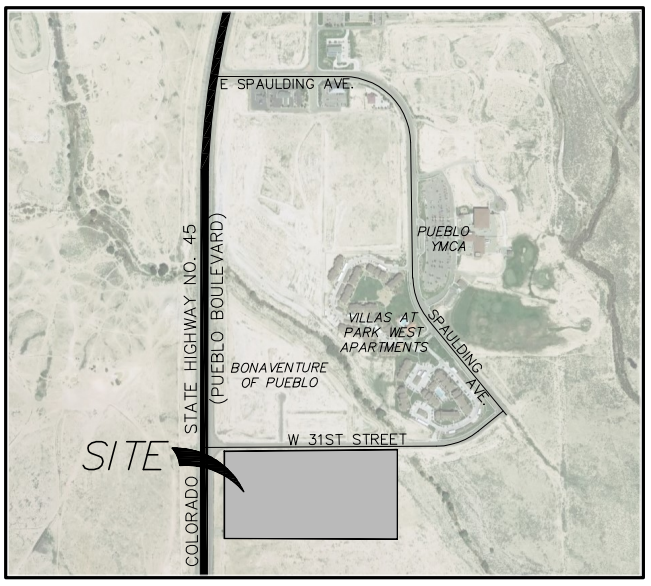
NOTES:

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 (07-19-2017).

LEGEND:

▲	FOUND MONUMENT BOX	—G—	GAS
⊗	FOUND #4 REBAR w/ PLASTIC CAP – ILLEGIBLE	—S—	SANITARY SEWER
●	FOUND #4 REBAR WITH CAP – L.S. 12368	—STM—	STORM SEWER
◉	FOUND 2 1/2" DIA. ALUMINUM CAP – L.S. 10402	—W—	WATER
○	SET NO. 4 REBAR WITH YELLOW PLASTIC CAP (L.S. 38485)	—E—	ELECTRIC LINE (UNDERGROUND)
⊙	SET PK NAIL w/ SHINER (L.S. 38485)	—OHW—	OVERHEAD WIRES
A-1	CURRENT ZONING	GV	GAS VALVE
ENC.	ENCROACHMENT	WV	WATER VALVE
(M)	MEASURED		FIRE HYDRANT
(D)	DEED	WM	WATER METER
SF	SQUARE FEET	EM	ELECTRIC METER
		EV	ELECTRICAL VAULT
		GM	GAS METER
			STREET LIGHT
			GUY POLE
			POWER POLE
		SAN	SANITARY SEWER MANHOLE
		STM	STORM SEWER MANHOLE
		W	WATER MANHOLE
		—X—X—	BARBWIRE FENCE
		—o—	SIGN
		4805	EXISTING CONTOUR (5 FOOT)
		4813	EXISTING CONTOUR (1 FOOT)



VICINITY MAP
NOT TO SCALE

OWNER/ SUBDIVIDER:

EMERY CHUKLY
MANAGER OF ESH DEVELOPMENT, LLC
PUEBLO SPRINGS APARTMENTS, LLC
5671 NORTH ORACLE ROAD, SUITE 1102
TUCSON, ARIZONA 85704
(520) 742-2114

ENGINEERS AND SURVEYORS:

NORTHSTAR ENGINEERING AND SURVEYING, INC.
111 E. 5TH STREET
PUEBLO, COLORADO
SEPTEMBER 27, 2021

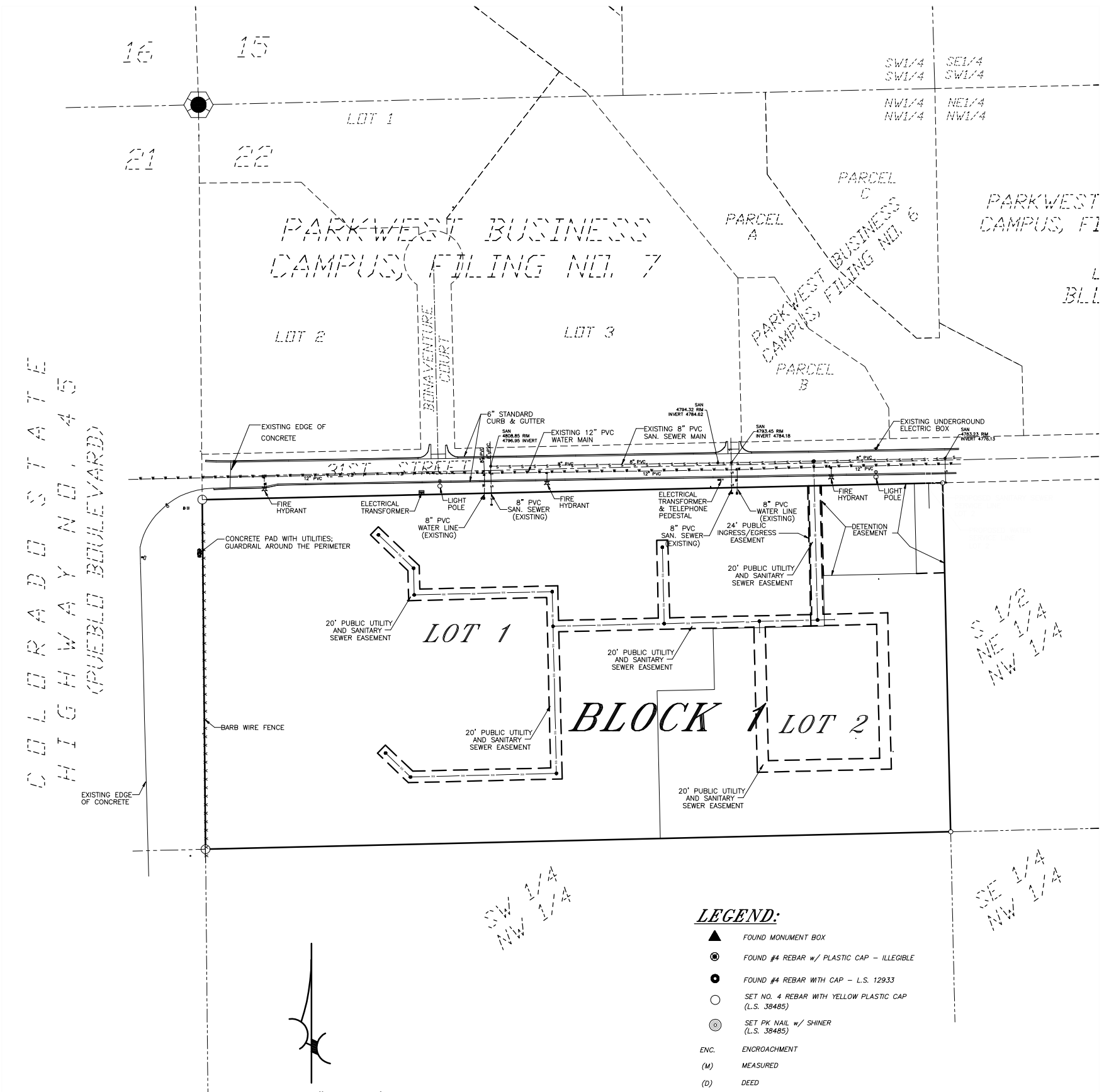
PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

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.

UTILITY MAP OF:

PUEBLO SPRINGS APARTMENTS SUBDIVISION

A PARCEL OF LAND IN THE S ½ OF THE NW 1/4 OF THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO



SCALE: 1" = 100'

0 50' 100' 200'

LEGEND:

- FOUND MONUMENT BOX
- FOUND #4 REBAR w/ PLASTIC CAP – ILLEGIBLE
- FOUND #4 REBAR WITH CAP – L.S. 12933
- SET NO. 4 REBAR WITH YELLOW PLASTIC CAP (L.S. 38485)
- SET PK NAIL w/ SHINER (L.S. 38485)
- ENC. ENCROACHMENT
- (M) MEASURED
- (D) DEED
- —G— GAS
- —SAN— SANITARY SEWER
- —STM— STORM SEWER
- —W— WATER
- —E— ELECTRIC LINE (UNDERGROUND)
- —OHW— OVERHEAD WIRES
- GV GAS VALVE
- WV WATER VALVE
- FIRE HYDRANT
- WM WATER METER
- EM ELECTRIC METER
- EV ELECTRICAL VAULT
- GM GAS METER
- STREET LIGHT
- GUY POLE
- POWER POLE
- SAN SANITARY SEWER MANHOLE
- STM STORM SEWER MANHOLE
- W WATER MANHOLE
- —X—X— BARBWIRE FENCE
- —o— SIGN

BENCHMARK:

FOUND NGS MARKER JK0978 (W 430 1984)
STAINLESS STEEL ROD W/O SLEEVE
NORTHING: 1596445.57
EASTING: 3240211.01
NAVD 88 ELEVATION= 4824.74

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 (07-19-2017).

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 1604100

SHEET 1 OF 1

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Bob Schilling
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, December 8, 2021 – 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 3:30 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, Bob Schilling, 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, Planner; Bart Mikitowicz, Planner; Danielle Baxter, Planner; and Joe Martellaro, Associate Engineer II.

APPROVAL OF AGENDA

A Motion was made by Bailey to amend the agenda to move SNC-21-04 to the last item on the agenda, Seconded by Schilling.

Motion passed 7-0.

PUBLIC MEETING AND ACTION

1. **S-21-09 Pueblo Springs Apartments Subdivision:** The subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

   Staff Report by Wade Broadhead, Planner.

   Applicant is requesting to create an 18.55 acre, two lot subdivision for the purposes of constructing an apartment complex

   STAFF REVIEW AND FINDINGS:
   Pueblo Springs Apartments development is located at the intersection of Pueblo Blvd and 31st street. Pueblo City Council recently approved the Pueblo Springs Apartments Annexation at their November 8th, 2021, meeting. The subject property was annexed and zoned to A-1 as a holding zone until development plans were finalized (via rezoning case Z-21-12). The applicant is proposing creating a two-lot subdivision for an apartment complex to be constructed in two phases (one per lot). The initial phase will be constructed on Lot 1. The property slopes from Pueblo Boulevard to the east. A substantial small hill/bluff buffers the property from Pueblo Boulevard and will be retained as open/natural area. The proposed development has no internal streets so a 20' public utility and sanitary sewer easement has been added to the plat to ensure utility access to all proposed apartment buildings. Lot Two will have a relatively narrow frontage along 31st street and the plat shows this area obstructed by a stormwater retention pond so the applicant has added a 20' access easement to Lot 2 through the easterly portion of Lot 1. The stormwater retention pond on the northeast corner of the site is awaiting approval from stormwater and the city legal department their approval is required before City Council approval. The Annexation Agreement requires the applicant to also provide the wastewater flows prior to City Council Approval as well. The owner is requesting deferred filings for construction plans and profiles, offsite easements, and the Subdivision Improvement Agreement. The applicant is requesting a waiver for fees in lieu of park dedication based on the onsite amenities (which include a clubhouse, pool, and grassed open space) and preservation of open space on the western side of the parcel. The fee waiver resolution will be presented to City Council on December 13, 2021.

   Comprehensive Plan Compliance:
   The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan designation of *Urban Residential* area states 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. Urban Residential allows for zoning of garden apartments (low rise apartments) along collectors and arterial. Pueblo Boulevard is classified as an expressway and 31st street is a collector. The subdivision and use conform with the Comprehensive plan.

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

Request for waiver from requirements:	Waiver of fees in lieu of park dedication. City Council to vote on a resolution to waive fees, December 13, 2021.
Requests for Modifications to Requirements:	Request for Deferred Filings for One Year: Defer construction plans, profiles and details of streets, sanitary sewers, storm sewers, drainage facilities, offsite easements and the Subdivision Improvement Agreement.
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	1. Obtain approval of City/Stormwater Department retention pond easement location before the plat is approved by City Council. 2. Per the annexation agreement the applicant will provide wastewater expected flows for the project before City Council approval. 3. Modify the ingress/egress access easement from Lot 1 to Lot 2 to be 24' in width instead of 20'.

HEARING: Emery Chuckly, 5671 N Oracle Rd, Suite 1102, Tucson, AZ, represented the application.

No one spoke in support or opposition for the application.

MOTION: Motion to recommend approval of the Pueblo Springs Apartments Subdivision was made by Bailey, second by Pasternak.

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-21-02 Mahren Alley Vacation
S-21-09 Pueblo Springs Apartments

DATE: April 26, 2022

Please place the above referenced submittals on the City Council Agenda.

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Bob Schilling
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

S-21-09

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Wade Broadhead, Planner
THROUGH:	Scott Hobson, Acting Planning and Community Development Director
DATE:	December 8th, 2021
SUBJECT:	Pueblo Springs Apartments Subdivision
APPLICANT:	Michael Cuppy, NorthStar Engineering and Surveying
PROPERTY OWNER:	Emery Chukly
LOCATION:	A subdivision of 18.55 acres located directly southwest of the intersection of Pueblo Boulevard and 31th Steet
ZONE DISTRICT:	A-1, Agriculture One
CONCURRENT REQUESTS:	Z-21-18, rezoning Lot 1 from A-1 to R-5

REQUEST:
Applicant is requesting to create an 18.55 acre, two lot subdivision for the purposes of constructing an apartment complex

STAFF REVIEW AND FINDINGS:
Pueblo Springs Apartments development is located at the intersection of Pueblo Blvd and 31st street. Pueblo City Council recently approved the Pueblo Springs Apartments Annexation at their November 8th, 2021 meeting. The subject property was annexed and zoned to A-1 as a holding zone until development plans were finalized (via rezoning case Z-21-12). The applicant is proposing creating a two-lot subdivision for an apartment complex to be constructed in two phases (one per lot). The initial phase will be constructed on Lot 1. The property slopes from Pueblo Boulevard to the east. A substantial small hill/bluff buffers the property from Pueblo Boulevard and will be retained as open/natural area. The proposed development has no internal streets so a 20' public utility and sanitary sewer easement has been added to the plat to ensure utility access to all proposed apartment buildings. Lot Two will have a relatively narrow frontage along 31st street and the plat shows this area obstructed by a stormwater retention pond so the applicant has added a 20' access easement to Lot 2 through the easterly portion of Lot 1. The stormwater retention pond on the northeast corner of the site is awaiting approval from stormwater and the city legal department their approval is required before City Council approval. The Annexation Agreement requires the applicant to also provide the wastewater flows prior to City Council

Approval as well. The owner is requesting deferred filings for construction plans and profiles, offsite easements, and the Subdivision Improvement Agreement. The applicant is requesting a waiver for fees in lieu of park dedication based on the onsite amenities (which include a clubhouse, pool, and grassed open space) and preservation of open space on the western side of the parcel. The fee waiver resolution will be presented to City Council on December 13, 2021.

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.

ABILITY TO COMPLY WITH THE ZONE DISTRICT REGULATIONS:

- R-5 Minimum Lot Area: 8,000 square feet (concurrent rezoning)
  - Proposed Lot 1 Area: 13.85 acres
  - Proposed Lot 2 Area: 4.7 acres

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:	
Request for waiver from requirements:	Waiver of fees in lieu of park dedication. City Council to vote on a resolution to waive fees, December 13, 2021.
Requests for Modifications to Requirements:	Request for Deferred Filings for One Year: Defer construction plans, profiles and details of streets, sanitary sewers, storm sewers, drainage facilities, offsite easements and the Subdivision Improvement Agreement.
Conditions of Approval: (Unless otherwise noted, all conditions of approval must be completed prior to the case being scheduled for City Council hearing.)	1. Obtain approval of City/Stormwater Department retention pond easement location before the plat is approved by City Council. 2. Per the annexation agreement the applicant will provide wastewater expected flows for the project before City Council approval. 3. Modify the ingress/egress access easement from Lot 1 to Lot 2 to be 24' in width instead of 20'.

PLANNING AND COMMUNITY DEVELOPMENT COMMENTS

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The property is currently vacant prairie that slopes from west to east.

- **Neighborhood Compatibility:**

North	B-3 and R-5, Apartments and Office uses
East	County A-1, undeveloped prairie.
South	County A-1, undeveloped prairie
West	PUD and S-1, Honor Farm Open Space and undeveloped land

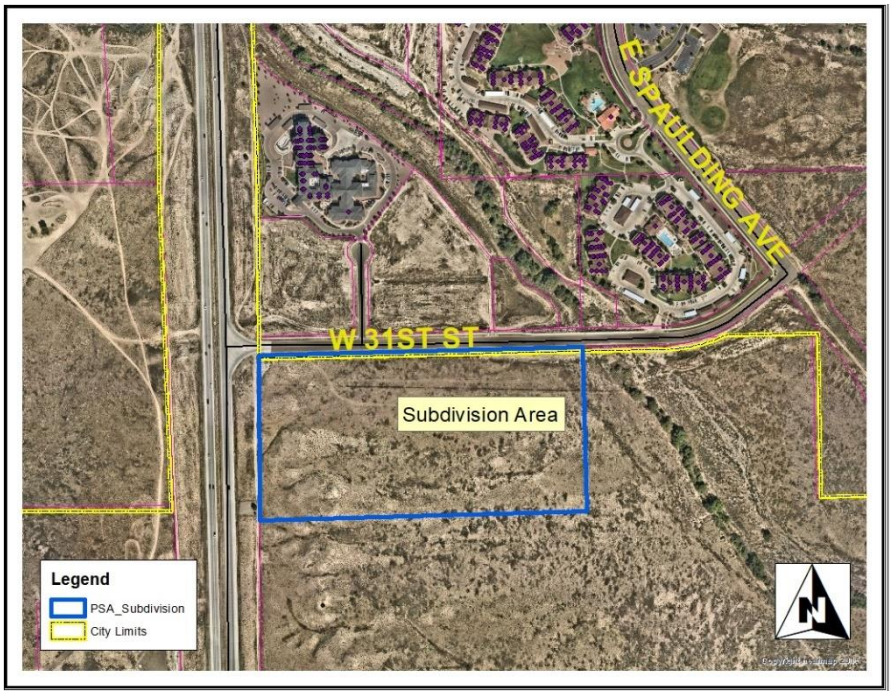
- **Comprehensive Plan Compliance:**

The project site has been designated by the Pueblo Comprehensive Plan as "Urban Residential." The Pueblo Comprehensive Plan designation of *Urban Residential* area states 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. Urban Residential allows for zoning of garden apartments (low rise apartments) along collectors and arterial. Pueblo Boulevard is classified as an expressway and 31st street is a collector. The subdivision and use conform with the Comprehensive plan.

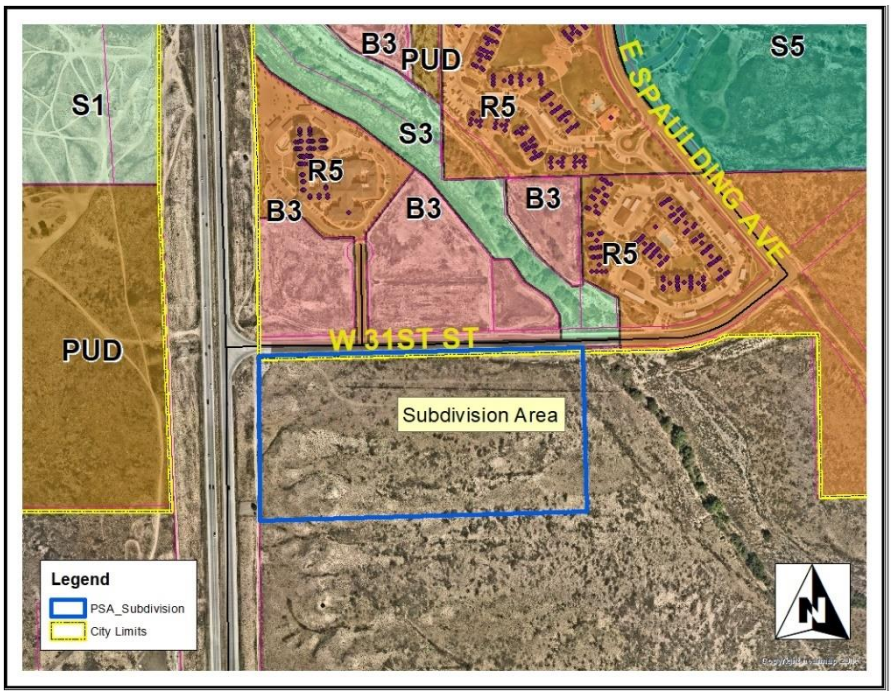
ATTACHMENTS:

- **A. Aerial Map**
- **B. Zoning Map**
- **C. Comprehensive Plan Map**
- **D. Site Photographs**
- **E. Subdivision Plat**
- **F. Application**
- **G. SRC Memo, December 8, 2021**

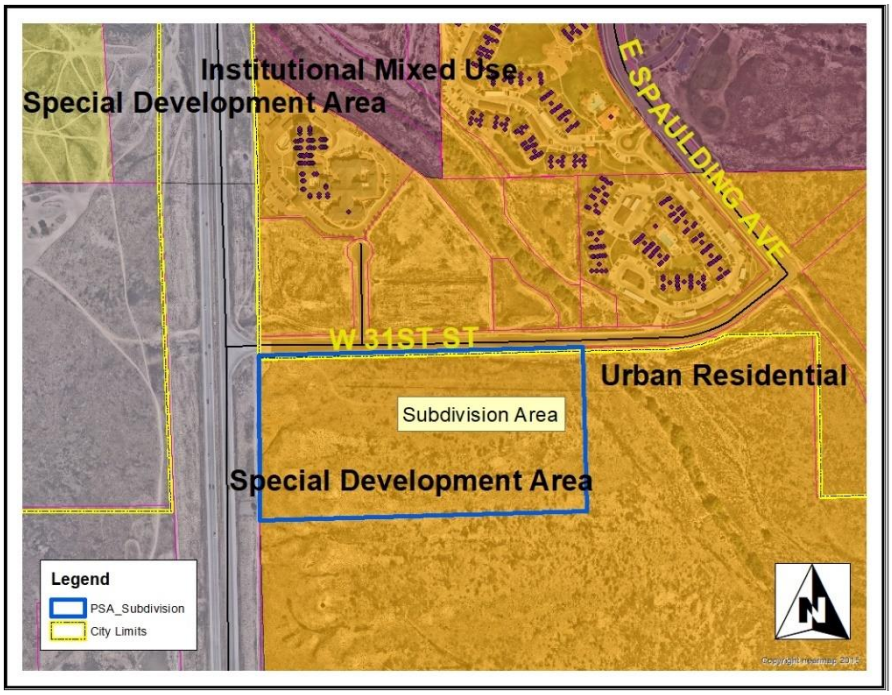
ATTACHMENTS:



A. Aerial Photograph



B. Zoning Map



C. Future Land Use Map

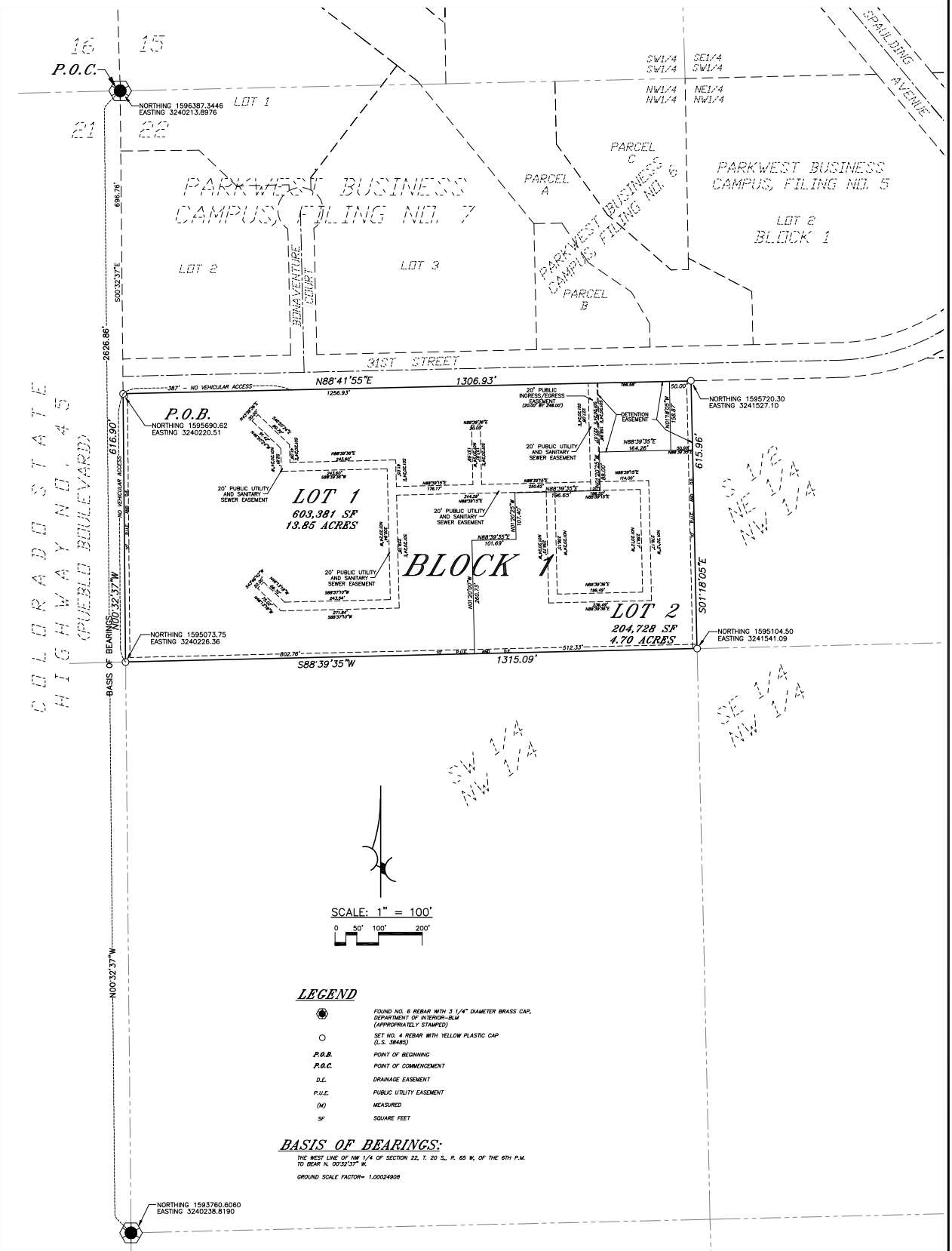
Attachment D. Site Photos



Subdivision site looking west toward low hills.

PUEBLO SPRINGS APARTMENTS SUBDIVISION

A PARCEL OF LAND IN THE S 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 22, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO



LEGEND

⬢	FOUND NO. 6 REBAR WITH 3 1/4" DIAMETER BRASS CAP, DEPARTMENT OF INTERIOR-BLM (APPROPRIATELY STAMPED)
○	SET NO. 4 REBAR WITH YELLOW PLASTIC CAP (L.S. 38485)
P.O.B.	POINT OF BEGINNING
P.O.C.	POINT OF COMMENCEMENT
D.E.	DRAINAGE EASEMENT
P.U.E.	PUBLIC UTILITY EASEMENT
(M)	MEASURED
SF	SQUARE FEET

BASIS OF BEARINGS:

THE WEST LINE OF NW 1/4 OF SECTION 22, T. 20 S., R. 65 W, OF THE 6TH P.M. TO BEAR N. 00°32'37" W.

GROUND SCALE FACTOR= 1.00024908

PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

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: Emery Chuckly		Name: Same as Owner	
Company Pueblo Springs Apartments, LLC		Company:	
Address: 5671 North Oracle Rd, Ste 1102, Tucson	Zip: 85704	Address:	Zip:
Phone: ( ) 520-742-2114		Phone: ( )	
Email: echukly@gmail.com		Email:	
Engineer		**Surveyor**	
Name: Michael Cuppy		Name: Same as Engineer	
Company: NorthStar Engineering and Surveying, Inc.		Company:	
Address: 111 E. 5th St. Pueblo	Zip: 81003	Address:	Zip:
Phone: ( ) 719 544-6823		Phone: ( )	
Email: mcuppy@northstar-co.com		Email:	

The applicant will be the primary contact unless otherwise noted.

Property Info

Project Location: (address or general description) 31st Street, S 1/2, NW 1/4, NS 1/4, Section 22, T20S, R65W

Parcel No(s): 52200056

Existing Zone: A-1 | Proposed Zone (if applicable): R-5

PUD Name (if applicable):

Project Scope

Project Name: Pueblo Springs Apartments

- ☐ 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: 2 Total acres: 18.55
- ☐ 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:
This is a subdivision of undeveloped rangeland to create 2 lots for an apartment developement
Lot 1 would be for phase 1 of the project and lot 2 would be for future phase. This subdivision would allow the development of the property.

What is the total acreage included in the project? 18.55

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 R-5

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:	Emery Chuckly, Manager of ESH Development, LLC.		
Signature:	E [signature]	Date:	October 6/21

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:

MEMORANDUM

To: Planning and Zoning Commission

From: Subdivision Review Committee

Date: December 8, 2021

Subject: S-21-09, Pueblo Springs Apartments

Request for Modifications to Subdivision Regulations:
Applicant requests a waiver of fees in lieu of park dedication. The fee waiver resolution will be brought to City Council at their December 13, 2021 meeting.

Request for Deferred Filings:
The applicant has requested one-year differed filing for:

1. Construction plans, profile, and details of streets sanitary sewers, storm sewers, drainage facilities.
2. Offsite easements, on City approved forms, signed by the property owner
3. Subdivision Improvement Agreement with Exhibit "A" and "B" Addendums

Plat Deficiencies:

1. Obtain approval of City/Stormwater Department retention pond easement location before the plat is approved by City Council.
2. Change the 20' access easement to 24' wide running from Lot 1 to Lot 2.

The Subdivision Review Committee recommends the Subdivision Plat be approved with two conditions.

1. Obtain approval of City/Stormwater Department retention pond easement location before the plat is approved by City Council.
2. Amend the plat to reflect a 24' wide ingress/egress easement instead of a 20' easement before City Council passage.
3. Per the annexation agreement the applicant needs to provide wastewater expected flows for the project before City Council approval.

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

November 22, 2021

This is to inform you that the City Planning and Zoning Commission will hold a public hearing on a request by **Emery Chuckly, Pueblo Springs Apartments, LLC** for the approval of the following application(s):

S-21-09 Pueblo Springs Apartments Subdivision: the subdivision of approximately eighteen (18.55) acres into two lots generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue.

Z-21-18: Pueblo Springs Apartments Rezoning approximately eighteen (18.55) acres generally located southeast of the intersection of W. Pueblo Blvd and 31st Avenue currently zoned A-1 being rezoned to R-5 (Multiple Residential and Office District).

The Planning and Zoning Commission meeting will be held on December 8, 2021, 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, Planner
(719) 553-2280

CASE NUMBER S-21-09

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 Pueblo Springs Apartments 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.

11-23-21
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Own	OwnerZip
C H H LLC + QWANZO LLC + C/O THOM/	102 N CASCADE AVE ST	COLORADO SPRIN	CO	80903-1409
VILLAS AT PARK WEST I LP + VILLAS AT P	1603 LBJ FWY STE 800	DALLAS	TX	75234-6061
HAYES ELAINE R TR + RUBERSON BR +	4016 RIDGE DR	PUEBLO	CO	81008-1720
PUEBLO SPRINGS APARTMENTS, LLC + C	5671 N ORACLE RD STE	TUCSON	AZ	85704-3855

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar
Robert P. Jagger, Deputy City Attorney
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

SUMMARY:

Attached is a proposed Ordinance which would extend the current negotiated collective bargaining agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537 ("Union") for calendar year 2023.

PREVIOUS COUNCIL ACTION:

Pursuant to Ordinance No. 9532 approved August 28, 2019, the City entered into a collective bargaining agreement ("Agreement") with the Union for calendar year 2020. The Agreement granted the City the option to extend the Agreement for two successive one-year terms with a 2.75% increase in the salary schedule for year 2021 and a 2.5% increase in the salary schedule for year 2022.

Pursuant to Ordinance No. 9727 approved June 26, 2020, the parties amended and extended the Agreement and provided for no increase in the salary schedule during calendar year 2021. The amendment retained the City's right to extend or not to extend the Agreement for calendar years 2022 and 2023 at the rates previously agreed.

Pursuant to Ordinance No. 9942 approved May 24, 2021, extended the Agreement for calendar year 2022 at the 2.75% increase.

BACKGROUND:

The City has the right to extend the current Agreement provided such election is made on or before June 1, 2022 otherwise the parties shall commence negotiations for a successor contract upon request of Union. The terms and conditions of the extended term shall be on the same terms and conditions currently agreed except for the following:

1.) Salary shall be as provided or otherwise determined pursuant to Article 16 of the Agreement which provision provides that the monthly pay rate for all classes and steps shall be increased by 2.5% over the amount set by Ordinance establishing the 2022 pay levels; and

2.) Health insurance shall be as provided or otherwise determined pursuant to the parties Amendment to the Agreement with respect to a self-funded health benefit plan. The amounts will be determined prior to the end of this calendar year subject to the following requirements:

Plan design shall be determined by a majority vote of the Benefits Committee; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits. The City's percentage share of premiums including the current maximum dollar amount the City must contribute toward any premium ("Contribution Cap") shall be continued. The City and Union shall share equally in the costs of any premium increase approved by the Mayor, and the Contribution Cap shall be adjusted accordingly.

FINANCIAL IMPLICATIONS:

Wages would be increased by 2.5 % with a cost of approximately $470,546 (including associated salary-related benefits). Step increases for 2023 are anticipated at a cost of approximately $82,667. Health insurance will be determined in accordance with the Amendment. As above noted, the amounts will be determined prior to the end of this calendar year subject to the following requirements:

Plan design shall be determined by a majority vote of the Benefits Committee; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits. The City's percentage share of premiums including the current maximum dollar amount the City must contribute toward any premium ("Contribution Cap") shall be continued. The City and Union shall share equally in the costs of any premium increase approved by the Mayor, and the Contribution Cap shall be adjusted accordingly.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not Applicable to this Ordinance.

ALTERNATIVES:

If the City Council shall fail to extend the term of the Agreement, the parties would commence negotiations for a successor agreement and all provisions would be subject to negotiations.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

Attachments:
Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

WHEREAS, the corporate authorities of the City of Pueblo and the sole and exclusive bargaining agent of the International Brotherhood of Police Officers Local 537 negotiated a collective bargaining agreement and subsequent amendment thereto commencing January 1, 2021 (the "Agreement"); and

WHEREAS, the Agreement was reduced to writing, signed by the parties, and enacted by Ordinance pursuant to the requirements of Section 8-14(l) of the Charter of the City of Pueblo, Colorado; and

WHEREAS, the Agreement includes a provision that allows the City to extend the Agreement for calendar year 2023; and

WHEREAS, section 3-17 of the City Charter requires that every Council act fixing compensation shall be by Ordinance; and

WHEREAS, Article 10, Section 20 of the Constitution of Colorado (the TABOR Amendment) could be interpreted to require that compensation for each year of Agreement be authorized by separate Ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The term of the current collective bargaining agreement by and between the City of Pueblo and the International Brotherhood of Police Officers Local 537, including all amendments thereto, is hereby extended for an additional one-year term from January 1, 2023 through December 31, 2023 on the same terms and conditions contained therein, except that wages during the extended term shall be as provided or otherwise determined pursuant to Article 16 of the Agreement and health insurance shall be as provided or otherwise determined pursuant to the parties Amendment to the Agreement with respect to a self-funded health benefit plan.

SECTION 2.

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

SECTION 3.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: **May 9, 2022**

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar
Robert P. Jagger, Sr. Assistant City Attorney
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

SUMMARY:

Attached is a proposed Ordinance which would extend the current negotiated collective bargaining agreement between the City of Pueblo and the International Association of Fire Fighters Local No. 3 ("Union") for calendar year 2023.

PREVIOUS COUNCIL ACTION:

Pursuant to Ordinance No. 9547 approved September 9, 2019, the City entered into a collective bargaining agreement ("Agreement") with the Union for calendar year 2020. The Agreement granted the City the option to extend the Agreement for two successive one-year terms with an increase in salaries equivalent in cost to an overall increase 2.75% for year 2021 and a 2.5% increase for year 2022.

Pursuant to Ordinance No. 9728 approved June 26, 2020, the parties amended and extended the Agreement and provided for no increase in the salary schedule during calendar year 2021. The amendment retained the City's right to extend or not to extend the Agreement for calendar years 2022 and 2023 at the rates previously agreed.

Pursuant to Ordinance No. 9941 approved May 24, 2021, extended the Agreement for calendar year 2022 at the 2.75% increase.

BACKGROUND:

The City has the right to extend the current Agreement provided such election is made on or before June 1, 2022 otherwise the parties shall commence negotiations for a successor contract upon request of Union. The terms and conditions of the extended term shall be on the same terms and conditions currently agreed except for the following:

1.) Salary shall be as provided or otherwise determined pursuant to Article 10 of the Agreement which provision provides for a salary increase for all steps of each Fire rank. An increase of 2.5% for all steps will be provided.. The wage provision is further structured to eliminate steps in the promotional classes in2023 and set wages for the promotional classes based upon a percentage of top step fire fighter wages. For example, Engineer's wages would be 107% of the top step fire fighter wages, EMO would be 110% of the top step fire fighter wages, Inspectors would be 112% of the top step fire fighter wages, Captains would be 130% of the top step fire fighter wages and Assistant Chief would be 150% of the top step fire fighter wages.; and

2.) Health insurance shall be as provided or otherwise determined pursuant to the parties Amendment to the Agreement with respect to a self-funded health benefit plan. The amounts will be determined prior to the end of this calendar year subject to the following requirements:

> Plan design shall be determined by a majority vote of the Benefits Committee; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits. The City's percentage share of premiums including the current maximum dollar amount the City must contribute toward any premium ("Contribution Cap") shall be continued. The City and Union shall share equally in the costs of any premium increase approved by the Mayor, and the Contribution Cap shall be adjusted accordingly.

3.) Under the current Agreement, the parties are required to meet as a joint labor management committee to study possible transition to a two days on four days off or 48–96 hour schedule ("48/96 Schedule") from the City's current one day on two day off or 24-48 hour schedule ("24/48 Schedule"). In the event that City Council extends the Labor Agreement through December 31, 2023, the committee will commence meeting on or before June 2, 2022 and work in good faith to negotiate terms and conditions with respect to transitioning to a 48/96 Schedule for a 1-year trial period to occur in calendar year 2023 ("Trial Period MOU"); provided, however, any Trial Period MOU, including transitioning to or, if applicable, reverting from a 48/96 Schedule shall not result in any increase in costs to the City from those costs the City would have incurred if the City had remained on a 24/48 Schedule. If the City and Union are unable to reach an agreement with respect to the Trial Period MOU on or before September 1, 2022, any unresolved issues shall be submitted to binding interest arbitration in accordance with, unless otherwise herein provided, Sections 8-14(r) through 8-14(v), City Charter. It is stipulated and agreed that the factors considered by the arbitrator under Section 8-14(t), City Charter, shall include the effect of any proposal with respect to sick leave use, other leave use, accrual, fatigue, accidents or injuries. The Mayor is authorized to approve and execute any Trial Period MOU in the name of the City, whether agreed to by the parties or determined pursuant to binding interest arbitration. In December 2023, the parties may by mutual agreement adopt the 48/96 Schedule on other than a trial basis and implement the necessary amendments to the Labor Agreement consistent with the Trial Period MOU. If there is no such mutual agreement to amend the Labor Agreement approved and executed by City and Union on or before December 31, 2023, the 48/96 Schedule will revert to the existing 24/48 Schedule.

FINANCIAL IMPLICATIONS:

Wages would be increased in an amount equivalent in cost to an increase of 2.5 % with a cost of approximately $341,188 (including associated salary-related benefits). Final step increase costs for the year are estimated to be $66,787. Health insurance will be determined in

accordance with the Amendment. As above noted, the amounts will be determined prior to the end of this calendar year subject to the following requirements:

> Plan design shall be determined by a majority vote of the Benefits Committee; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits. The City's percentage share of premiums including the current maximum dollar amount the City must contribute toward any premium ("Contribution Cap") shall be continued. The City and Union shall share equally in the costs of any premium increase approved by the Mayor, and the Contribution Cap shall be adjusted accordingly.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not Applicable to this Ordinance.

ALTERNATIVES:

If the City Council shall fail to extend the term of the Agreement, the parties would commence negotiations for a successor agreement and all provisions would be subject to negotiations.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

Attachments:
Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE EXTENDING THE TERM OF THE CURRENT COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 3 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2023 THROUGH DECEMBER 31, 2023

WHEREAS, the corporate authorities of the City of Pueblo and the sole and exclusive bargaining agent of the International Association of Fire Fighters Local No. 3 negotiated a collective bargaining agreement and subsequent amendment thereto commencing January 1, 2021 (the "Agreement"); and

WHEREAS, the Agreement was reduced to writing, signed by the parties, and enacted by Ordinance pursuant to the requirements of Section 8-14(l) of the Charter of the City of Pueblo, Colorado; and

WHEREAS, the Agreement includes a provision that allows the City to extend the Agreement for calendar year 2023; and

WHEREAS, section 3-17 of the City Charter requires that every Council act fixing compensation shall be by Ordinance; and

WHEREAS, Article 10, Section 20 of the Constitution of Colorado (the TABOR Amendment) could be interpreted to require that compensation for each year of Agreement be authorized by separate Ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The term of the current collective bargaining agreement by and between the City of Pueblo and the International Association of Fire Fighters Local No. 3, including all amendments thereto, is hereby extended for an additional one-year term from January 1, 2023 through December 31, 2023 on the same terms and conditions contained therein, except that wages during the extended term shall be as provided or otherwise determined pursuant to Article 10 of the Agreement and health insurance shall be as provided or otherwise determined pursuant to the parties Amendment to the Agreement with respect to a self-funded health benefit plan.

SECTION 2.

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

SECTION 3.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar

SUBJECT: AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST

SUMMARY:

Attached is a proposed Ordinance which makes an amendment to the legislative procedures and rules of the Pueblo City Council regarding conflicts of interest.

PREVIOUS COUNCIL ACTION:

The legislative rules of the City Council have been amended periodically in the past to address particular policies and procedures.

BACKGROUND:

A protocol should be instituted to establish a policy and procedure when a member of City Council has a personal or private interest in any matter proposed or pending before the City Council.

FINANCIAL IMPLICATIONS:

The proposed legislative change shall have no budgetary impact.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to implement a specific policy and procedure when a member has a conflict of interest.

RECOMMENDATION:

Approve the Ordinance.

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST

WHEREAS, Section 1-9-7 of the Pueblo Municipal Code provides as follows:

> (c) A member of City Council who or whose family has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the City Council in voting on the matter.

and;

WHEREAS, Section 24-18-109 of the Colorado Revised Statutes provides as follows:

> (3)(a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

and;

WHEREAS, in Advisory Opinion 16-05, the Colorado Independent Ethics Commission, stated as follows:

> Colo. Const. Article XXIX, sec. 1(c) requires covered individuals "to avoid conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated." Appearances of impropriety are generally referred to as "perception issues" or "violating the smell test." They can weaken public confidence in government and create a perception of dishonesty, even among government officials who are in technical compliance with the law.
>
> In order to avoid the appearance of impropriety, local government officials should avoid voting on <u>or debating questions</u> in a manner that may lead the public to perceive that the local government official is either placing his or her own private business interests in a position of competitive advantage or keeping his or her own private business

> interests from being adversely affected by the decisions of the governing body.

(emphasis supplied) and;

WHEREAS, Section 3-16 of the Charter of the City of the City of Pueblo provides as follows:

> In all legislative matters coming before it, the Council shall act only by ordinance, resolution or motion. The ayes and nays shall be taken upon the passage of all ordinances, resolutions and motions, and entered upon the journal of the Council proceedings. Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage. Failure to vote by a council member when present shall result in a vacancy, the office to be forfeited immediately.

(emphasis supplied); NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

The Legislative Procedures and Rules of the Pueblo City Council shall be and hereby are amended by the addition of a new Rule 8 Section (d) as follows:

8. Voting.

. . .

(d) A member of City Council who or whose immediate family, defined as the following relatives, connected by blood or by marriage ("in-laws") spouse, sibling, parent, grandparent, child, grandchild, niece or nephew has a personal or private interest in any matter proposed or pending before the City Council shall:

(i) *Notification of City Clerk.* Such Councilor shall notify the City Clerk, as soon as feasible, that such member has a conflict of interest with respect to an item on a proposed work session agenda or proposed regular meeting agenda and shall request that the City Clerk place such item at the end of such agendas to permit such Councilor's recusal at the appropriate time.

(ii) *Voluntary Disclosure.* Such member Is encouraged to voluntarily disclose, not less than 72 hours before the Council vote, the nature of the member's private interest, on a form to be electronically filed with the Office of the Colorado Secretary of State, pursuant to C.R.S. 24-18-110.

(iii) ***Mandatory Disclosure.*** **Such Councilor shall disclose the conflict of interest and at the beginning of Council's regular meeting or work session and request permission to be excused at the appropriate time.**

(iv) ***During discussion and debate*****: Such member shall be excused from the Council dais so as not to influence the decisions of the other members of Council in voting on the matter. Such Councilor shall be allowed to remain in the Council Chamber but shall not be allowed to address Council.**

(v) ***Voting:***

1. Resolutions. Such member shall not cast a vote and shall be excused from the Council Chamber for purposes of compliance with Charter Sec.3-16.

2. Ordinances on First Reading. This vote is procedural only and does not result in the adoption of an ordinance and therefore such Councilor may vote on the motion to adopt the ordinances on the Consent Agenda on First Reading; to set the public hearing date and to order that all proposed ordinances be published by title.

3. Ordinances on Second Reading. Such member shall not cast a vote and shall be excused from the Council Chamber for purposes of compliance with Charter Sec.3-16.

SECTION 2.

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

SECTION 3.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 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: A RESOLUTION AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $300,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT TO PROVIDE GOVERNMENT SERVICES THROUGH TRASH REMOVAL AND CLEAN-UP PROJECTS AS AUTHORIZED BY SECTION 603(c)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 (d)

SUMMARY:

This Resolution authorizes payment not to exceed $300,000 from Project CI2113 American Rescue Plan Act to provide government services through trash removal and clean-up projects. This expenditure is authorized by section 603 (c)(1)(C) of the American Rescue Plan Act ("ARPA") and U.S. Treasury Final Rule 31 CFR 35.6 (d).

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 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

ARPA authorized a revenue replacement calculation that would allow state and local governments to use a portion of ARPA allocation for government services. The City of Pueblo has calculated lost revenue of $9,409,304. This Resolution authorizes the expenditure of up to $300,000 in ARPA "replacement revenue" funds for trash removal and clean-up projects throughout the City.

FINANCIAL IMPLICATIONS:

Funding for these projects, up to $300,000, will be paid out of Project CI2113 – American Rescue Plan.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

City Council could decide not to authorize payment for government services through the trash removal and clean-up projects.

RECOMMENDATION:

Approval of this Resolution.

Attachment:
Proposed Resolution

RESOLUTION NO. 14884

A RESOLUTION AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $300,000 FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT TO PROVIDE GOVERNMENT SERVICES THROUGH TRASH REMOVAL AND CLEAN-UP PROJECTS AS AUTHORIZED BY SECTION 603(c)(1)(C) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 (d)

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 Plant 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)(C) and the Final Rule 31 CFR 35.6 (d), recipients may use Coronavirus Local Fiscal Recovery ("CLFR") Funds for government services pursuant to the revenue replacement calculation; NOW, THEREFORE,

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

SECTION 1.

Payment in an amount not to exceed $300,000 is hereby authorized from Project CI2113 - American Rescue Plan, to provide government services through trash removal and clean-up projects.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution which are necessary or desirable to implement the transactions described therein.

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

City Clerk's Office Item # Q-2

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: City Council Member Dennis Flores

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO LATINO CHAMBER DEVELOPMENT CORP. IN THE AMOUNT OF TWO THOUSAND DOLLARS ($2,000) TO SUPPORT THE LATINO VETERANS PROFILES IN COURAGE AWARDS

SUMMARY:

Attached for consideration is a request for sponsorship of the 2022 Latino Veterans Profiles in Courage Awards.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

During National Hispanic Heritage Month, September 15-October 15, the Pueblo Latino Veterans Profiles in Courage Committee recognizes Pueblo Latino Veterans for their courage to country, community, and other veterans. This year the LVPC Awards Ceremony is October 1, 2022.

FINANCIAL IMPLICATIONS:

Funds in the amount of $2,000 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to the nonprofit, Latino Chamber Development Corp.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Dennis Flores.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet
Sponsorship Request

RESOLUTION NO. 14885

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO LATINO CHAMBER DEVELOPMENT CORP. IN THE AMOUNT OF TWO THOUSAND DOLLARS ($2,000) TO SUPPORT THE LATINO VETERANS PROFILES IN COURAGE AWARDS

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

SECTION 1.

Payment in the amount of $2,000 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to Latino Chamber Development Corp to sponsor the 2022 Latino Veterans Profiles in Courage Awards.

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 upon passage and approval.

INTRODUCED May 9, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event		$ 500.00		$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance		$ 750.00		$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table		$ 1,350.00		$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table		$ 950.00		$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez		$ 1,600.00		$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event		$ 500.00		$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall		$ 5,189.70		$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table		$ 1,200.00		$ 87,960.30
3/28/22	AMR Safety Jam		$ 1,000.00		$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip		$ 500.00		$ 86,460.30
4/11/22	Goodnight Barn Chuck Wagon Rendevous		$ 500.00		$ 85,960.30
4/11/22	CSU Pueblo President's Gala		$ 1,500.00		$ 84,460.30
4/11/22	Trees Please Dutch Clark Renovation Project		$ 5,000.00		$ 79,460.30
5/9/22	Latino Veterans Profiles in Courage Ceremony		$ 2,000.00		$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30
					$ 77,460.30

PUEBLO
LATINO VETERANS
Profiles in Courage

215 S. Victoria Ave.
Pueblo, CO 81003
lvpicawards@gmail.com
719-542-5513

2022 SPONSORSHIP LEVELS
LVPIC Awards Ceremony October 1, 2022-5:00 p.m.
Pueblo Convention Center

☐ **GOLD** **$2,750 Sponsorship**

- ➢ **Corporate table of Eight (8)** Banner or Signage at the Event
- ➢ Full page advertisement in the event program;
- ➢ Recognition at the event - Listing in the event program - Ad needed by 9/25/22

☐ **SILVER** **$2600 Sponsorship**

- ➢ **Corporate table of Six (6)**
- ➢ Banner or Signage at the event
- ➢ Half Page advertisement in the event program-Listing in the event program- Ad by 9/25/22

☐ **BRONZE** **$700 Sponsorship**

- ➢ **Corporate table of Four (4)**
- ➢ Mention at the event - Listing in the event program

☐ **AWARD SPONSOR: $2150* Sponsorship or $350** per award**

- ➢ ***Sponsor Name on all Awards**
- ➢ ****Sponsor Name on one Award**
- ➢ Listing in the event program

☐ **TABLE SPONSOR - $500**

- ➢ **Table for ROTC Members(4) and/or Musicians(4)**

☐ **MARKETING/PRINTING SPONSOR - $1500**

- **> Save the Date Cards and Envelopes**
- **> Donor Envelopes for Event**

☐ **MEMORIAL for Latino Veterans Profiles in Courage Awardees**

COMPANY NAME: City of Pueblo
ADDRESS: 1 City Hall Pl.
EMAIL ADDRESS: _____ **Telephone:** _____
SPONSOR LEVEL: Table of 10 @ $2,000 per Gloria

Signed: _____ **Title:** _____ **Date:** _____

***Latino Chamber Development Corp - EIN #84-1376287**

Background Paper for Proposed
RESOLUTION

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: City Council Member Sarah Martinez

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PARKVIEW MEDICAL CENTER IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT PARKVIEW'S LADIES AND LEMONS EVENT

SUMMARY:

Attached for consideration is a request for sponsorship of the 2022 Ladies and Lemons event on June 16, 2022.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This community event will have a focus on breast health, overall wellness and encourage women to schedule their mammograms, which can detect cancer at an early stage. This event is not only for women, both men and women will benefit from attending, and will have a new-found energy to take charge of their health. The luncheon will feature Dr. Kristi Funk a bestselling author of "Breast's The Owner's Manual." The book contains information on reducing cancer risks, making treatment choices, and optimizing outcomes.

FINANCIAL IMPLICATIONS:

Funds in the amount of $500 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to Parkview Medical Center.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet
Sponsorship Request

RESOLUTION NO. 14886

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PARKVIEW MEDICAL CENTER IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT PARKVIEW'S LADIES AND LEMONS EVENT

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

SECTION 1.

Payment in the amount of $500 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to Parkview Medical Center to sponsor the 2022 Ladies and Lemons event.

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 upon passage and approval.

INTRODUCED May 9, 2022

BY: Dennis E. Flores
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event		$ 500.00		$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance		$ 750.00		$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table		$ 1,350.00		$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table		$ 950.00		$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez		$ 1,600.00		$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event		$ 500.00		$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall		$ 5,189.70		$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table		$ 1,200.00		$ 87,960.30
3/28/22	AMR Safety Jam		$ 1,000.00		$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip		$ 500.00		$ 86,460.30
4/11/22	Goodnight Barn Chuck Wagon Rendevous		$ 500.00		$ 85,960.30
4/11/22	CSU Pueblo President's Gala		$ 1,500.00		$ 84,460.30
4/11/22	Trees Please Dutch Clark Renovation Project		$ 5,000.00		$ 79,460.30
5/9/22	Latino Veterans Profiles in Courage Ceremony		$ 2,000.00		$ 77,460.30
5/9/22	Parkview Ladies and Lemons Event		$ 500.00		$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30
					$ 76,960.30

PARKVIEW DISCOVER



SIGNATURE EVENT

LADIES & LEMONS

6.16.22



Dr. Kristi Funk
BREAST CANCER SURGEON &
WOMEN'S HEALTH WARRIOR

Dr. Kristi Funk is a board-certified breast surgeon and cofounder of the Pink Lotus Breast Center in Los Angeles. She is also a bestselling author, international keynote speaker and women's health advocate. She has helped thousands of women – including celebrities such as Angelina Jolie and Sheryl Crow – navigate breast cancer issues. Dr. Funk appears frequently on television shows as a breast expert.

Sponsorship Levels:

SOLD CHAPTER 1: TITLE SPONSOR $3,000
* Ladies and Lemons presented by
* Name/Logo on social media posts & print materials
* Corporate table (10 seats) with signage
* 10 books
* Promotion at event

____CHAPTER 2: AUTHOR SPONSOR $2,500
* 8 event tickets with reserved seating
* 8 books
* Name/Logo showcased at book table
* Logo displayed on digital promotion & print materials at event

____ CHAPTER 3: LUNCH SPONSOR $2,000
* 6 event tickets
* 6 books
* Logo displayed on digital promotion & print materials at event

____CHAPTER 4: BOOKMARK SPONSOR $1,500
* 4 event tickets
* 4 books
* Logo displayed on digital promotions and at event
* Logo displayed on bookmark given to attendees
* 4 sponsorships available

____CHAPTER 5: DESSERT SPONSOR $1,500
* 4 event tickets
* 4 books
* Logo displayed on digital promotions and at event
* Logo displayed on each individual dessert

____ CHAPTER 6: LEMONADE SPONSOR $1,000
* 2 event tickets
* 2 books
* Logo displayed on digital promotions and at event

_____ CORPORATE TABLE SPONSORSHIP (8 seats) for $500

To register, please go to www.parkviewmc.com/lemons

Company name _____

Address _____

City _____ State _____ Zip _____ Phone # _____

Name _____ Email _____

Email this form along with your logo (PNG format) to jeannette_micheli@parkviewmc.com or mail to Parkview Discover by June 1, 2022.

Make check payable to: Parkview Discover
Attn: Jeannette Micheli
400 W. 16th St, Pueblo, CO 81003

Please call 719.584.4760 if you have questions.

City Clerk's Office Item # Q-4

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: City Council Member Sarah Martinez

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PUEBLO DOWNTOWN ASSOCIATION IN THE AMOUNT OF SEVEN HUNDRED DOLLARS ($700) TO SUPPORT THE LEVEE WALK

SUMMARY:

Attached for consideration is a request for sponsorship of the Pueblo Downtown Association's 2022 Levee Walk event on June 4, 2022.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Downtown Association for an exciting outdoor community event, the Pueblo Levee Walk on the rebuilt Arkansas River Levee and the Pueblo's first suspension pedestrian bridge. The event takes place on Saturday, June 4th. Families and pets are invited to join in the fun. There will be Zumba, a car show, food trucks, muralists, actors to speak on the history of the steel mill and railroad to honor the 150 anniversary of the Mill. Admission is a suggested donation of $10.

FINANCIAL IMPLICATIONS:

Funds in the amount of $700 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to Pueblo Downtown Association.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Sarah Martinez.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet
Sponsorship Request

RESOLUTION NO. 14887

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO PUEBLO DOWNTOWN ASSOCIATION IN THE AMOUNT OF SEVEN HUNDRED DOLLARS ($700) TO SUPPORT THE LEVEE WALK

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

SECTION 1.

Payment in the amount of $700 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to Pueblo Downtown Association to sponsor the 2022 Levee Walk.

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 upon passage and approval.

INTRODUCED May 9, 2022

BY: Lori Winner
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event		$ 500.00		$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance		$ 750.00		$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table		$ 1,350.00		$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table		$ 950.00		$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez		$ 1,600.00		$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event		$ 500.00		$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall		$ 5,189.70		$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table		$ 1,200.00		$ 87,960.30
3/28/22	AMR Safety Jam		$ 1,000.00		$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip		$ 500.00		$ 86,460.30
4/11/22	Goodnight Barn Chuck Wagon Rendevous		$ 500.00		$ 85,960.30
4/11/22	CSU Pueblo President's Gala		$ 1,500.00		$ 84,460.30
4/11/22	Trees Please Dutch Clark Renovation Project		$ 5,000.00		$ 79,460.30
5/9/22	Latino Veterans Profiles in Courage Ceremony		$ 2,000.00		$ 77,460.30
5/9/22	Parkview Ladies and Lemons Event		$ 500.00		$ 76,960.30
5/9/22	Pueblo Downtown Association Levee Walk		$ 700.00		$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30
					$ 76,260.30

Pueblo Downtown Association Presents
Pueblo Levee Walk June 4, 2022 9am-1pm

Pueblo Downtown Association



SPONSORSHIP OPPORTUNITIES

PROCEEDS SUPPORT PDA STREETSCAPE PROGRAM
A PORTION WILL GO TO STEELWORKS CENTER OF THE WEST
PUEBLO COLORADO

$2,500 PLATINUM

TITLE PRESENTING SPONSOR INCLUDES 25 ENTRIES FOR STAFF INCLUDING PREMIUM GIFT BAGS FOR EACH PARTICIPANT, LOGO RECOGNITION ON T-SHIRT AND ADVERTISING, BANNER AND ON-SITE MILE MARKER SIGNAGE.

$1,200 GOLD

SUPPORTING SPONSOR INCLUDES ADVERTISING, 10 ENTRIES FOR STAFF INCLUDING PREMIUM GIFT BAGS FOR EACH PARTICIPANT, BANNER AND ON-SITE MILE MARKER SIGNAGE.

$700 SILVER

SUPPORTING SPONSOR INCLUDES 5 ENTRIES FOR STAFF INCLUDING PREMIUM GIFT BAGS FOR EACH PARTICIPANT, BANNER AND ON-SITE MILE MARKER SIGNAGE.

$250 BRASS

SUPPORTING SPONSORS INCLUDES ON-SITE MILE MARKER SIGNAGE.

☐ Yes! We would like to Sponsor the 2022 Levee Walk

Name: _____

Business Name: _____

Email: _____ Phone#: _____

☐ Credit Card ☐ Make checks payable to the Pueblo Downtown Association

Sponsorship Level : ☐ Platinum **$2500** ☐ Gold **$1200**
☐ Silver **$700** ☐ Brass **$250**

INC.
Pueblo Water
80 TWENTY WINES
Where 80% of the wines are under $20
RE/MAX
Steelworks Ce
of the
MUSEUM • ARCHIVES • EDU
PUEBLO COLOR

City Clerk's Office Item # Q-5

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: City Council Member Larry Atencio

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO 3R TECHNOLOGY SOLUTIONS IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT THE CLEANUP OF DOG PATCH

SUMMARY:

Attached for consideration is a request for sponsorship of the cleanup and recycling of TVs and CRTs in the Dog Patch area.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This funding supports the efforts of 3R Technology Solutions Inc. in their recycling of 20 television sets and glass tube computer monitors from the Dog Patch area at $25 each in this community effort to clean up the area.

FINANCIAL IMPLICATIONS:

Funds in the amount of $500 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to 3R Technology Solutions Inc.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Larry Atencio.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet

RESOLUTION NO. 14888

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO 3R TECHNOLOGY SOLUTIONS IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500) TO SUPPORT THE CLEANUP OF DOG PATCH

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

SECTION 1.

Payment in the amount of $500 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to 3R Technology Solutions for recycling costs.

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 upon passage and approval.

INTRODUCED May 9, 2022

BY: Lori Winner
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event		$ 500.00		$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance		$ 750.00		$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table		$ 1,350.00		$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table		$ 950.00		$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez		$ 1,600.00		$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event		$ 500.00		$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall		$ 5,189.70		$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table		$ 1,200.00		$ 87,960.30
3/28/22	AMR Safety Jam		$ 1,000.00		$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip		$ 500.00		$ 86,460.30
4/11/22	Goodnight Barn Chuck Wagon Rendevous		$ 500.00		$ 85,960.30
4/11/22	CSU Pueblo President's Gala		$ 1,500.00		$ 84,460.30
4/11/22	Trees Please Dutch Clark Renovation Project		$ 5,000.00		$ 79,460.30
5/9/22	Latino Veterans Profiles in Courage Ceremony		$ 2,000.00		$ 77,460.30
5/9/22	Parkview Ladies and Lemons Event		$ 500.00		$ 76,960.30
5/9/22	Pueblo Downtown Association Levee Walk		$ 700.00		$ 76,260.30
5/9/22	Dogpatch Cleanup/Recycling 3RTS Inc.		$ 500.00		$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30
					$ 75,760.30

City Clerk's Office Item # Q-6

Background Paper for Proposed
RESOLUTION

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: City Council Member Larry Atencio

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE GOODNIGHT BARN FOUNDATION IN THE AMOUNT OF FIFTEEN THOUSAND DOLLARS ($15,000) TO SUPPORT THE CHUCK WAGON RENDEZVOUS

SUMMARY:

Attached for consideration is a request for sponsorship of the Goodnight Barn Foundation's 2022 Chuck Wagon Rendezvous to be held on May 20 & 21, 2022. This is a match of the funds donated by Pueblo County.

PREVIOUS COUNCIL ACTION:

Council has supported this event in 2017 for $500 and 2020 for $1,000.

BACKGROUND:

Council Member Larry Atencio is requesting $15,000 to sponsor the Goodnight Barn Foundation's 2022 Chuck Wagon Rendezvous to be held on May 20 & 21, 2022. As the wagons set up on Friday, the Barn will treat the public to living history (trappers, Kit Carson, Pike, Buffalo Soldiers, etc.), seminars on chuck wagons and more. That evening will have western music around a campfire, food trucks and some western vendors. Saturday will be the wagons cooking and serving their fare at 3 pm. Any excess revenues from this day will go toward construction of bathrooms at the Goodnight Barn.

FINANCIAL IMPLICATIONS:

Funds in the amount of $15,000 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to the Goodnight Barn Foundation.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this event.

RECOMMENDATION:

This Resolution is at the request of Council Member Larry Atencio.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet
Sponsorship Request
Event Flyer
Event Budget

RESOLUTION NO. 14889

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE GOODNIGHT BARN FOUNDATION IN THE AMOUNT OF FIFTEEN THOUSAND DOLLARS ($15,00) TO SUPPORT THE CHUCK WAGON RENDEZVOUS

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

SECTION 1.

Payment in the amount of $15,000 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to the Goodnight Barn Foundation to sponsor the 2022 Chuck Wagon Rendezvous.

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 upon passage and approval.

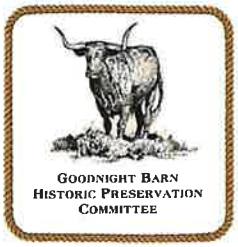
INTRODUCED May 9, 2022

BY: Lori Winner
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DATE	BALANCE IN 2022 CONTINGENCIES ACCOUNT		DEBIT	CREDIT	BALANCE
	Beginning Balance				$ 100,000.00
1/24/22	Pueblo United Way Mentoring Collaborative Community Event		$ 500.00		$ 99,500.00
1/24/22	PAACO Annual Stars and Lights Dinner & Dance		$ 750.00		$ 98,750.00
2/14/22	Boys and Girls Club Champions of Youth Dinner Table		$ 1,350.00		$ 97,400.00
2/14/22	Latino Chamber Annual Dinner Table		$ 950.00		$ 96,450.00
2/28/22	Memorial Bench for Renee F. Dominguez		$ 1,600.00		$ 94,850.00
2/28/22	Summer Solstice Arkansas River Event		$ 500.00		$ 94,350.00
3/14/22	Pueblo Has Talent - Use of Memorial Hall		$ 5,189.70		$ 89,160.30
3/14/22	Child Advocacy Center's Blue Tie Gala Table		$ 1,200.00		$ 87,960.30
3/28/22	AMR Safety Jam		$ 1,000.00		$ 86,960.30
3/28/22	Southern Colorado Press Club Sheep Dip		$ 500.00		$ 86,460.30
4/11/22	CSU Pueblo President's Gala		$ 1,500.00		$ 84,960.30
4/11/22	Trees Please Dutch Clark Renovation Project		$ 5,000.00		$ 79,960.30
5/9/22	Latino Veterans Profiles in Courage Ceremony		$ 2,000.00		$ 77,960.30
5/9/22	Parkview Ladies and Lemons Event		$ 500.00		$ 77,460.30
5/9/22	Pueblo Downtown Association Levee Walk		$ 700.00		$ 76,760.30
5/9/22	Dogpatch Cleanup/Recycling 3RTS Inc.		$ 500.00		$ 76,260.30
5/9/22	Goodnight Barn Chuckwagon Rendezvous		$ 15,000.00		$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30
					$ 61,260.30



GOODNIGHT BARN HISTORIC PRESERVATION COMMITTEE
104 W. Adams Avenue
Pueblo, CO 81004



February 25, 2022

Mayor Nicholas Gradisar
Pueblo City Courthouse
Pueblo, CO 81003

Via email: aparga@pueblo.us

Dear Mayor Gradisar:

I visited with Alyssa yesterday. It gave me a chance to tell her details about our upcoming Charles Goodnight Barn Chuck Wagon Rendezvous set for May 20th and 21st, 2022. I asked her about forwarding a letter to you, and she agreed.

There will be at least 15 wagons from the American Chuck Wagon Association (ACWA) out of Texas. They are excited to be here because Goodnight (and his mother) invented the chuck wagon. They were here in 2019 for their annual meeting and loved the Barn in its then sad shape. Now it has been restored and we are ready to roll!

This event is our inaugural chuck wagon event, but we are making plans to make it an annual event in the spring of each year. We expect 350-500 visitors the first year. Friday will be **western heritage day**. As the wagons set up, we will treat the public to living history (trappers, Kit Carson, Pike, Buffalo Soldiers, etc.), seminars on chuck wagons and more. That evening we hope to have western music around a campfire, food trucks and some western vendors. Saturday will be the wagons cooking and serving their fare at 1:00 pm.

I believe this will begin a tradition for a yearly western heritage event. The costs for this are high. Our budget is running around $30,000. We are truly excited that you might be able to help us financially. All our fundraising has gone into the restoration so far. This inaugural event will put Pueblo City/County in the limelight where it belongs. After all Goodnight and the Thatchers were the first men to bring ranching to our area. I also believe that southern and southeastern Colorado has more history than anything north of our fair city. This coming from a person whose family were here in 1859.

We have been working with the Chamber of Commerce and History Connections of Pueblo. The Chamber is on board (not financially, but backing us and assisting with licenses and volunteers). HCP will also be helping with volunteers and worker bees.

Whatever funds from ticket sales that are over and above costs (small for the first time I'm sure) will be going to restrooms and an interpretive center. We are not done yet!

We are hoping you will be able to help us with a sponsorship of $15,000.00 (to match what the County is giving us), I thank you in advance for honoring this request and should you be so inclined, please make your check out to Goodnight Barn and mail it to Laurel Campbell, 104 W. Adams Avenue, Pueblo, CO 81004.

Happy Trails!

Laurel Campbell
President

DINNER BELLS ARE RINGING FOR THE 1ST ANNUAL 2022

CHUCKWAGON RENDEZVOUS







AT THE 1870 CHARLES GOODNIGHT BARN

IT'S HAPPENING AGAIN WHERE IT ALL BEGAN IN 1866

SATURDAY MAY 21ST, 2022, GATES OPEN 12 NOON

5475 W State Hwy 96, Pueblo Co.

●●● FREE ADMISSION! ●●●

3PM DINNER $25 A PERSON

COME HUNGRY & GET READY TO GO BACK IN TIME!

Enjoy beef, potatoes, beans, biscuits, and campfire cobbler

Experience an authentic chuckwagon cook's meal, prepared over the campfire true to the 1860's!

Limited number of presale tickets for Dinner at 3pm

CAN'T STAY FOR DINNER?

FREE admission to the public to experience the history with Goodnight Barn tours, period actors, vendors, Western music and visit with up to 10 chuckwagon cooks and wagon masters in their camp.

Catch a peek at the Longhorn and Draft Horses

Dinner Tickets available at:
www.goodnightbarnpueblo.org

Or at the Pueblo Heritage Museum
201 West B Street Pueblo, Colorado 81003
Tuesday- Saturday 10-4pm

GOODNIGHT BARN HISTORIC PRESERVATION COMMITTEE

Questions:
Contact Katie Bonham
719-281-3806

DRAFT BUDGET TO CHUCK WAGON RENDEZVOUS				
EXPENSES				
	TENT RENTAL	$ 1,875.00		one price for three days
	TABLE & CHAIR RENTAL	$ 300.00		
	UTENSILS/PLATES ETC	$ 75.00		Dinner service
	SECURITY OVERNIGHT (FRI, SAT)	$ 2,500.00		Security company, Lake Rangers, Sheriff
	POTTIES, DUMPSTER, TRASH, ETC	$ 1,200.00		Covers dumpster, potties, grease and sand containers
	INSURANCE REGULAR	$ 1,100.00		
	INSURANCE SPECIAL EVENT	$ 200.00		
	PRINTING/SIGNS	$ 1,000.00		
	WAGON FEES	$ 6,000.00		8 wagons x $750.00 to cover gas and motels
	MARKETING/MAPS	$ 1,500.00		Advertising Star Journal, Insertions in paper
	MEAT	$ 2,500.00		
	DRY GOODS	$ 300.00		
	GIFT BASKETS	$ 500.00		Pueblo oriented gifts forwagons
	HEALTH DEPT FEES	$ 900.00		$200 FOR US AND $100 EACH WAGON
	REFER TRUCK RENTAL	$ 100.00		
	MISC (POSTAGE, INK, ETC)	$300.00		
	PARAMEDICS/WATER TRUCK	$600.00		
	FREE DINNERS FOR VOLUNTEERS	$2,500.00		At least 100 (venders, entertainers, etc.
		$ 23,450.00		
INCOME:				
	COUNTY SPONSORSHIP	$ 15,000.00		
	UNKNOWN TICKET SALES	$ 12,500.00		Possibly 500 dinners x $25
	DRAFT INCOME	$ 27,500.00		

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: May 9, 2022

TO: Members of City Council

VIA: Marisa Stoller, City Clerk

CC: Mayor Nicholas A. Gradisar

FROM: Heather Graham, President of City Council

SUBJECT: A RESOLUTION AUTHORIZING THE PRESIDENT OF CITY COUNCIL TO NEGOTIATE A PROPOSED AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND A REPUTABLE ACCOUNTING FIRM, TO PERFORM A FORENSIC AUDIT, SUBJECT TO SUBSEQUENT APPROVAL OF SAID AGREEMENT BY ORDINANCE

SUMMARY:

The attached Resolution authorizes the President of City Council to negotiate and present City Council with a proposed agreement for professional services between the City and a reputable accounting firm to perform a forensic audit.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Section 3-5 (g) of the City Charter and Section 1-4-6 (b) of the Pueblo Municipal Code authorize City Council to hire such personnel and retain such independent contractors as Council deems necessary to carry out Council's duties.

At City Council's regular meeting on April 25, 2022, Council President Heather Graham requested that the attached Resolution be prepared for consideration at Council's next regular meeting.

FINANCIAL IMPLICATIONS:

Unknown at this time.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

ALTERNATIVES:

If City Council does not approve this Resolution, City Council will not begin the process of retaining an accounting firm to perform a forensic audit.

RECOMMENDATION:

None.

Attachments:
Proposed Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PRESIDENT OF CITY COUNCIL TO NEGOTIATE A PROPOSED AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND A REPUTABLE ACCOUNTING FIRM, TO PERFORM A FORENSIC AUDIT, SUBJECT TO SUBSEQUENT APPROVAL OF SAID AGREEMENT BY ORDINANCE

BE IT RESOLVED THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The President of City Council shall be and hereby is authorized to negotiate and present City Council with a proposed agreement for professional services between the City and a reputable accounting firm, to perform a forensic audit. As required by City Charter Sec. 3-9, such proposed agreement must be subsequently approved by ordinance.

SECTION 2.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY:_____
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 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. 10168

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

_____

President of City Council

Action by the Mayor:

☒ Approved on May 11, 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 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.

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:

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. 10169

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.



President of City Council

Action by the Mayor:

☒ Approved on May 11, 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 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

As Amended
May 9, 2022

ORDINANCE NO. 10170

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	708,602
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	1,414,000
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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

President of City Council

Action by the Mayor:

☒ Approved on May 11, 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

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. 10171

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

President of City Council

Action by the Mayor:

☒ Approved on May 11, 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 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.

City Clerk's Office Item # R-5

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. 10172

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on May 11, 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

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. 10173

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on May 11, 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.

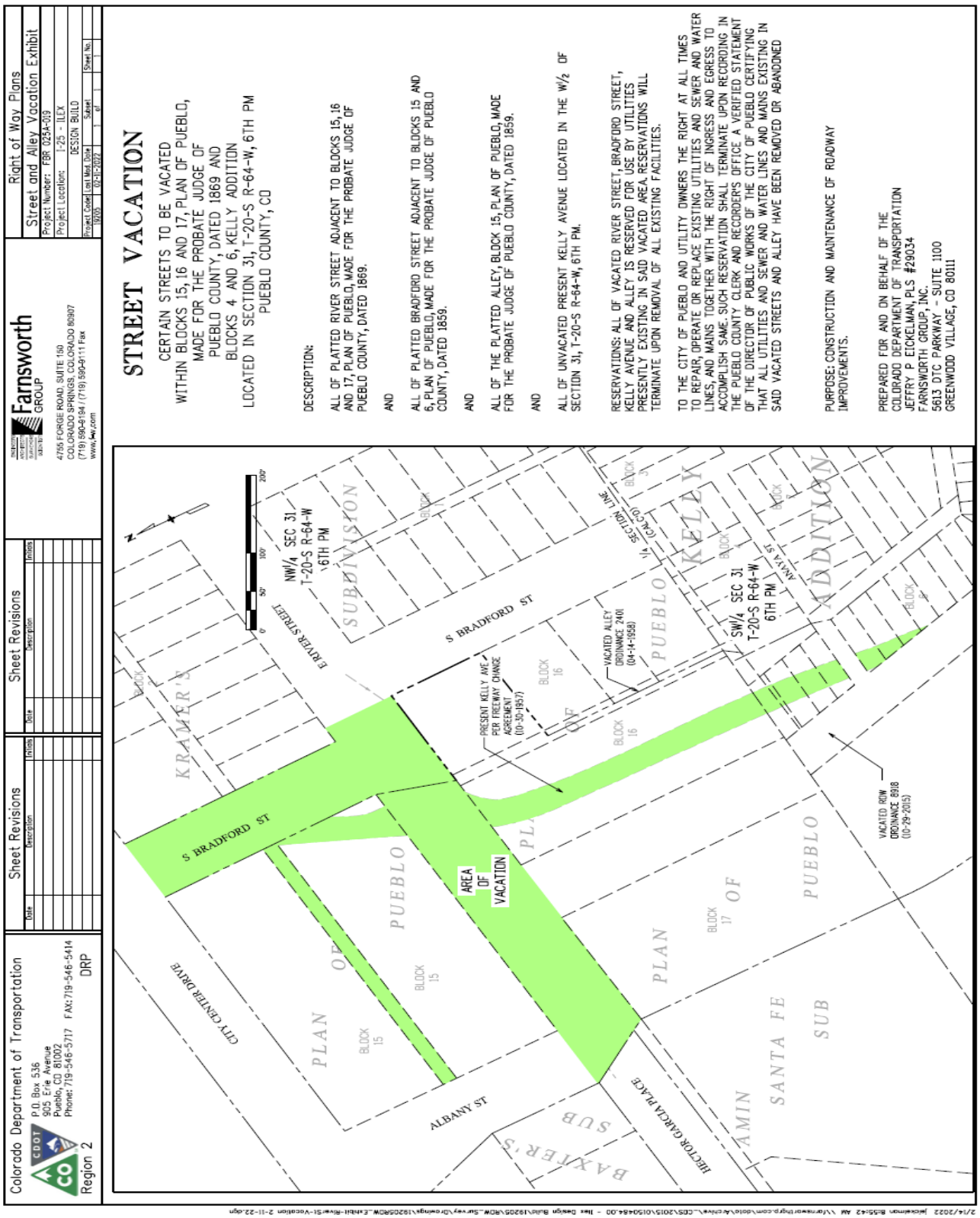
_____
President of City Council

ATTEST

_____

City Clerk

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.

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.

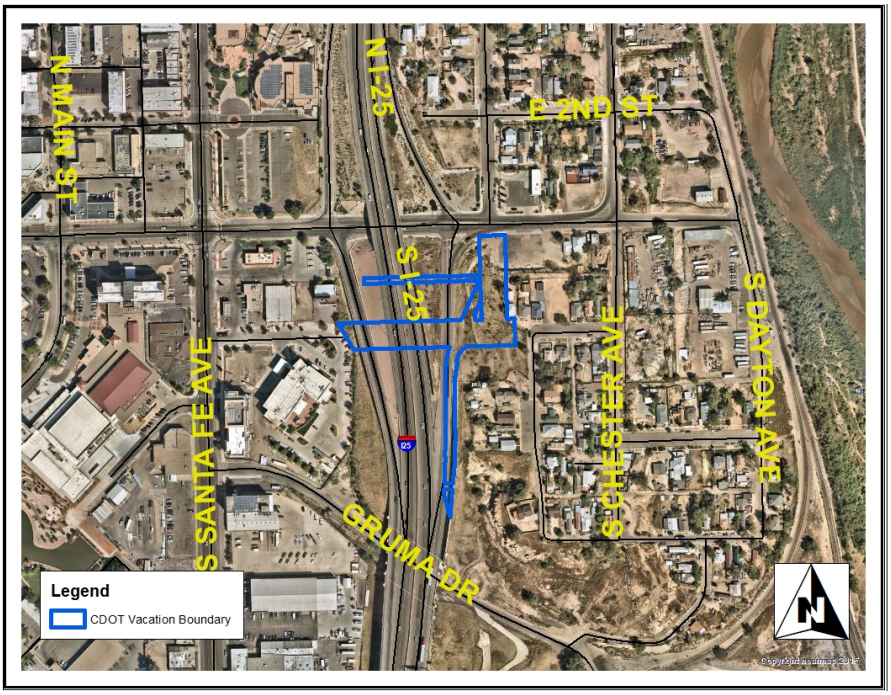
Applicable Regulations:
Sec. 12-5-1 through 6 of the Pueblo Municipal Code (PMC) concerning vacations of streets, alleys, etc.

Recommended Action:
Staff recommends that the Vacation be APPROVED.

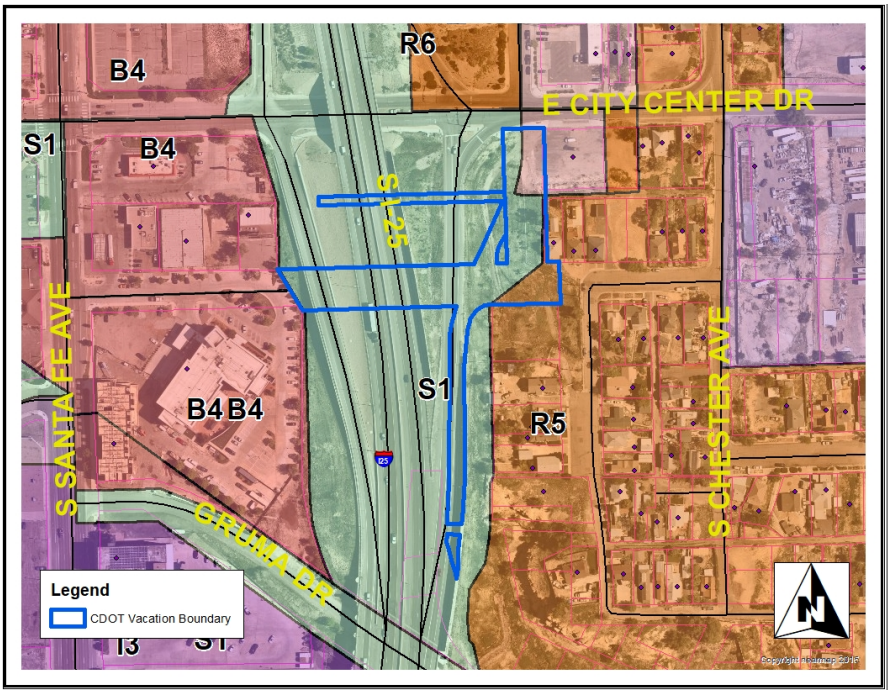
ATTACHMENTS:

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





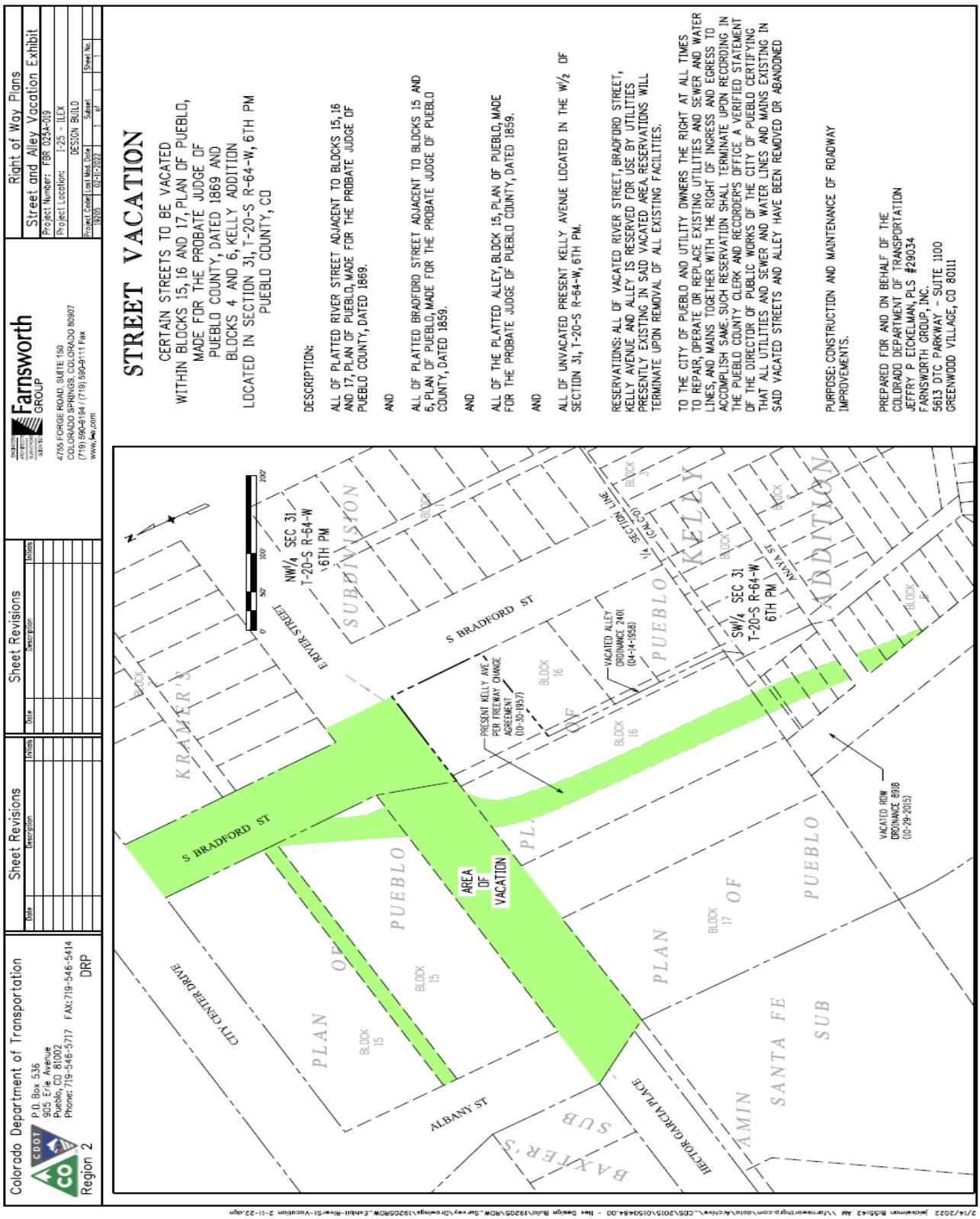






Public Notice Poster

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

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

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

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

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

City Clerk's Office Item # R-7

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. 10174

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 April 25, 20222 .

Final adoption of Ordinance by City Council on May 9, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on May 11, 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

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. 10175

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 April 25, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on May 11, 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

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

BACKGROUND PAPER FOR PROPOSED EMERGENCY ORDINANCE

COUNCIL MEETING DATE: **May 9, 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 EMERGENCY ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, COLORADO STATE FAIR AUTHORITY AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Emergency Ordinance approves a license agreement for use of facilities at the Colorado State Fairgrounds in support of a community clean up event ("Team Up to Clean Up") scheduled to be held on May 21, 2022.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The Pueblo Department of Public Health and Environment (PDPHE) and the City of Pueblo are jointly planning a City-wide clean up event to be held on May 21, 2022, for the benefit of City residents. This event will be held at two locations in the City – one at the CSU-Pueblo campus on the north side and one at the Colorado State Fairgrounds on the south side.

The Colorado State Fair has requested the City to enter into a license agreement for use of the facility to host the event. All fees associated with the use of the facility have been waived under the terms of the license agreement.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Unless this emergency ordinance is approved, the cleanup event cannot take place at the State Fairgrounds.

RECOMMENDATION:

Approval of the Emergency Ordinance.

Attachments:
Proposed Emergency Ordinance
License Agreement

ORDINANCE NO. 10176

AN EMERGENCY ORDINANCE APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, COLORADO STATE FAIR AUTHORITY AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The License Agreement for Use of Facility between the City of Pueblo, A Colorado Municipal Corporation, and the State of Colorado, Colorado State Fair Authority, a copy of which is attached hereto ("Agreement"), having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The City Council finds this Ordinance qualifies for treatment as an emergency ordinance pursuant to City Charter because of the urgent need to timely facilitate a City-wide clean up event to mitigate impacts associated with illegal dumping, to protect local environmental resources, and to maintain the health and safety of City residents.

SECTION 3.

The Mayor is authorized to execute and deliver the Agreement in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance and Agreement to implement the policies and procedures 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 May 9, 2022 .

Final adoption of Ordinance by City Council on May 9, 2022 .

_____

President of City Council

Action by the Mayor:

☒ Approved on May 11, 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

NO: _____

COLORADO STATE FAIR
LICENSEE AGREEMENT FOR USE OF FACILITY

This agreement made and entered into this _____ day of _____, 2022 and between the Colorado State Fair Authority, hereinafter known as the FAIR, and

ORGANIZATION / EVENT NAME: CITY OF PUEBLO / PUEBLO TEAM UP TO CLEAN UP
CONTACT: ANDREW HAYES, DIRECTOR OF PUBLIC WORKS
ADDRESS: 211 E. D STREET
CITY: PUEBLO STATE: CO ZIP: 81003
PHONE: 719-553-2267 (office) / 719-252-4874 (cell) EMAIL: ahayes@pueblo.us

hereinafter known as the LICENSEE,
WHEREAS, the FAIR agrees to rent the LICENSEE, where is, as is, CARNIVAL LOT (known hereinafter as the PREMISES) located on the Colorado State Fairgrounds for the purpose of **COMMUNITY CLEAN UP EVENT** (The "Event").

The Fair grants User the use and occupancy of the Premises for the following RENTAL PERIOD:

Date(s) of Event: SATURDAY, MAY 21, 2022
Time of Event: 8:00 AM TO 3:00 PM
Authorized MOVE IN period: 8:00 AM to 7:00 PM on FRIDAY, MAY 20, 2022
Move-Out Period: BY 5:00 PM MONDAY, MAY 23, 2022.

Authorized Occupancy: Licensee shall have access to the Premises on dates and times listed above only. Authorized occupancy on event day(s) only shall be 07:00 AM to 7:00 PM. The Rental Period shall not be extended for any purpose without the written permission of the Fair's General Manager. User agrees to pay for any additional period of time in excess of the Rental Period.

Now, therefore, in consideration of rental price as follows:
RENTAL FEE: WAIVED - INCLUDES RENTAL PERIOD ABOVE.
DAMAGE DEPOSIT: WAIVED
ADDITIONAL MOVE-IN/MOVE-OUT FEES: WAIVED
SET-UP/CLEAN-UP FEE: WAIVED - CUSTOMER TO PERFORM SET UP & CLEAN UP.

ADJUSTABLE CHARGES: LICENSEE is responsible for setup of tables and chairs unless noted above. Additional tables and chairs may be rented from the FAIR should building capacity allow. Additional equipment fees are $6.00 per table and $1.00 per chair. Setup/clean up fees of no less than $350 per occurrence will be charged if FAIR is required to perform setup and/or cleanup.

SECURITY: Licensee is required to use State Fair Security at a rate of up to $27.00 per guard per hour and up to $35.50 per uniformed police officer per hour. Number of security guards and/or uniformed police will be determined by security director and FAIR Management.

FOOD & BEVERAGE: Licensee may use caterer of choice for catered meals inside the facility; however all caterers must be pre-approved by FAIR management. Alcoholic Beverages may be **served** during your event; however, the SALE of alcoholic beverages is prohibited. The SALE of food or beverage is prohibited without approval from the FAIR. All concessions (sale of food or beverage) for events must be coordinate through the FAIR and all concessionaires must enter into a separate contract with the FAIR.

This signed contract is due back to the FAIR in ten (10) days with first payment to hold building. The LICENSEE will notify FAIR fourteen (14) days in advance of event set-up.

The LICENSEE agrees to make payments and final settlement as follows: No payment due with signed contract, all rental fees waived.
An additional $0.75 and 2.25% service fee will be applied to the transaction amount for all credit card payments.

FAIR will charge and LICENSEE agrees to pay one and one-half percent (1.5%) per month interest on any unpaid balance after settlement date.

TERM OF LICENSEE

The FAIR and LICENSEE hereby agree, to wit (LICENSEE TO READ & INITIAL EACH TERM)

_____1) PAYMENT: All base payments, estimated adjustable charges and refundable damage deposit payments are due fourteen days prior to

above stated event. Percentage and additional adjustable charge payments, if applicable, are due and payable immediately following said event. An additional $0.75 and 2.25% service fee will be applied to the transaction amount for all credit card payments.

_____2) AGREEMENT TERMINATION: FAIR reserves the right to terminate this agreement at any time, with cause upon giving written notice thereof.

_____3) DATE RESERVATIONS AND CANCELLATIONS: FAIR will not guarantee availability of buildings/facilities nor hold date for those who have not submitted a non-refundable down payment. This non-refundable down payment shall be applied to payment due for rental of buildings/facilities if the event is held. Should LICENSEE cancel scheduled event at any time, a payment of **$ N/A** shall be forfeited as an office charge.

_____4) CURFEW: ALL events are to be concluded and buildings/facilities cleared per the Authorized Rental/Occupancy period above. OUTDOOR events are subject to curfew times established at the option and discretion of FAIR prior to each individual event. Security will be required for all events concluding after 9:00PM.

_____5) PARKING: LICENSEE understands and agrees that parking on the fairgrounds is shared with other licensees and no exclusive rights are granted. FAIR reserves the right to restrict or designate parking and/or traffic patterns on the fairgrounds for the safety of patrons. The FAIR reserves the right to charge for parking at their discretion. The FAIR shall retain all parking revenue.

_____6) SECURITY: LICENSEE agrees to pay for adequate security officers as directed by FAIR Manager and Security Director at above stated event.

_____7) ALCOHOLIC BEVERAGES: Any use of alcoholic beverages on the Colorado State Fairgrounds is subject to FAIR approval and notification to State of Colorado, Department of Revenue, and Liquor Enforcement. The SALE of alcoholic beverages is prohibited without a valid liquor license and Food/Beverage contract with the FAIR.

_____8) RESTROOM FACILITIES: Restroom facilities and supplies will be made available to LICENSEE by FAIR. LICENSEE, if required, will furnish restroom attendants.

_____9) INSTALLATIONS/DECORATIONS: LICENSEE is hereby granted permission to install at LICENSEE'S expense such items as displays, exhibits, decorations, etc, but will not be permitted to move or change any permanent fixtures attached to and a part of the building/facility, or to nail or tack any materials to the walls or ceilings of said buildings/facilities. LICENSEE further agrees to refrain from marring or defacing said building/facilities in any form whatsoever, and return premises in same condition as when received, ordinary wear and tear accepted. LICENSEE also agrees not to put tape on floors (painters tape or electrical tape may be used but must be removed after event). USE OF GLITTER, CONFETTI AND FOG MACHINES IS STRICTLY PROHIBITED; use of these items will result in forfeiture of damage deposit and/or additional fees.

_____10) REMOVAL OF EXHIBITS: LICENSEE agrees to pay FAIR (at current storage rate) for any material or merchandise left in buildings or on the premises after Authorized Rental/Occupancy period FAIR shall not be responsible for loss or damage to any merchandise or materials left on premises after event. LICENSEE also agrees to remove all signs, banners, and any other promotional material or advertisements immediately upon completion of the event. Should the FAIR have to remove any of the above stated materials, the damage deposit will be retained as a clean-up/storage fee.

_____11) CLEANING: LICENSEE agrees to remove LICENSEE'S exhibits, displays, decorations, and all garbage, debris, etc., no later than midnight. LICENSEE further agrees to return premises in same condition as when received, ordinary wear and tear accepted. All garbage must be removed from building and deposited in appropriate collection containers. FAIR agrees to remove all refuse and recycling from outside collection containers. Should LICENSEE fail to remove garbage, displays or decorations and fail to leave the building in an acceptably clean state, the damage deposit will be retained by the FAIR as a clean-up fee and additional charges may apply.

_____12) ELECTRICAL POWER: Building/Facilities are rented where is, as is, with normal amount of electrical power, equipment, appliances, etc. Adnormal usage of power shall be paid by LICENSEE. No cutting into electrical lines is permitted. LICENSEE agrees to request any special electrical requirements for said event not later than two (2) weeks in advance of said event. The FAIR will be sole judge of determining the availability and/or overload of electrical services and shall exercise the right to control the same.

_____13) LIABILITY: To the extent permitted by law, the LICENSEE hereby agrees to indemnify, save, defend and hold harmless the Colorado State Fair Authority, its officers, agents, servants and employees from any and all claims, causes of action, and suits accruing or resulting from damage, injury or loss to any person or persons or personal property, including all persons to whom the LICENSEE may be liable under any workmen's compensation laws, and the LICENSEE himself, and from any loss, damage, cause of action, claims, or suits for damage, including but not limited to loss of property, goods, wares, merchandise, or livestock, caused by, arising out of, or in any way connected with the exercise LICENSEE'S privileges herein.

_____14) INSURANCE: LICENSEE understands and agrees LICENSEE shall assume all responsibilities for the acts and actions of LICENSEE'S guests or attendees and/or any and all damages which may be caused by LICENSEE'S guests or attendees as a result of this license for the use of fairground facilities. It is understood that FAIR, at its option, may require LICENSEE to provide proof of public liability insurance in amounts and coverage required by FAIR.

_____15) GOVERNMENTAL IMMUNITY. 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, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

_____16) 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 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. Unemployment insurance benefits will be available to

Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. 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 shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.

_____17) COMPLIANCE WITH LAW. Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

_____18) CHOICE OF LAW. 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. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.

_____19) BINDING ARBITRATION PROHIBITED. The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contact or incorporated herein by reference shall be null and void.

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

Licensee/Contractor:	**State of Colorado:**
City of Pueblo, a Colorado municipal corporation Legal Name of Contracting Entity	**Colorado State Fair** 1001 Beulah Ave. Pueblo, CO 81004 719.561.8484
_____ Signature of Authorized Officer*	_____ Scott Stoller, General Manager
Nicholas A. Gradisar, Mayor Printed Name & Title of Authorized Officer	
_____ Date	_____ Date
84-6000615 Social Security Number or FEIN	

In accordance with §24-30-202, C.R.S., this Contract is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By:_____
Lea Cassidy, Controller Delegate

Date:_____

BACKGROUND PAPER FOR PROPOSED EMERGENCY ORDINANCE

COUNCIL MEETING DATE: **May 9, 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 EMERGENCY ORDINANCE APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT, MTF M086-087 (24023) PRAIRIE AVENUE IMPROVEMENTS, BETWEEN PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, THE COLORADO DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Emergency Ordinance approves an Amendment to the Intergovernmental Agreement ("IGA"), MTF M086-087 (24023) between Pueblo, A Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Prairie Avenue Improvements Project.

PREVIOUS COUNCIL ACTION:

Ordinance 9968, dated July 26, 2021, established project No. CI2018 for Prairie Avenue Improvements Project, approved the IGA between the City of Pueblo and CDOT, budgeted and appropriated funds in the amount of $1,300,000.

Resolution 14705, dated September 13, 2021, approved an agreement for profession design services to SEH, Inc.

BACKGROUND:

The project will provide for the construction of improvements along the east and west sides of Prairie Avenue, between Northern Avenue and Pueblo Boulevard. Significant amounts of sidewalk are missing, do not meet current ADA standards, or are blocked by overhead electric power poles. Most of the intersections do not provide handicap ramps, or existing ramps are not to current ADA specifications. The improvements associated with this grant will bring this section of the Prairie Avenue corridor into compliance with current ADA standards. In addition, the project will reconstruct the

roadway surface drainage improvements at Prairie Avenue and Jones Avenue to lessen the side slopes of the existing double gutter pan crossing. Transit shelters are planned along the corridor as well as upgraded traffic and pedestrian signals. The work is in anticipation of the street reconstruction of Prairie Avenue.

The purpose of the Amendment to the Intergovernmental Agreement (IGA) is add a ROW phase. The ROW phase is required to use the grant money for the acquisition of temporary construction easements and permanent easements. During the initial design, it was determined that temporary construction easements and permanent easements are necessary for the construction of the improvements according to ADA requirements.

The funding for this project is a grant from CDOT from the Multimodal Option Funds, which are set to expire June 30, 2023. Upon approval of this Ordinance, CDOT will provide a unilateral option letter, which will allocate the funds for the ROW Phase. Once the option letter is executed, CDOT will begin acquisition of the required easements, which could take up to 9 months.

FINANCIAL IMPLICATIONS:

There will be no changes to the funding with this amendment.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

There are no alternatives for completing the project without this amendment.

RECOMMENDATION:

Approve the Emergency Ordinance.

Attachments:
City-State of Colorado IGA for the Prairie Avenue Improvements
Grant Certification

ORDINANCE NO. 10177

AN EMERGENCY ORDINANCE APPROVING AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT, MTF M086-087 (24023) PRAIRIE AVENUE IMPROVEMENTS, BETWEEN PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE STATE OF COLORADO, THE COLORADO DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Amendment to the Intergovernmental Agreement, MTF M086-087 (24023) between Pueblo, a Colorado municipal corporation, and State of Colorado for the use and benefit of Department of Transportation, a copy of which is attached hereto ("Amendment"), having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The City Council finds this Ordinance qualifies for treatment as an emergency ordinance pursuant to City Charter because of the urgency to complete the Prairie Avenue Improvements prior to the expiration of funding on June 30, 2023.

SECTION 3.

The Mayor is authorized to execute and deliver the Amendment in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance and Amendment to implement the policies and procedures 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 May 9, 2022.

Final adoption of Ordinance by City Council on May 9, 2022.

_____
President of City Council

Action by the Mayor:

☒ Approved on May 11, 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 AMENDMENT

Amendment #: 1 **Project #: MTF M086-087 (24023)**

SIGNATURE AND COVER PAGE

State Agency Department of Transportation		**Amendment Routing Number** 21-HA2-XC-00118-M0002
Local Agency CITY OF PUEBLO		**Original Agreement Routing Number** 21-HA2-XC-00118
Agreement Maximum Amount	$2,600,000.00	**Agreement Performance Beginning Date** August 20, 2021
		Initial Agreement Expiration Date June 01, 2031

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

STATE OF COLORADO
Jared S. Polis, Governor
Department of Transportation
Shoshana M. Lew, Executive Director

_____
Stephen Harelson, P.E., Chief Engineer

Date: _____

LOCAL AGENCY CITY OF PUEBLO	**LOCAL AGENCY** **(2nd Signature if Necessary)**
_____ Signature	_____ Signature
_____ By: (Print Name and Title)	_____ By: (Print Name and Title)
Date: _____	Date: _____

In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By:_____
Department of Transportation

Effective Date:_____

1) PARTIES

This Amendment (the "Amendment") to the Original Agreement shown on the Signature and Cover Page for this Amendment (the "Agreement") is entered into by and between the Local Agency and the State.

2) TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Agreement shall be construed and interpreted in accordance with the Agreement.

3) EFFECTIVE DATE AND ENFORCEABILITY

A. Amendment Effective Date

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date, and shall have no obligation to pay the Local Agency for any Work performed or expense incurred under this Amendment either before or after the Amendment term shown in **§3.B** of this Amendment

B. Amendment Term

The Parties' respective performances under this Amendment and the changes to the Agreement contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment and shall terminate on the termination of the Agreement.

4) PURPOSE

The Parties entered into this agreement for the design and construction of Prairie Avenue Improvements. The Parties now wish to amend the contract to add ROW Acquisition 3111 funding of $96,000.00 The total budgeted funds remain $2,600,000.00. The Funding Provisions are udpated through a new **Exhibit C-1**, which is attached hereto.

5) MODIFICATIONS

The Parties now desire to:

a) Add ROW Acquisition 3111 of $96,000.00;

b) Replace **Exhibit C**, Funding Provisions, with **Exhibit C-1**, which is attached hereto. Any reference in the Agreement to **Exhibit C** shall be a reference to **Exhibit C-1**.

6) LIMITS OF EFFECT

This Amendment is incorporated by reference into the Agreement, and the Agreement and all prior amendments or other modifications to the Agreement, if any, remain in full force and effect except as specifically modified in this Amendment. Except for the Special Provisions contained in the Agreement, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Agreement or any prior modification to the Agreement, the provisions of this Amendment shall in all respects supersede, govern, and control. The provisions of this Amendment shall only supersede, govern, and control over the Special Provisions contained in the Agreement to the extent that this Amendment specifically modifies those Special Provisions.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

EXHIBIT C-1 - FUNDING PROVISIONS

Pueblo MTF M086-087 (24023)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be $2,600,000.00, which is to be funded as follows:

1. a.	State Funds (50% of MMOF Award)	$1,300,000.00
b.	Local Agency Matching Funds (50% of MMOF Award)	$1,300,000.00
	TOTAL BUDGETED FUNDS	**$2,600,000.00**
2.	**ESTIMATED PAYMENT TO LOCAL AGENCY**	
a.	State Funds Budgeted	$1,300,000.00
	TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	**$1,300,000.00**
4.	**FOR CDOT ENCUMBRANCE PURPOSES**	
a.	Total Encumbrance Amount (Only CDOT funds are encumbered)	$1,300,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109 State 50% of ROW $48,000.00	$48,000.00
	NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	**$1,252,000.00**

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit D) or formal Amendment.

WBS Element 24023.10.30	Performance Period Start*/End Date N/A- N/A	Design 3020	$0.00
WBS Element 24023.20.10	Performance Period Start*/End Date N/A- N/A	Const. 3301	$0.00

*The Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

B. Matching Funds

The matching ratio for the State funds for this Work is 50% State funds to 50% Local Agency funds, and this ratio applies only to the $2,600,00.00 that is eligible for State funds. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds $2,600,000.00, and additional State funds are available for the Work, the Local Agency shall pay 50% of all such costs eligible for State funds and 100% of all other costs. If additional State 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 $2,600,000.00, then the amounts of Local Agency and State 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 $1,252,000.00 (State funds of $1,300,000.00 minus State share of ROW of $48,000.00). For CDOT accounting purposes, the State funds of $1,252,000.00 but the Local Agency funds of $1,300,000.00 minus Local Agency share of ROW of $48,000.00 will NOT be encumbered. The total budget of this project is $2,600,000.00, 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 State 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 6 of this contract. **This applies to the entire scope of Work.**

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Intergovernmental Agreement ("IGA") amendment between Pueblo, a Colorado municipal corporation, and State of Colorado, Project: MTF M086-087 (24023), Prairie Avenue Improvements

I hereby certify that I have reviewed and am familiar with the attached IGA, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham 4/26/22
Date

Title: Senior Planner