REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS - CITY HALL
#1 CITY HALL PLACE
MONDAY, June 27, 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 Micah Aragon, Pueblo Christian Center

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E.1. Certificate Of Achievement: "Government Finance Officers Association Excellence In Financial Reporting Award" City Of Pueblo Finance Department

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, June 13, 2022*** as distributed.

Documents:

06-13Minutes.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 AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $119,381.16 TO MERRIMAN LAND WORKS DBA FLAT AND FANCY AND SETTING FORTH $15,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-045 MISCELLANEOUS CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14919.pdf
Bid Summary.pdf

M.2. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $81,710 TO ALPINE ROOFING, LTD. AND SETTING FORTH $13,290 FOR CONTINGENCIES, FOR PROJECT NO. 22-049 PUEBLO ART GUILD MUSEUM ROOF AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14920.pdf
Bid Summary.pdf

M.3. A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF $225,158 TO DUNAKILLY MANAGEMENT GROUP CORP, A COLORADO CORPORATION, FOR PROJECT REPRESENTATION, DESIGN REVIEW SUPPORT, AND CONSTRUCTION INSPECTION SERVICES FOR NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14921.pdf
Agreement.pdf

M.4. A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $227,017 TO DESCO ACQUISITION LLC. DBA BLACKEAGLE ENERGY SERVICES AND SETTING FORTH $22,701 FOR CONTINGENCIES, FOR PROJECT NO. 22-029 (WWAN04) FY2022 WATER RECLAMATION FACILITY EQUIPMENT UPGRADE PROJECT AT THE JAMES R. DIIORIO WATER RECLAMATION FACILITY AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14922.pdf
Bid Summary.pdf

M.5. A RESOLUTION APPROVING AGREEMENTS FOR PROFESSIONAL MECHANICAL, ELECTRICAL, AND PLUMBING (MEP) ENGINEERING SERVICE PROJECTS BETWEEN PUEBLO, A MUNICIPAL CORPORTATION, AND BCER ENGINEERING, INC., PLANT ENGINEERING CONSULTANTS, AND BRIDGERS AND PAXTON, FOR PROJECT NO. 22-013 MEP ENGINEERING CONSULTING SERVICES FOR CITY FACILITIES AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14923.pdf
BCER Agreement.pdf

Bridgers and Paxton Agreement.pdf
Plant Engineering Agreement.pdf

M.6. A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE HARP FOUNDATION FOR THE USE OF ALAN HAMEL AVENUE FROM SOUTH UNION AVENUE TO SANTA FE DRIVE AND MAIN STREET FROM D STREET TO CITY CENTER DRIVE, ON JULY 4, 2022, TO HOST THEIR 4TH OF JULY FIREWORKS CELEBRATION

Documents:

Resolution_14924.pdf
Revocable Permit.pdf

M.7. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF PATRICK AVALOS TO THE PLANNING AND ZONING COMMISSION

Documents:

Resolution_14925.pdf
Application.pdf

M.8. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF YVONNE LUJAN-SLAK TO THE ZONING BOARD OF APPEALS

Documents:

Resolution_14926.pdf
Application.pdf

M.9. A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF SUSAN MCCARTHY TO THE HISTORIC PRESERVATION COMMISSION

Documents:

Resolution_14927.pdf
Application.pdf

M.10. A RESOLUTION APPROVING AMENDMENT #1 TO THE AGREEMENT FOR PROFESSIONAL DESIGN CONSULTING SERVICES IN THE AMOUNT OF $680,890.75 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BOHANNAN HUSTON, INC. RELATING TO THE FINAL DESIGN AND CONSTRUCTION DOCUMENTS FOR THE UNION AND MAIN STREETSCAPE PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Documents:

Resolution_14928.pdf
Amendment 1.pdf

N. ORDINANCES – FIRST PRESENTATION

N.1. AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT AND TRANSFERRING EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS ($8,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR PURPOSES THEREOF

Documents:

Ordinance_N-1.pdf
Agreement.pdf

N.2. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS ($127,500.00) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

Documents:

Ordinance_N-2.pdf
Subrecipient Agreement.pdf

N.3. AN ORDINANCE BUDGETING AND APPROPRIATING FUNDS FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND IN THE AMOUNT OF $15,000 TO COUNCIL CONTINGENCIES TO REIMBURSE PAYMENT TO GOODNIGHT BARN FOUNDATION

Documents:

Ordinance_N-3.pdf

N.4. AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2022-2023 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

Documents:

Ordinance_N-4.pdf
Attachment A.pdf
2022 Action Plan.pdf
CDBG Application.pdf
HOME application.pdf
Certifications.pdf
Department Certification.pdf

N.5. AN ORDINANCE AUTHORIZING ASSIGNMENT OF A PRIVATE ACTIVITY BOND ALLOCATION FROM THE CITY OF PUEBLO TO THE COLORADO HOUSING AND FINANCE AUTHORITY PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

Documents:

Ordinance_N-5.pdf
Assignment of Allocation.pdf
City Attorney Certificate.pdf
DOLA Letter.pdf

N.6. AN ORDINANCE APPROVING AN AFFORDABLE HOUSING DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN CRAWFORD TOWNHOMES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP, THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A PUBLIC BODY CORPORATE AND POLITIC, AND THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_N-6.pdf
Affordable Housing Agreement.pdf
City Deed of Trust.pdf
Promissory Note.pdf
Subordination Agreement.pdf
Subordination Deed of Trust.pdf
Land Use Restriction Agreement.pdf

N.7. AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED FOOD PROJECT COORDINATOR TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE

Documents:

Ordinance_N-7.pdf

N.8. AN ORDINANCE AMENDING 17-4-7 OF CHAPTER 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS

Documents:

Ordinance_N-8.pdf
P_Z Report.pdf

N.9. AN ORDINANCE AMENDING SECTIONS 6 AND 15 OF CHAPTER 10 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO HIGH RISE SIGN DISTRICT NUMBER 3

Documents:

Ordinance_N-9.pdf
Appendix A District 3 map.pdf
P_Z Report.pdf

N.10. AN ORDINANCE APPROVING A FIXED BASE OPERATOR GROUND LEASE AND OPERATING AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABLITY CORPORATION, RESCINDING ALL PREVIOUS AGREEMENTS WITH ROCKY MOUNTAIN FBO, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_N-10.pdf
FBO Lease.pdf

N.11. AN ORDINANCE APPROVING AND AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND ROCKY MOUNTAIN S.E.R./JOBS FOR PROGRESS, INC., REGARDING THE PUEBLO FOOD PROJECT'S ENTREPRENEUR START-UP PROGRAM, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_N-11.pdf
Memorandum of Understanding.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, July 11, 2022, And Order The Ordinances To Be Published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q.1. A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL DESIGN SERVICES IN THE AMOUNT OF $1,209,246 TO ALLRED AND ASSOCIATES, A COLORADO CORPORATION, FOR DESIGN AND ENGINEERING OF NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Removed from Agenda

Documents:

Resolution_Q-1.pdf
Professional Architectural Services Agreement.pdf

Q.2. A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE PUEBLO SYMPHONY ASSOCIATION IN THE AMOUNT OF $294.32 TO SUPPORT THE 2022 SEASON OF THE PUEBLO SYMPHONY ORCHESTRA

Documents:

Resolution_14929.pdf
Council Contingencies.pdf

R. EMERGENCY ORDINANCES

R.1. AN EMERGENCY ORDINANCE APPROVING A LEASE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND FRIDAY HEALTH PLANS MANAGEMENT SERVICES COMPANY, INC., A COLORADO CORPORATION, FOR SUITE 300, 317 NORTH MAIN STREET, PUEBLO, CO 81003 AND AUTHORIZING THE MAYOR TO EXECUTE SAID LEASE AND RATIFYING THE MAYOR'S PRIOR SIGNATURE THERETO

Documents:

Ordinance_10197.pdf
Lease.pdf

S. ORDINANCES – FINAL PRESENTATION

S.1. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEIGHBORWORKS SOUTHERN COLORADO, INC., A COLORADO NONPROFIT CORPORATION FOR THE FORECLOSURE PREVENTION PROGRAM, 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 TWENTY THOUSAND DOLLARS ($20,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

Documents:

Ordinance_10198.pdf
Subrecipient Agreement.pdf

S.2. AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF OPERATING ARP GRANT APRIL 26, 2022, RELATING TO AWARD NO. CO-2022-013-00 BETWEEN THE CITY OF PUEBLO AND THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, IN THE AMOUNT OF $307,724; BUDGETING AND APPROPRIATING $75,000 INTO PROJECT PT2201, BUDGETING AND APPROPRIATING $102,724 INTO PROJECT PT2202, AND BUDGETING AND APPROPRIATING $130,000 INTO PROJECT PT2203

Documents:

Ordinance_10199.pdf
Grant Agreement.pdf
Angel Trax Quote.pdf
Amendment to Collective Bargaining Agreement.pdf

S.3. AN ORDINANCE APPROVING AND ACCEPTING ADDITIONAL FUNDS FROM THE COLORADO STATE FOREST SERVICE IN THE AMOUNT OF $7,272.52 PURSUANT TO THE TEAMING UP FOR TREES GRANT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT NO. PL1903

Documents:

Ordinance_10200.pdf
Grant Reimbursement.pdf

S.4. AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $680,890.75 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_10201.pdf
InterGovernmental Agreement.pdf

S.5. AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT

Documents:

Ordinance_10202.pdf

S.6. AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 179.38-ACRES OF THE WILDHORSE CROSSING ANNEXATION SITE FROM COUNTY A-1 TO CITY A-1, AGRICULTURAL ONE

Documents:

Ordinance_10203.pdf

P_Z Report.pdf

S.7. AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT, BY AND THROUGH THE DIVISION OF WORKERS' COMPENSATION, FOR THE RENTAL OF COURTROOM NO. 2 IN PUEBLO MUNICIPAL COURT

Documents:

Ordinance_10204.pdf
Rental Agreement.pdf

S.8. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE (1) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS SELLER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS BUYER, AND (2) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS SELLER, RELATING TO RFP 22-017 FOR THE SALE OF PROPERTY LOCATED IN "THE BLUFFS" SECTION OF "THE BLOCKS"

Documents:

Ordinance_10205.pdf
InhabiX Buy Agreement.pdf
InhabiX Sell Contract.pdf

S.9. AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND BLUFFS OPPORTUNITY ZONE BUSINESS, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR THE SALE OF PROPERTY LOCATED IN THE DELAVAN PLACE SUBDIVISION OF THE COUNTY OF PUEBLO, STATE OF COLORADO

Documents:

Ordinance_10206.pdf
Contract.pdf

S.10. AN ORDINANCE AMENDING SECTION 3-2-2 OF CHAPTER 2, OF TITLE III OF THE PUEBLO MUNICIPAL CODE RELATING TO THE POWERS AND DUTIES OF THE FIRE CHIEF

Documents:

Ordinance_10207.pdf

S.11. AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING FIVE (5) FULL-TIME POSITIONS TO THE AUTHORIZED STAFFING FOR THE PURPOSE OF SUPPORTING COMMUNITY DEVELOPMENT ACTIVITIES

Documents:

Ordinance_10208.pdf

S.12. AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CIVIL ENGINEER TRANSPORTATION

Documents:

Ordinance_10209.pdf

S.13. AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DEPUTY DIRECTOR PUBLIC WORKS

Documents:

Ordinance_10210.pdf

T. COUNCIL MEMBER CONFLICT OF INTEREST

Councilmember Vicente Martinez Ortega will ask to be excused from the meeting due to a conflict of interest with agenda item number T-1 and Councilmember Heather Graham will ask to be excused from the meeting due to a conflict of interest with agenda item number T-2

T.1. AN ORDINANCE AMENDING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537

Documents:

Ordinance_10211.pdf
Amendment.pdf

T.2. AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES COMMENCING JANUARY 1, 2023, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

Documents:

Ordinance_10212.pdf
Contract.pdf

U. EXECUTIVE SESSION

U.1. Motion 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 Economic Development Projects And Issues Presented By The Pueblo Economic Development Corporation, Acting As Agent For The City Of Pueblo.

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REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
MONDAY, JUNE 13, 2022 – 7:00 P.M.

MINUTES

A. CALL TO ORDER President Heather Graham

B INVOCATION Councilor Dennis Flores

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

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

Council Members Present via Zoom: None.

Council Members Absent: None.

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

E. SPECIAL RECOGNITIONS

- A proclamation was presented for "Colorado Smelter Revitalization Project Month - June 2022" to Colorado Smelter Revitalization Community Residents

F. PUBLIC FORUM

- Elvis Martinez – Election, Respect & More
- Valerie Serna/Paul Archuleta – Clean up of City owned properties
- Marty Harvey – Opening Trades school
- Thomas Smith – General issues
- Shawna Sankey – Juneteeth Pueblo

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

H. & I REVIEW AND APPROVAL OF THE AGENDA

The agenda was reviewed page by page. President Graham requested that item Q-3 be continued to the July 11, 2022 agenda. Ms. Martinez, seconded by Mr. Flores, moved to continue item Q-3 to the July 11, 2022 agenda and to approve the agenda as modified.

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

MINUTES

J. READING AND APPROVAL OF MINUTES

Mr. Flores, seconded by Mr. Martinez Ortega, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **Monday, May 23, 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 NONE SUBMITTED

M. RESOLUTIONS

M-1 RESOLUTION NO 14902 AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $14,173.40 TO MERRIMAN LAND WORKS DBA FLAT AND FANCY, AND SETTING FORTH $8,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-036 BONAVENTURE ASPHALT AND CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

M-2 RESOLUTION NO 14903 AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $113,068.75 TO MARTIN MARIETTA MATERIALS INC., AND SETTING FORTH $15,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-035 COVINA COURT ASPHALT AND CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

M-3 RESOLUTION NO 14904 AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $163,526 TO CEDAR RIDGE LANDSCAPE, INC., AND SETTING FORTH $30,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-044 ADA CURB RAMPS PHASE 2 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

M-4 RESOLUTION NO 14905 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO PARKVIEW MEDICAL CENTER, INC FOR THE USE OF THE RIGHT OF WAY ON NORTH GRAND AVENUE FOR REPLACEMENT OF THEIR MAIN ENTRANCE WAYFINDING SIGN

M-5 RESOLUTION NO 14906 AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO ST. FRANCIS XAVIER PARISH. FOR THE USE OF THE 1700 BLOCK OF SPRUCE STREET TO HOST THEIR ANNUAL CHURCH FESTIVAL FROM JULY 23, 2022, TO JULY 25, 2022

MINUTES

M-6 **RESOLUTION NO 14907 AMENDING THE REVOCABLE PERMIT TO 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, WHICH WAS CANCELLED DUE TO INCLEMENT WEATHER TO JUNE 17, 2022, THROUGH JUNE 19, 2022**

M-7 **RESOLUTION NO 14908 PRELIMINARILY DETERMINING THAT THE PETITION FOR THE ANNEXATION OF THE 81.68 ACRE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 1, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING, IS VALID UNDER THE PROVISIONS OF COLORADO REVISED STATUTES SECTIONS 31-12-104(1)(A) AND 31-12-107(1), TABLING FINAL ACTION ON THE PETITION FOR A PERIOD OF NOT MORE THAN 180 DAYS, AND REFERRING THE PETITION TO THE PLANNING AND ZONING COMMISSION FOR REVIEW AND RECOMMENDATION**

M-8 **RESOLUTION NO 14909 PRELIMINARILY DETERMINING THAT THE PETITION FOR THE ANNEXATION OF THE 1,337.40 ACRE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 2, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATION 1, IS VALID UNDER THE PROVISIONS OF COLORADO REVISED STATUTES SECTIONS 31-12-104(1)(A) AND 31-12-107(1), TABLING FINAL ACTION ON THE PETITION FOR A PERIOD OF NOT MORE THAN 180 DAYS, AND REFERRING THE PETITION TO THE PLANNING AND ZONING COMMISSION FOR REVIEW AND RECOMMENDATION**

M-9 **RESOLUTION NO 14910 PRELIMINARILY DETERMINING THAT THE PETITION FOR THE ANNEXATION OF THE 479.63 ACRE AREA COMMONLY KNOWN AS THE JACKSON RANCH ANNEXATION 3, GENERALLY LOCATED SOUTHEAST OF STATE HIGHWAY 78 AND SOUTHWEST OF EL CAMINO SUBDIVISION, 17TH FILING AND SOUTH OF JACKSON RANCH ANNEXATIONS 1 AND 2, IS VALID UNDER THE PROVISIONS OF COLORADO REVISED STATUTES SECTIONS 31-12-104(1)(A) AND 31-12-107(1), TABLING FINAL ACTION ON THE PETITION FOR A PERIOD OF NOT MORE THAN 180 DAYS, AND REFERRING THE PETITION TO THE PLANNING AND ZONING COMMISSION FOR REVIEW AND RECOMMENDATION**

M-10 **RESOLUTION NO 14911 RATIFYING PACOG'S JOINT APPOINTMENTS OF ANDREW HAYES AND ROBERT LEVERINGTON TO THE PUEBLO REGIONAL BUILDING – BUILDING BOARD OF APPEALS**

M-11 **RESOLUTION NO 14912 CONFIRMING THE APPOINTMENT BY THE MAYOR OF CATHERINE ALLEN TO THE HOUSING AUTHORITY OF THE CITY OF PUEBLO BOARD OF DIRECTORS – PUBLIC HOUSING RESIDENT**

M-12 **RESOLUTION NO 14913 CONFIRMING THE APPOINTMENT BY THE MAYOR OF CHERYL SPINUZZI TO THE PLANNING AND ZONING COMMISSION**

M-13 **RESOLUTION NO 14914 CONFIRMING THE APPOINTMENT BY THE MAYOR OF SUZANNE KUEHN TO THE HISTORIC PRESERVATION COMMISSION**

MINUTES

M-14 RESOLUTION NO 14915 CONFIRMING THE APPOINTMENTS BY THE MAYOR OF KIM ARCHULETTA AND TOM ROSE TO THE RETAIL AND MEDICAL MARIJUANA LICENSING AUTHORITY

M-15 RESOLUTION NO 14916 ESTABLISHING A CITY COUNCIL BUDGET COMMITTEE

N. ORDINANCES – FIRST PRESENTATION

N-1 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEIGHBORWORKS SOUTHERN COLORADO, INC., A COLORADO NONPROFIT CORPORATION FOR THE FORECLOSURE PREVENTION PROGRAM, 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 TWENTY THOUSAND DOLLARS ($20,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-2 AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF OPERATING ARP GRANT APRIL 26, 2022, RELATING TO AWARD NO. CO-2022-013-00 BETWEEN THE CITY OF PUEBLO AND THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, IN THE AMOUNT OF $307,724; BUDGETING AND APPROPRIATING $75,000 INTO PROJECT PT2201, BUDGETING AND APPROPRIATING $102,724 INTO PROJECT PT2202, AND BUDGETING AND APPROPRIATING $130,000 INTO PROJECT PT2203 – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-3 AN ORDINANCE APPROVING AND ACCEPTING ADDITIONAL FUNDS FROM THE COLORADO STATE FOREST SERVICE IN THE AMOUNT OF $7,272.52 PURSUANT TO THE TEAMING UP FOR TREES GRANT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT NO. PL1903 – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-4 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $680,890.75 AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for First Presentation*

MINUTES

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-5 AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-6 AN ORDINANCE AMENDING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-7 AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES COMMENCING JANUARY 1, 2023, AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-8 AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING FIVE (5) FULL-TIME POSITIONS TO THE AUTHORIZED STAFFING FOR THE PURPOSE OF SUPPORTING COMMUNITY DEVELOPMENT ACTIVITIES – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-9 AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CIVIL ENGINEER TRANSPORTATION – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-10 AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DEPUTY DIRECTOR PUBLIC WORKS – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

MINUTES

N-11 AN ORDINANCE AMENDING SECTION 3-2-2 OF CHAPTER 2, OF TITLE III OF THE PUEBLO MUNICIPAL CODE RELATING TO THE POWERS AND DUTIES OF THE FIRE CHIEF – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-12 AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 179.38-ACRES OF THE WILDHORSE CROSSING ANNEXATION SITE FROM COUNTY A-1 TO CITY A-1, AGRICULTURAL ONE – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-13 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT, BY AND THROUGH THE DIVISION OF WORKERS' COMPENSATION, FOR THE RENTAL OF COURTROOM NO. 2 IN PUEBLO MUNICIPAL COURT – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-14 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE (1) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS SELLER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS BUYER, AND (2) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS SELLER, RELATING TO RFP 22-017 FOR THE SALE OF PROPERTY LOCATED IN "THE BLUFFS" SECTION OF "THE BLOCKS" – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

N-15 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND BLUFFS OPPORTUNITY ZONE BUSINESS, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR THE SALE OF PROPERTY LOCATED IN THE DELAVAN PLACE SUBDIVISION OF THE COUNTY OF PUEBLO, STATE OF COLORADO – *submitted for First Presentation*

Public Hearing was Set for Monday, June 27, 2022, Notice of Hearing was Ordered Published by Title.

MINUTES

O. APPROVAL OF CONSENT AGENDA

Ms. Martinez, seconded by Mr. Martinez Ortega, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for **Monday, June 27, 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

Q. RESOLUTIONS

Q-1 RESOLUTION NO 14917 AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE PUEBLO CHAMBER OF COMMERCE IN THE AMOUNT OF $300 TO SUPPORT THE 2022 LEADERSHIP PUEBLO CLASS PROJECT

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

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

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

Q-2 RESOLUTION NO 14918 AUTHORIZING THE CITY OF PUEBLO TO JOIN A LAWSUIT TO BE FILED BY THE CITY AND COUNTY OF DENVER CHALLENGING THE VALIDITY OF COLORADO HOUSE BILL 22-1024 UNDER THE STATE CONSTITUTION

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

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

Roll Call - Ayes: Atencio, Flores, Graham, and Maestri. Nays: Martinez, Martinez Ortega, and Winner. Motion carried 4-3.

Q-3 MOVED TO JULY 11, 2022 AGENDA

MINUTES

R. ORDINANCES – FINAL PRESENTATION

R-1 ORDINANCE NO 10185 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 – *submitted for Final Presentation*

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

PUBLIC HEARING:

- Abby Spillman appeared in person to speak in favor of the ordinance
- Jaylynn Garbizio and Felicia Sanchez Garbizio appeared in person to speak in favor of the ordinance
- Terri Bachman, Bank of the San Juans, appeared in person to speak in favor of the ordinance
- Marlene Bregger, Pueblo City-County Library District Board of Trustees, appeared in person to speak in favor of the ordinance
- John Walker, Executive Director, Pueblo City-County Library District, appeared in person to speak in favor of the ordinance

Seeing no one else 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-2 ORDINANCE NO 10186 APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF $258,217 BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING SERVICES WITH RESPECT TO THE SOUTHERN COLORADO CLINIC SANITARY SEWER OUTFALL SEWER CROSSING DESIGN AND AUTHORIZING THE MAYOR TO EXECUTE SAME – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Andra Ahrens, Acting Director of Wastewater.

PUBLIC HEARING:

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

MINUTES

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-3 ORDINANCE NO 10187 APPROVING AND ACCEPTING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO AND PHILOSOPHY COMMUNICATIONS, INC. TO PERFORM BRANDING CONSULTATIONS FOR THE PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM FOR $3,000 – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Megan Moore, Pueblo Food Project Coordinator.

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, Martinez, and Martinez Ortega. Nays: Maestri and Winner. Motion carried 5-2.

R-4 ORDINANCE NO 10188 TRANSFERRING $609,245 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATIONS 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $609,245 FOR SAID PROJECT – *submitted for Final Presentation*

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

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by 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-5 ORDINANCE NO 10189 ACCEPTING AN AMENDMENT TO THE AIRPORT CORONAVIRUS RELIEF GRANT PROGRAM (ACRGP) GRANT AGREEMENT NO. 3-08-0046-042-2021 AND BUDGETING AND APPROPRIATING EIGHTEEN DOLLARS TO PROJECT NO. AP2102 – *submitted for Final Presentation*

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

MINUTES

PUBLIC HEARING:

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

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

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

R-6 ORDINANCE NO 10190 APPROVING A HANGAR LEASE AGREEMENT FOR 522 SKYWAY STREET AT PUEBLO MEMORIAL AIRPORT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN COLORADO FLIGHT PROFESSIONALS, LLC, A COLORADO LIMITED LIABILITY COMPANY, 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. 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 10191 AMENDING ZONING RESTRICTIONS TO REZONE LOTS 1-8, BLOCK 1; LOTS 1-4, BLOCK 2 AND LOTS 1-2, BLOCK 3 RIVER'S RUN SUBDIVISION FROM B-P, BUSINESS PARK AND B-2, SUBREGIONAL BUSINESS DISTRICT TO R-5, MULTIPLE RESIDENTIAL AND OFFICE DISTRICT – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that all the documents and materials for this item, Case # Z-22-01 for March 9, 2022 be made part of the record for this hearing. So moved by President Graham.

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.

MINUTES

R-8 ORDINANCE NO 10192 VACATING A PORTION OF FIR STREET AND MULTIPLE DRAINAGE AND PUBLIC UTILITY EASEMENTS LOCATED WITHIN BLOCKS 1 AND 2, RIVER'S RUN SUBDIVISION – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that all the documents and materials for this item, Case # V-22-01 for March 9, 2022 be made part of the record for this hearing. So moved by President Graham.

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-9 ORDINANCE NO 10193 APPROVING THE RIVER'S RUN SUBDIVISION 1ST AMENDMENT – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Scott Hobson, Acting Director of Planning & Community Development. Mr. Hobson requested that all the documents and materials for this item, Case # S-22-01 for March 9, 2022 be made part of the record for this hearing. So moved by President Graham.

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-10 ORDINANCE NO 10194 APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND TATIANA BAILEY, PH.D. D/B/A PEAK ANALYTICS CONSULTING TO DEVELOP A PUEBLO MONTHLY ECONOMIC DASHBOARD – *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.

MINUTES

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-11 ORDINANCE NO 10195 AMENDING SECTION 1 (A) OF CHAPTER 6 OF TITLE 6 OF THE PUEBLO MUNICIPAL CODE TO RECOGNIZE JUNETEENTH AS A CITY HOLIDAY – *submitted for Final Presentation*

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

PUBLIC HEARING:

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

Mr. Martinez Ortega, seconded by Mr. Flores, 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 10196 AMENDING SECTION 16-12-10 OF CHAPTER 12 OF TITLE XVI OF THE PUEBLO MUNICIPAL CODE RELATING TO AND AUTHORIZING THE STORMWATER DIRECTOR TO ACCEPT DRAINAGE AND STORMWATER EASEMENTS AND TO EXECUTE MAINTENANCE AGREEMENTS REQUIRED PURSUANT TO SAID SECTION – *submitted for Final Presentation*

A staff report and detailed review of the Ordinance was given by Jeff Hawkins, Director of Stormwater.

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-13 PUBLIC HEARING: AN ORDINANCE AMENDING THE LEGISLATIVE PROCEDURES AND RULES OF THE PUEBLO CITY COUNCIL REGARDING CONFLICTS OF INTEREST – *submitted for Final Presentation*

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

PUBLIC HEARING:

- Ted Freeman appeared in person to speak against this ordinance

MINUTES

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

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

Roll Call - Ayes: Atencio, Martinez, and Martinez Ortega. Nays: Flores, Graham, Maestri, and Winner. Motion failed 3-4.

ADJOURN: 9:57 p.m. President Graham Adjourned the Meeting.

Respectfully submitted,

Marisa Stoller
City Clerk

City Clerk's Office Item # M-1

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 $119,381.16 TO MERRIMAN LAND WORKS DBA FLAT AND FANCY AND SETTING FORTH $15,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-045 MISCELLANEOUS CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution awarding a construction contract to Merriman Land Works dba Flat and Fancy for Project No. 22-045 Miscellaneous Concrete Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this Project will consist of the repair of sidewalks, driveways, alley entrances, construction of ADA curb ramps throughout the City, and other required/incidental items as detailed in the plans and specifications for this Project.

Specific locations for repair include the following:

- Pueblo Recycle Works – Stockyard Road
- 510 Colorado Avenue
- West 15th Street Alley
- Troy Avenue & Massari Road
- 1700 Block of Garwood Drive
- Aqua Avenue & Cedar Street
- 3202 Morris Avenue

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of $134,381.16 will be paid from account HU1901 ADA Ramp Replacement.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution will cancel the Project.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. 14919

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $119,381.16 TO MERRIMAN LAND WORKS DBA FLAT AND FANCY AND SETTING FORTH $15,000 FOR CONTINGENCIES, FOR PROJECT NO. 22-045 MISCELLANEOUS CONCRETE REPAIRS AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-045 Miscellaneous Concrete Repairs have been received and examined; and,

WHEREAS, the proposal of Merriman Land Works dba Flat and Fancy, 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. 22-045 to be performed; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-045 Miscellaneous Concrete Repairs to be performed, and the contract for said Project is hereby awarded to Merriman Land Works dba Flat and Fancy, in the amount of $119,981.16.

SECTION 2.

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

SECTION 3.

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

Contingencies and Additional Work……$15,000.00

SECTION 4.

Funds in the amount of $134,381.16 for Project 22-045 shall be from Project No. HU1901 ADA Ramp Replacement.

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 June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Bid: 22-045 Miscellaneous Concrete Repairs					
Opening Date: June 14, 2022 Time: 10:00:00 AM					Merriman Land Works dba Flat and Fancy
Item	Description	Estimated Quantity			
1	Remove Asphalt	1458	S.F.	*Unit Price*	*3.00*
				Amount	4,374.00
2	Remove Curb and Gutter	562	L.F.	*Unit Price*	*11.05*
				Amount	6,210.10
3	Remove Concrete	2563	S.F.	*Unit Price*	*3.64*
				Amount	9,329.32
4	Remove Curb Head	22	L.F.	*Unit Price*	*9.00*
				Amount	198.00
5	Remove Tree 36" Dia.	1	Each	*Unit Price*	*1,500.00*
				Amount	1,500.00
6	Construct Curb Head	174	L.F.	*Unit Price*	*18.00*
				Amount	3,132.00
7	Construct Curb and Gutter	572	L.F.	*Unit Price*	*45.00*
				Amount	25,740.00
8	Construct 4" Concrete	1714	S.F.	*Unit Price*	*11.75*
				Amount	20,139.50
9	Construct 6" Concrete	856	S.F.	*Unit Price*	*13.00*
				Amount	11,128.00
10	Construct 7" Reinforced Concrete	804	S.F.	*Unit Price*	*17.56*
				Amount	14,118.24
11	Construct 2" Asphalt Patch	40	S.F.	*Unit Price*	*6.00*
				Amount	240.00
12	Construct 6" Asphalt Patch	1358	S.F.	*Unit Price*	*9.00*
				Amount	12,222.00
13	Install 24"x30" Tactile Band	16	Each	*Unit Price*	*150.00*
				Amount	2,400.00
14	Subgrade Stabilization	10	Ton	*Unit Price*	*65.00*
				Amount	650.00
15	Mobilization	1	L.S.	*Unit Price*	*2,500.00*
				Amount	2,500.00
16	Construction Traffic Control	1	L.S.	*Unit Price*	*5,000.00*
				Amount	5,000.00
17	Erosion and Sediment Control	1	L.S.	*Unit Price*	*500.00*
				Amount	500.00
				Grand Total Bid	**$119,381.16**

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

City Clerk's Office Item # M-2

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 $81,710 TO ALPINE ROOFING, LTD. AND SETTING FORTH $13,290 FOR CONTINGENCIES, FOR PROJECT NO. 22-049 PUEBLO ART GUILD MUSEUM ROOF AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution awarding a construction contract to Alpine Roofing, Ltd. for Project No. 22-049 Pueblo Art Guild Museum Roof.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In general, this Project will consist of the removal and proper disposal of the existing evaporative condenser unit, modification of the existing condenser stand to accommodate the new unit, installation of a new BAC PCC-0106-0412 NO10 Evaporative Condenser, replacement of the existing Variable Frequency Drive with a new Eaton DG1-34016FB-C21C VFD, and related plumbing and electrical connections to bring the new unit into service

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of $95,000 will be paid from account CIAN22 Roof Maintenance and Repair.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the Project.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. 14920

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $81,710 TO ALPINE ROOFING, LTD. AND SETTING FORTH $13,290 FOR CONTINGENCIES, FOR PROJECT NO. 22-049 PUEBLO ART GUILD MUSEUM ROOF AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-049 Pueblo Art Guild Museum Roof have been received and examined; and,

WHEREAS, the proposal of Alpine Roofing, Ltd., 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. 22-049 to be performed; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-049 Pueblo Art Guild Museum Roof to be performed, and the contract for said project is hereby awarded to Alpine Roofing, Ltd., in the amount of $81,710.

SECTION 2.

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

SECTION 3.

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

Contingencies and Additional Work……$13,290.00

SECTION 4.

Funds in the amount of $95,000 for Project 22-049 shall be from Project No. CIAN22 Roof Maintenance and Repair.

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 June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

Bid: 22-049 Pueblo Art Guild Museum Roof					**Alpine Roofing, Ltd.**
Opening Date: June 14, 2022 Time: 10:30:00 AM					
Item	**Description**	**Estimated Quantity**			
1.	Demo existing asphaltic roof, insulation, flashings, counterflashing	2600	SF	*Unit Price*	*7.71*
				Amount	20046.00
2.	Install fleece-backed EPDM membrane roof on 5" Foam ISO insulation	2600	SF	*Unit Price*	*23.14*
				Amount	60164.00
3.	Mobilization/Demobilization	1	LS	*Unit Price*	*1500.00*
				Amount	1500.00
				Grand Total Bid	**$81,710.00**

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

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF $225,158 TO DUNAKILLY MANAGEMENT GROUP CORP, A COLORADO CORPORATION, FOR PROJECT REPRESENTATION, DESIGN REVIEW SUPPORT, AND CONSTRUCTION INSPECTION SERVICES FOR NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards an Agreement for Professional Services to Dunakilly Management Group Corp. for project representation, design review support, and construction inspection services for new fire stations 6, 8, and 11. Dunakilly Management Group Corp. was determined to be the most responsible bidder and will be awarded a contract in the amount of $225,158.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated January 24, 2021, established the Fire Station 6, 8, and 11 Project, Project No. CI2205 and budgeted and appropriated $600,000.00.

Funds, in the amount of $609,245, were transferred, budgeted and appropriated at the June 13, 2022 City Council meeting (Ordinance item R-4).

A pending Ordinance (Ordinance item R-5), on City Council agenda for final reading on June 27, 2022, will transfer, budget and appropriate additional funds, in the amount of $270,000. This Resolution is contingent upon the approval of the pending Ordinance.

BACKGROUND:

In April 2022, the City of Pueblo solicited Requests for Proposals (RFP 22-030) for Project Representative and Construction Inspection Services for new Fire Stations 6, 8, and 11. A total of five (5) firms provided a proposal for the work. City Staff provided

evaluations of the proposals using relevant experience, management overview and approach, project understanding and approach, qualifications, fee schedule and technology resources available evaluation criteria. Upon compilation of staff evaluations, the top three (3) firms were interviewed. Dunakilly Management Group Corp. was chosen by the interview committee.

FINANCIAL IMPLICATIONS:

Funding in the amount of $225,158 will be paid from the Fire Stations 6, 8, and 11 Project, No. CI2205.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Resolution.

STAKEHOLDER PROCESS:

Not Applicable to this Resolution.

ALTERNATIVES:

Denial of this Resolution will result in the city being unable to proceed with the project representative and construction inspection services for the new fire stations.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Proposed Resolution
Draft Agreement for Professional Services

RESOLUTION NO. 14921

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF $225,158 TO DUNAKILLY MANAGEMENT GROUP CORP, A COLORADO CORPORATION, FOR PROJECT REPRESENTATION, DESIGN REVIEW SUPPORT, AND CONSTRUCTION INSPECTION SERVICES FOR NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, proposals for Project No. 22-030 Project Representative and Construction Inspection Services for New Fire Stations 6, 8, and 11, have been received and examined;

WHEREAS, the proposal of Dunakilly Management Group Corp., of Littleton, Colorado was determined to be the most advantageous to the City, and in the best interest of the City, based on the evaluation factors set forth in the Request for Proposals; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-030 Project Representative and Construction Inspection Services for New Fire Stations 6, 8, and 11 to be performed, and contract for said project is hereby awarded to Dunakilly Management Group Corp., of Littleton, Colorado, in the amount of $225,158.

SECTION 2.

Funds for said Agreement shall be paid from CI2205, Fire Station 6, 8, and 11 Project.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of Pueblo, Colorado 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 this Resolution to implement the policies and procedures described herein.

SECTION 5.

This Resolution is subject to and conditioned upon City Council passage and approval of an ordinance presented contemporaneously herewith and captioned “AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT” (“Funding Ordinance”). As such, this Resolution shall only become effective upon the date of final action by the Mayor and City Council approving this Resolution and the Funding Ordinance.

INTRODUCED: June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

PROPOSED AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
CITY OF PUEBLO
AND
DUNAKILLY MANAGEMENT GROUP CORP.

THIS AGREEMENT is made and entered this ___ day of _____, 20__, by and between Pueblo, a Municipal Corporation (hereinafter referred to as "Client") and Dunakilly Management Group, Corp., a registered Colorado Corporation (hereinafter referred to as "Consultant"), for Consultant to render professional project representation, design review support, and construction administration and inspection services (hereafter referred to as consulting services) for Client with respect to Bid 22-030 Project Representative and Construction Inspection Services for the New Fire Stations 6, 8, and 11 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 "Scope of Services"). Such services shall include all usual and customary professional services contemplate by and generally associated with consulting services, and Consultant represents and warrants that it is and shall remain properly licensed and certified to perform such services. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(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. Consultant shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Consultant shall be responsible to Client for all loss or damage to Client caused by Consultant's negligent act or omission. If applicable, 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 the schedule provided by the design team and general contractor is the schedule by which Consultant proposes to accomplish its work. 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.

(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. $225,158.00, computed as set forth in Schedule 2. The maximum amount of compensation for each phase and for each fire station shall not exceed the amount specified 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, mileage, 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 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 shall provide direction, review and instruction as Consultant may reasonably require in performance of the Scope of Services.

(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 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. 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 7. 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 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 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 City of Pueblo, Department of Public Works, Attn: Andrew Hayes, 201 W. B Street, Pueblo, CO 81003 or to the Consultant at Dunakilly Management Group Corp., Attn: Rob Deevy, 1979 W. Littleton Blvd., Littleton, CO 80120. 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 9. 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 10. 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 and submit the completed form to City as part of the signed Agreement.

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_____
Marisa Stoller, City Clerk

[S E A L]

DUNAKILLY MANAGEMENT GROUP, CORP.

By_____
President or Vice President

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

_____
Laura Solano, Chief of Staff

APPROVED AS TO FORM:

_____
Daniel Kogovsek, City Attorney

Attachments: Schedule 1: Scope of Services
Schedule 2: Fee Schedule
Additional Information for Agreement

Schedule 1: Scope of Services

Excerpts from Request for Proposal dated April 14, 2022, Section 2,
Request for Bid Clarification dated May 13, 2022,
and Second Request for Bid Clarification dated June 2, 2022

Excerpt from Request for Proposal dated April 14, 2022, Section 2, pages 7-10:

2.1 General

The following are the general duties, responsibilities, and limitations of authority for the Consultant. Consultant shall include all of the duties as listed within this section as needed during the various phases at no additional cost to the Client:

2.1.1 Set up and manage project management online software, including shared documents, project accounting, scheduling, submittals/shop drawings, contacts, payment applications, correspondence, meetings/minutes, job site reports, test reports, inspection/correction reports, change orders, punch lists, etc. and secure access requirements. Provide an electronic archive, in appropriate format, of all project management files.

2.1.2 Establish a relationship with all Project Managers (for the City, General Contractor, subcontractors, etc.) as the central point of contact for coordinating all project activities.

2.1.3 Consultant shall establish a City approved process for request/work approvals, maintenance of project records, responses to inquiries from consultants, contractors and suppliers. As needed, the Consultant shall transfer information to decision-makers, coordinate project information flow, and disseminate progress reports to the City.

2.1.4 Develop a flow chart for clear communication and decision-making (as approved by City's Project Manager).

2.1.5 Provide oversight and coordination of the Project from the City's perspective to balance costs, time, and quality effectively.

2.1.6 Represent the City's interests at regular project meetings and provide advice that will help facilitate economic, efficient, desirable development and acceptable construction procedures. Additionally, Consultant shall track project-related issues, assign responsibility, and track follow-through.

2.1.7 Generate, monitor, and update the master schedule milestones for all design phases, design review, bidding activities, major equipment purchases, fixture and equipment lead times, and coordination of activities outside construction.

2.1.8 Develop and track a master project budget including soft costs and construction costs. Manage updates to a master budget from start of the Project to completion. Assist the City with monitoring, identifying cost savings, and designing options/products.

2.1.9 Establish a process by which all changes can be priced, submitted, reviewed, and added or subtracted from the project cost.

2.1.10 Coordinate with the City's Project Manager to review change orders and track change orders from submittal through approval (whether subtracting or adding to the project cost). Consultant shall provide recommendations and alternate options for change orders to reduce cost impact to the project.

2.1.11 Review requests for payment by vendors and advise City of inspection/completion prior to City issuing payment approval.

2.1.12 Submit to suggestions, alternates, improvements, technology, advancements, or other forms/concepts that may improve design or reduce project costs.

2.2 Design and Planning

The Consultant shall serve as assistant to the Project Manager, acting on the City's behalf, as the primary contact for the design team. Following are the City's expectations, at a minimum, for the design and planning phase. Consultant shall:

2.2.1 Work with the design team to refine the design to be within the City's budget. Upon City's approval of the design schematics and budget, the design team will prepare the necessary architectural and other design development documents; the Consultant will review the design with respect to compliance with agreed-upon project objectives and communicate between design team and City.

2.2.2 Meet with the design team and City regularly to assist progress of design decisions required. Review and offer commentary on the design deliverables relative to building performance, constructability, project budget conformance, and other due diligence factors on behalf of the City.

2.2.3 Work with the design team and City departments for specifications of fixtures, furniture, and equipment necessary for the project. May need to coordinate with the City's Purchasing Department prior to completion of specifications/requirements and to aid with project cost estimates.

2.2.4 Assist the design team coordination with the City's IT department for developing and incorporating AV and security technology needs.

2.2.5 Assist the City's Fire Department and City's Project Manager to develop and incorporate special Fire Department needs for the Project.

2.2.6 Discuss the project goals with the City to review critical information gathered related to the Project and analyze strategies for the Project's success.

2.2.7 Assist design team and City to ensure the design is within the City's budget. Review the cost estimates provided by the design team for accuracy and completeness. Verify the estimates independently as necessary to ensure that the quantities and costs are valid and reasonable.

2.2.8 Advise the City promptly if the project is not on track with respect to schedule and/or budget. Additionally, Consultant shall make recommendations and propose alternates for remedy of any issues regarding schedule or budget.

2.2.9 Review the drawings and plans on behalf of the Owner. Provide feedback from City to design team and track design/planning phase through completion of the project.

2.2.10 Analyze existing site for issues related to construction implementation and logistics. Provide interpretation of plans and specifications, as needed.

2.2.11 Review progress payment requests of the design team and provide payment recommendations to the City.

2.2.12 Work with the design team to establish proper project quality controls during the construction phase.

2.3 Construction Administration

The Consultant shall serve as assistant to the Project Manager, acting on the City's behalf, as the primary contact for the design team, general contractor, subcontractors, etc. as needed for the construction phase of the project. The Consultant shall (at a minimum):

2.3.1 Assist or act as liaison for the City to obtain building permits, governmental approvals/authorizations, and sign offs (approvals) necessary for the design, construction, and operations of the Project. Confirm that the permit process is completed prior to the start of construction.

2.3.2 Act on behalf of City (with direction from City's Project Manager) to consult/meet with utility providers and ensure all utility and related services are delivered to the site.

2.3.3 Establish a strong working/communication relationship with the general contractor and act as the City's primary liaison during all construction and/or related services.

- Review the General Contractor's safety plan for the construction site
- Work with the General Contractor to establish a schedule and logistics plan. Regularly monitor construction schedule with any time changes, delays, etc. and communicate these revisions

between General Contractor and City. Only delays accepted in writing by the City may be added to the schedule.

- Assist with planning for the placement of construction trailers, fences, signage, staging areas, supply storage, and construction traffic zones.
- Observe the construction activities and document site observations.

2.3.4 Attend weekly construction meetings and advise City regarding construction costs, schedule, and construction/service coordination.

2.3.5 Monitor the progress of construction work. Track corrective measures by/for the general contractor to mitigate and correct non-conforming workmanship per the Contract Documents as identified by the design team, owner or Contractor.

2.3.6 Monitor the design team's construction-phase performance with respect to timeliness of documentation, type, and frequency of contractually agreed-to project reporting and other documentation relied upon by the Owner and Owner's Representative.

2.3.7 Monitor design team's reports, track any issues, and confirm close-out of any quality related concerns.

2.3.8 Monitor the construction phase activities of the design and engineering firm(s), including the following:

- Technical review and approval of materials submittals and samples.
- Resolution of technical questions that may arise during construction.
- Timeliness of documentation, type, and frequency of contractually agreed-to project reporting and other documentation.
- Review construction change orders and advise City of recommendation for approval or alternate solution. Report any impact the proposed change orders may have on scope, quality, overall budget, and on timely completion of the project. Note: Approval of change orders must be in writing by City's Project Manager.

2.3.9 Monitor inspections and testing reports to assure they take place as required. Review reports and advise City of taking necessary such that any deficiencies are immediately addressed.

2.3.10 Immediately act to resolve City's concerns or questions that may arise during construction.

2.3.11 Review progress payment requests of the contractor and provide payment recommendations to the Owner.

2.3.12 Monitor the turnover of supplies, materials, and equipment used for or on the construction site.

2.3.13 Assist City's Project Manager with maintaining record copies and permanent project files of necessary design and construction-related communications.

2.4 Post-Construction & Warranty Period

The Consultant shall assist the City, design team, general contractor, subcontractors, etc. as needed for the completion of the project. On behalf of the City and at the direction of the City's Project Manager, the Consultant shall (at a minimum):

2.4.1 Assist design team and City with creation of a punch list to track acceptable completion of all design, planning, and construction activities.

2.4.2 Coordinate with City's Project Manager, design team, and General Contractor for necessary walk-throughs and documentation for the punch list.

2.4.3 Ensure that the building commissioning and startup services are adequately performed and that each fixture, installed furnishing, and piece of equipment is complete and properly functioning before City issues a written acceptance. Ensure that all tests are performed and documented for start of warranty periods.

2.4.4 If any extended warranties are offered to the City, Consultant shall advise of cost associated and value of the extended warranty. If necessary, Consultant shall obtain additional documentation and information for City to evaluate extended warranty offers.

2.4.5 Monitor the turnover of stock supplies of materials as specified by the contract documents.

2.4.6 Monitor the preparation of operations, maintenance manuals, and as-built plans and specifications on behalf of the Owner.

2.4.7 Confirm that the permit process is completed prior to the close out of project construction. When appropriate, provide a recommendation to the City for issuance of the Certificate of Substantial Completion.

2.4.8 Provide recommendation to the Owner regarding the final acceptance of the Project and release of final payment to the contractor(s).

2.4.9 Coordinate, monitor, and assist City departments, contractors, suppliers, etc. with the moving of new and stored furnishings and equipment to the new completed facility.

2.4.10 During the City's warranty period (one year) for all work, Consultant shall assist City with any issues or complaints and determine the necessary corrective actions. If determined to be a warranty issue, Consultant shall coordinate warranty repair activities on behalf of the City. If the complaints or issues are not warranty related, Consultant may provide proposed resolutions for City to consider.

2.4.10 At the 11 month warranty walk through for/with the City, design team, and contractors, Consultant shall address any issues to be immediately resolved under warranty or recommend close out of warranty at the 12 month warranty termination.

Excerpt from Request for Bid Clarification dated May 13, 2022, page 1:

1. The work for this project will be assigned by phases in the following order:
   A. Design & Planning (Section 2.2)
   B. Construction Administration (Section 2.3)
   C. Post-Construction & Warranty Period (Section 2.4)

   Note: General (Section 2.1) includes work for all phases listed above and an appropriate cost (amount) should be included with each phase A, B, and C.

Excerpt from Second Request for Bid Clarification dated June 2, 2022, page 1:

1. Revised Scope of Work

   1.1 The City is considering expanding the project Scope of Service to include additional Fire Stations. The revised Scope of Service would include Fire Stations 6, 8, and 11 based on potential funding approvals.

   1.2 The following conditions are expected for the expanded Scope of Service:
   a. The City is requesting approval of additional funds for the award of the increased Scope of Service; however, award and amendments to the initial award may be assigned as funding is approved.
   b. For the purposes of continuity, the City would like to consider award to one (1) consultant for the Scope of Services of all three (3) stations.
   c. The anticipated Scope of Service will remain consistent for all three (3) stations.
   d. The City is planning to award one (1) design firm for all three (3) stations. The design project is scheduled for presentation to City Council on June 13, 2022.
   e. We anticipate the tentative award of this project within the month of June with anticipated presentation to City Council at the end of June or early in July. The intent is for the Project Representative to begin immediately after City Council approval of funds and award of the initial agreement.
   f. The City has planned for the design (and future construction) of all three (3) stations to run simultaneously.

g. A future bid will be issued for construction of the three (3) stations. The construction may be awarded to one (1) General Contractor or the City may select multiple (up to 3) General Contractors. If one General Contractor is selected, construction will be phased to promote efficiencies within the construction trades and scheduling of labor.

(Continue to next page)

Schedule 2: Fee Schedule

Excerpts from Bidder's Proposal Submitted May 5, 2022 and
Bidder's Response to Second Request for Clarification Submitted June 8, 2022

Excerpt from Bidder's Response to Second Request for Clarification Submitted June 8, 2022, page 2:

	Fire Station 6	Fire Station 8	Fire Station 11
The amounts below shall include the Section 2.1 "General" tasks as needed for each phase at no additional cost to the Client.			
Design & Planning (Section 2.2)	$ 31,008	$ 24,038	$ 16,680
Construction Administration (Section 2.3)	$ 57,600	$ 48,600	$ 43,200
Post-Construction & Warranty Period (Section 2.4)	$ 1,728	$ 1,152	$ 1,152

Excerpt from Bidder's Proposal Submitted May 5, 2022, page 24:

Labor Costs	Hourly Rate
Gary Cahill Principal/Project Manager	$180.00
Rob Deevy Cost & Schedule Control	$180.00
Todd Decker Design Management	$180.00
Jeannie Mabey QA/QC/CA	$180.00

Reimbursable/Other Costs
Customary expenses are included in the hourly rate.

ADDITIONAL INFORMATION

System for Award Management (SAM) Information

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

E-Verify Participation Letter

Insurance Certificate(s)

SAM.GOV

DUNAKILLY MANAGEMENT GROUP CORP.

Unique Entity ID	CAGE / NCAGE	Purpose of Registration
ZJJAR89ADZM3	**5VG54**	**All Awards**
Registration Status	Expiration Date	
Active Registration	**Jan 8, 2023**	
Physical Address	Mailing Address	
1979 W Littleton BLVD **Littleton, Colorado 80120-2022** **United States**	**1979 W Littleton BLVD** **Littleton, Colorado 80120-2022** **United States**	

Business Information

Doing Business as	Division Name	Division Number
(blank)	**(blank)**	**(blank)**
Congressional District	State / Country of Incorporation	URL
Colorado 06	**Colorado / United States**	**http://www.dunakilly.com**

Registration Dates

Activation Date	Submission Date	Initial Registration Date
Jan 11, 2022	**Jan 8, 2022**	**Jan 26, 2010**

Entity Dates

Entity Start Date	Fiscal Year End Close Date
Jun 6, 2007	**Dec 31**

Immediate Owner

CAGE	Legal Business Name
(blank)	**(blank)**

Highest Level Owner

CAGE	Legal Business Name
(blank)	**(blank)**

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2.C.F.R. 200 Appendix XII. Their responses are not displayed in SAM. They are sent to FAPIIS.gov for display as applicable. Maintaining an active registration in SAM demonstrates the registrant responded to the proceedings questions.

Exclusion Summary

Active Exclusions Records?

No

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure	Entity Type	Organization Factors
Corporate Entity (Not Tax Exempt)	**Business or Organization**	**Subchapter S Corporation**
Profit Structure		
For Profit Organization		

Socio-Economic Types

Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.

Financial Information

Accepts Credit Card Payments **No**	Debt Subject To Offset **No**
EFT Indicator **0000**	CAGE Code **5VG54**

Points of Contact

Electronic Business

Gary Cahill	**1979 W. Littleton BLVD** **Littleton, Colorado 80120** **United States**
Gary Cahill	1979 W. Littleton BLVD Littleton, Colorado 80120 United States

Government Business

Robert Deevy	**1979 W. Littleton BLVD** **Littleton, Colorado 80120** **United States**
Robert Deevy	1979 W. Littleton BLVD Littleton, Colorado 80120 United States

Past Performance

Robert Deevy	**1979 W. Littleton BLVD** **Littleton, Colorado 80120** **United States**
Robert Deevy	1979 W. Littleton BLVD Littleton, Colorado 80120 United States



For this Record...
Filing history and documents
Trade names
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	Dunakilly Management Group Corp.		
Status	Good Standing	**Formation date**	06/06/2007
ID number	20071268773	**Form**	Corporation
Periodic report month	June	**Jurisdiction**	Colorado
Principal office street address	1979 W. Littleton Blvd, Littleton, CO 80120, United States		
Principal office mailing address	n/a		

Registered Agent	
Name	Robert Deevy
Street address	1979 W. Littleton Blvd, Littleton, CO 80120, United States
Mailing address	1979 W Littleton Blvd, Littleton, CO 80120, United States

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

Dunakilly Management Group Corp.

is a

Corporation

formed or registered on 06/06/2007 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20071268773 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/14/2022 that have been posted, and by documents delivered to this office electronically through 06/15/2022 @ 11:44:16 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/15/2022 @ 11:44:16 in accordance with applicable law. This certificate is assigned Confirmation Number 14096011 .

Jena Griswold

Secretary of State of the State of Colorado

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

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

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $227,017 TO DESCO ACQUISITION LLC. DBA BLACKEAGLE ENERGY SERVICES AND SETTING FORTH $22,701 FOR CONTINGENCIES, FOR PROJECT NO. 22-029 (WWAN04) FY2022 WATER RECLAMATION FACILITY EQUIPMENT UPGRADE PROJECT AT THE JAMES R. DIIORIO WATER RECLAMATION FACILITY AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution awarding a construction contract to Desco Acquisition LLC. dba Blackeagle Energy Service for Project No. 22-029 (WWAN04), FY2022. Remove and install Gritt Classifier, Primary Grinder, Primary Sludge Pump, and (2) Primary Scum Pumps at the James R. DiIorio Water Reclamation Facility.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The James R. DiIorio Water Reclamation Facility treats wastewater for the City of Pueblo. The Gritt Classifier is no longer supported by the manufacturer and needs to be replaced with a newer model. The Primary Grinder was removed from the Primary Clarifier and not replaced at that time, the grinder chops up the debris before going into the digester, the Primary Grinder needs to be installed to prevent formation of rags in the digester. The Primary Sludge Pump is the back up to the main pumps and is currently undersized and needs to be replaced to be a full-size backup. The Primary Scum Pumps removes the waste and debris from the Primary Clarifier waste boxes and pumps it to the dissolved air floatation (DAF) building, the pumps are not supported by the manufacturer. The Primary Scum Pumps are currently leaking, and no parts are available to repair them. The Primary Scum Pumps need to be replaced to ensure the waste is removed from the waste boxes.

FINANCIAL IMPLICATIONS:

The cost of the construction project was bid at $227,017 with contingencies of $22,701. Funds are available from the Rehabilitation Funds and appropriated to Project No. 22-029 (WWAN04).

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

Alternative No. 1 - No Action
If no upgrades are performed on the Gritt Classifier, Primary Grinder, Primary Sludge pump, and Primary Scum Pumps the condition of the equipment would continue to deteriorate until an emergency repair is required at a higher cost than a planned project. The James R. DiIorio Water Reclamation Facility would also risk violating its discharge permit if the equipment upgrades are not upgraded, and an outage were to happen.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Bid Summary Sheet

RESOLUTION NO. 14922

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF $227,017 TO DESCO ACQUISITION LLC. DBA BLACKEAGLE ENERGY SERVICES AND SETTING FORTH $22,701 FOR CONTINGENCIES, FOR PROJECT NO. 22-029 (WWANO4) FY2022 WATER RECLAMATION FACILITY EQUIPMENT UPGRADE PROJECT AT THE JAMES R. DIIORIO WATER RECLAMATION FACILITY AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for the Project No. 22-029 (WWAN04) FY2022 Equipment Upgrade Project have been received and examined; and

WHEREAS, the proposal of Desco Acquisition LLC. dba Blackeagle Energy Services, was the lowest of those bids determined to be responsive; NOW THEREFORE,

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

SECTION 1.

City Council authorizes Project 22-029 (WWAN04) FY2022 Equipment Upgrade to be performed, and the contract for said project is hereby awarded to Desco Acquisition LLC. dba Blackeagle Energy Services, in the amount of $227,017.

SECTION 2.

Funds for Project 22-029 (WWAN04) shall be from the Rehabilitation Funds.

SECTION 3.

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

SECTION 4.

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

Contingencies and Additional Work……$22,701

SECTION 5.

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

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

DocuSign Envelope ID: CE6A6E5A-5BE2-4861-B4C8-416C22DD7AF5

Bid: 22-029 General Contractor for Various Wastewater Reclamation Facility Equipment Upgrades					Desco Acquisition, LLC dba Blackeagle Energy Services
Opening Date: May 18, 2022 Time: 10:00:00 AM					
Item	**Description**	**Estimated Quantity**			
1.	Influent gritt classifier: removal of existing equipment and complete installation of City supplied new influent gritt classifier.	1	Lump Sum	Amount	17,110.00
2.	Primary sludge pump and skid: removal of existing equipment and complete installation of City supplied new primary sludge pump and skid.	1	Lump Sum	Amount	26,866.00
3.	Two (2) Scum pumps and skids: removal of existing scum pumps and skids, purchase of two (2) V461 TRITON 3-6" Horizontal Screw Centrifugal Pumps and skids or approved equal (including all delivery, handling, etc.), and complete installation.	1	Lump Sum	Amount	95,867.00
4.	One (1) Grinder: purchase of one (1) Taskmaster® Grinder Model TM851206 or approved equal (including all delivery, handling, etc.), and complete installation.	1	Lump Sum	Amount	65,832.00
5.	Mobilization	1	Lump Sum	Amount	21,342.00
				Grand Total Bid	**$227,017.00**

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: June 27, 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 APPROVING AGREEMENTS FOR PROFESSIONAL MECHANICAL, ELECTRICAL, AND PLUMBING (MEP) ENGINEERING SERVICE PROJECTS BETWEEN PUEBLO, A MUNICIPAL CORPORTATION, AND BCER ENGINEERING, INC., PLANT ENGINEERING CONSULTANTS, AND BRIDGERS AND PAXTON, FOR PROJECT NO. 22-013 MEP ENGINEERING CONSULTING SERVICES FOR CITY FACILITIES AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a Resolution approving agreements for professional Mechanical, Electrical, and Plumbing (MEP) engineering service contracts for Project No. 22-013 MEP Engineering Consulting Services for City Facilities. This Resolution establishes an approved list of qualified licensed MEP consultants to perform engineering services for three years, and during renewal of the agreement for two successive one-year periods after the initial term.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City has requested proposals from qualified engineering firms to assist the City with on-call services for Mechanical, Electrical, and Plumbing (MEP) Engineering services. The City intends to issue contracts on an as-needed basis for maintenance and capital improvement projects to include preliminary investigation, permitting, design, bidding, construction management, inspection, and certification. The work for each project under this Agreement will vary in scope and complexity. Proposer (this term used interchangeably with "Consultant") is encouraged to demonstrate diversity of skills and abilities as they relate to MEP Engineering. Services shall include all personnel, supervision, management, labor, tools, equipment, material, and travel, necessary to perform these services, with reimbursable expenses to be agreed upon prior to initiation of project.

A total of four proposals were received and three firms were selected based on their initial submittals and fee schedules to receive future Request for Proposals to perform MEP engineering consulting services for city facilities. This Resolution authorizes contracts under 22-

013 MEP Engineering Consulting Services for City Facilities and will provide both competitive bid cost controls and rapid response capability by creating a list of qualified MEP engineering consultants.

No minimum amount of work is guaranteed under these agreements. For each on-call service request, the City will develop a complete scope of work and require the consultants to provide a not-to-exceed amount (limit) based on their hourly fee rate, and a delivery schedule for services of each specific project assigned under this Agreement. The most advantageous proposal to the City, and in the best interest of the City, shall be determined based on the evaluation criteria set forth in the Request for Proposals.

Request for services shall be initiated and documented by a written work order agreement ("Work Order" with sample attached as Schedule 3). The Work Order shall set forth the work to be performed, the time for completion and the compensation, including maximum compensation, for performance of such work.

FINANCIAL IMPLICATIONS:

Funding for this Project will come from the associated project account.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this Resolution will result in the City being unable to proceed with the agreement.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Agreements for MEP Engineering Consulting Services (with Schedule 1 – Scope of Services, Schedule 2 – Fee Schedules and Schedule 3 – sample Work Order)

RESOLUTION NO. 14923

A RESOLUTION APPROVING AGREEMENTS FOR PROFESSIONAL MECHANICAL, ELECTRICAL, AND PLUMBING (MEP) ENGINEERING SERVICE PROJECTS BETWEEN PUEBLO, A MUNICIPAL CORPORTATION, AND BCER ENGINEERING, INC., PLANT ENGINEERING CONSULTANTS, AND BRIDGERS AND PAXTON, FOR PROJECT NO. 22-013 MEP ENGINEERING CONSULTING SERVICES FOR CITY FACILITIES AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

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

SECTION 1.

The Agreements for Professional Engineering Services ("Agreements") between Pueblo, a Municipal Corporation and BCER Engineering, Inc., Plant Engineering Consultants, and Bridgers and Paxton, copies of which are attached hereto, having been approved as to form by the City Attorney, are hereby approved.

SECTION 2.

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

SECTION 3.

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 effectuate the transactions described therein. Work Orders under these agreements shall only be approved upon written approvals of the Director of Purchasing and the Director of Finance that a balance of appropriation exists for the Work Order and funds are available. The Director of Purchasing is authorized to approve a Work Order which is determined to be most advantageous to the City and in the best interest of the City based upon the submitted hourly fee rates and delivery time for MEP engineering consulting services of each specific project which may be assigned under the Agreements.

SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

PROPOSED MASTER CONTRACT FOR MEP ENGINEERING SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
BCER ENGINEERING, INC.

THIS CONTRACT is made and entered this ___ day of _____, 20___, by and between Pueblo, a Municipal Corporation, PO Box 1427, Pueblo, CO 81001 (hereinafter referred to as the "City") and BCER Engineering, Inc., a registered Colorado Corporation, 5420 Ward Road, Arvada, CO 80002 (hereinafter referred to as the "Engineer"),

WITNESSETH:

RECITALS

A. The City solicited competitive proposals for Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities to provide engineering services to include specific mechanical, electrical, and plumbing (MEP) engineering and related services for future City of Pueblo Public Improvement projects (hereinafter referred to as "RFP").

B. In response to the RFP, Engineer submitted its proposal (hereinafter referred to as "Response").

C. City has evaluated all Responses submitted and selected Engineer to perform MEP engineering services for various anticipated projects.

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants, City and Engineer agree as follows:

1. ENGAGEMENT.

(a) City engages Engineer and Engineer accepts such engagement to perform the services set forth in this Contract and the standard form of Agreement for Professional Mechanical, Electrical, and Plumbing (MEP) Engineering Services ("CIP Engineering Agreement Form") or the standard form Agreement for Professional Services ("Consultant Agreement Form") (collectively hereinafter referred to as "Approved Form Agreement"), execution of which will be required for each Project as may be directed by the City. A copy of the CIP Engineering Agreement Form is attached hereto and labelled Exhibit A and a copy of the Consultant Agreement Form is attached hereto and labelled Exhibit B.

(b) Anticipated Projects (hereinafter referred to as the "Projects") may include the Scope of Services for each Agreement for any Project and shall be consistent with and meet following requirements:

- Long range facility planning
- Project planning
- Detailed mechanical, electrical, and plumbing engineering design
- Preparation of bid documents
- Consultant/contractor evaluation and prequalification
- Process consulting
- Construction management and inspection.
- Analysis of project site
- Graphics including plans, perspectives, elevations, details, and renderings
- Final design criteria
- Preliminary plan sets
- Attend and facilitate meetings
- Final construction documents
- Provide all necessary duties for construction management, if requested.
- Other projects requiring support from Consultant/Engineer as need arises

(c) City may, or may not, in its sole discretion undertake any of the Projects. Upon written direction from City requesting Engineer to undertake a project, the Engineer shall prepare a specific Scope of Service, Fee Schedule (based upon Schedule 2 of this Agreement), and Work Schedule necessary to complete the project.

(d) After mutual approval of the Scope of Service, Fee Schedule, maximum compensation and Work Schedule, the City will incorporate such agreed upon terms into the Approved Form Agreement which shall be executed by Engineer.

(e) After execution of such agreement by Engineer, City will submit same to City Council of City for approval and any such agreement shall be subject to and conditioned upon City Council approval.

(f) In addition to the scope of work set forth in Subsections 1(a) through (e), City may request services on an as needed basis. Request for such services shall be initiated and documented by a written work order agreement ("Work Order") signed by the Public Works Director of City and approved by the Director of Finance and Director of Purchasing. The Work Order shall set forth the work to be performed, the time for completion and the compensation, including maximum compensation not to exceed $10,000, for performance of such work and shall otherwise be in substantially the same form as attached hereto as Schedule 4. Said compensation shall be approved as provided in Subsection 1(g) this Agreement. The work to be performed under any Work Order shall be included in the "Basic Services" and "Project" as such terms are used in Exhibit B - Consultant Agreement Form and shall be subject to all terms and conditions of Exhibit B - Consultant Agreement Form as if same had been fully executed by the parties for such work to be performed. The maximum sum under Section 3(a) of Exhibit B - Consultant Agreement Form shall, for the purposes of the work to be performed, be the maximum compensation set forth in the Work Order and approved pursuant to Section 1(g) of this Agreement. All such services shall include all usual and customary professional engineering services necessary for such work to be performed.

(g) When requested by City, Engineer shall prepare without charge to City a bid amount for any proposed Work Order ("Work Order Compensation") requested under Subsection 1(f) which shall be based upon the fee schedule set forth in Schedule 2 and shall itemize compensation amounts and include the maximum compensation amount necessary for completion and performance of all work set forth in the Work Order. Should City have any dispute, question, required clarification or other issue with respect to the Work Order Compensation, Engineer shall meet and confer in good faith with City to resolve such issue. No Work Order shall be signed and issued by the Public Works Director of City unless and until City approves the Work Order Compensation. No Work Order shall be approved for which the maximum compensation exceeds $10,000.

(h) No minimum amount of work is guaranteed under this Agreement. City reserves the right to engage and/or contract with other parties to perform services which otherwise might be requested under this Agreement.

2. TERM.

(a) This Contract is for a term of three (3) years commencing July 1, 2022 and ending June 30, 2025. The term of this Contract may be extended for an additional period of two (2) years by way of two (2) one (1) year options, upon mutual agreement of City and Engineer.

(b) In the event the City exercises the provision to extend the agreement after the initial term, adjustments in the Fee Schedule set forth in Schedule 2 shall be permitted. Such adjustment shall be calculated based upon the most current annual percentage change in the DOL CPI-W index for Denver-Aurora-Lakewood Colorado available during the date of adjustment; provided, however, in no event will the adjustment be greater than three percent (3%).

(c) This Contract may be terminated by the City at any time, without cause or liability, upon thirty (30) days prior written notice given to the Engineer specifying the date of termination, provided, however, that the termination of this Contract shall not terminate or be deemed to terminate any existing agreements or Work Orders executed by and between the parties pursuant to Section 1 of this Agreement.

3. GENERAL COVENANTS. Engineer covenants that it is:

(a) Competent and qualified to perform; and will perform the services and work contemplated by this Contract and the Agreement(s) in a professional manner to the satisfaction of the City.

(b) Familiar with the requirements stated in the RFP, Section 2 with respect to the services and work contemplated by this Contract and the Agreement(s) and will perform such services and work in compliance therewith.

4. RECORDS AND DATABASE. Engineer shall maintain a cost accounting system acceptable to City. The City shall have access to any books, documents, papers, and records of the Engineer that are directly pertinent or relate to this Contract or any Agreements for a specified Project, for the audit purposes, examination, inspection, excerpts, and transcription. The Engineer shall maintain such records for three (3) years after City makes final payments to Engineer and all pending matters are closed. Engineer shall prepare and maintain an electronic database (compatible with AutoCAD) that accurately represents all existing and future civil infrastructure for all Projects completed under this Contract and any Agreements for a specified Project.

5. SPECIFIC COVENANTS. Engineer covenants that, during the performance of this Contract and any Agreement for a specified Project, Engineer will:

(a) comply with all federal statutes and regulations relating to nondiscrimination in federally assisted programs.

(b) comply with the State of Colorado's requirements for State Revolving Fund Loan Projects.

(c) comply with all other laws, regulations, and requirements for applicable Federal, State, local , and grant funded Projects.

6. RIGHTS TO INVENTIONS. Plans, drawings, designs, specifications, inventions, reports and all other documents and materials generated under this Contract or any Agreement for a specified Project shall become the sole property of City, subject to applicable federal grant requirements, and City shall be vested with all rights therein of whatever kind and however created, whether by common law, statute, or equity. Engineer shall retain sole ownership of pre-existing proprietary property, including but not limited to, computer programs, software, diagrams, and models.

7. INSURANCE AND INDEMNITY.

(a) Engineer agrees that it has procured and will maintain during the term of this Contract, such insurance as will protect it and City from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(1) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the City.

(2) Commercial General Liability Insurance. The Engineer shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the

Engineer with respect to all work performed by him and all his subcontractors under the Agreement/Contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers, and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Engineer under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(3) Professional Liability Insurance with coverage of not less than $1,000,000 and in a form and with a deductible acceptable to City.

(4) Comprehensive Automobile Liability Insurance. The Engineer shall procure and maintain during the period of the Agreement/Contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Engineer from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes, and similar equipment whether owned, leased, hired, or used by Engineer.

(c) Engineer shall furnish to City a certificate or certificates of insurance showing compliance with this section 7. Engineer shall obtain a special endorsement from its insurance carrier that provides that the insurance shall not be changed or cancelled until ten (10) days after written notice has been given to City and provide a copy of such endorsement to City. Engineer shall immediately notify City of any substantial change in, or cancellation, or non-renewal of any such insurance.

(d) Engineer agrees to hold harmless, defend and indemnify City from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, its employees, subcontractors, and consultants.

8. 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 Contract.

(b) Engineer 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 Engineer 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 Engineer 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 Engineer 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 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 Contract, 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 contract 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.

9. CERTIFICATIONS. Engineer certifies that:

(a) Neither Engineer nor any of its principals are presently, or at the time of execution of any Agreement for a specified Project, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract or in any such subsequent Agreement for a specified Project by any entity or agency. Engineer will include this clause in all lower tier transactions, solicitations, proposals, contracts, subcontracts, and agreements.

(b) Engineer is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representatives and that it will comply with the Department of Transportation trade restriction regulations 49 CFR Part 30. Engineer will include this clause and other clauses required by said trade restriction regulations in all lower tier transactions, solicitations, proposals, contracts. subcontracts, and agreements.

10. NOTICES. Any notice required or permitted by this Contract shall be in writing and may be served personally or mailed by first-class mail, postage prepaid, addressed to the party at its address shown on the first page hereof, and if to the City, a copy of thereof shall be given to City of Pueblo, Department of Public Works, Attn: Andrew Hayes, 211 E. D Street, Pueblo, Colorado, 81003. Either party may change addresses upon written notice given to the other party specifying the changed address.

11. FINANCIAL OBLIGATIONS OF CITY. All financial obligations of the City under this Contract and any Agreement for a specified Project in any subsequent fiscal year of the City are subject to, and contingent upon, funds being specifically budgeted and appropriated for such purposes (Projects). This Contract 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 of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract and any Agreement for a specified Project, with respect to any financial obligation of the City which may arise under this Contract in any fiscal year after 2021, 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 or breach of this Contract or any Agreement for a specified Project by the City, and the City may terminate this Contract or any Agreement for a specified Project without liability.

12. MISCELLANEOUS.

(a) This Contract shall be governed and interpreted in accordance with the laws of the State of Colorado.

(b) In the event of any litigation arising out of this Contract, the court shall award to the prevailing party its costs and reasonable attorney fees. Venue for any such litigation shall be Pueblo County, Colorado.

(c) This Contract contains the entire agreement between the City and Engineer and incorporates all prior written and oral understandings and agreements between the parties.

(d) This Contract may only be modified or amended by written instrument signed by both City and Engineer.

(e) This Contract shall be binding upon and inure to the benefit of City and Engineer and their respective successors and assigns, provided, however, Engineer shall not assign this Contract, Agreement for a specific Project, or any interest herein without the prior written consent of City.

13. PERA LIABILITY. The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Contract. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Contract.

(Signature section on following page)

IN WITNESS WHEREOF the parties hereto have made and executed this Contract as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

By_____
Naomi Hedden, Director of Purchasing

BCER ENGINEERING, INC.

By_____
Mike Schroeder, Principal-In-Charge

Attest:_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

Attachments:

CIP Engineering Agreement Form - Exhibit A
Consultant Agreement Form - Exhibit B
Schedule 1 – Scope of Services
Schedule 2 – Fee Schedule
Schedule 3 – Identification of Personnel, Subcontractors, and Task Responsibility
Schedule 4 – Work Order Form
Additional Information for Contract

NOTE: This form shall be completed at time of award for each individual project as applicable.

PROPOSED AGREEMENT FOR
PROFESSIONAL MECHANICAL, ELECTRICAL, PLUMBING (MEP) ENGINEERING SERVICES BY AND BETWEEN CITY OF PUEBLO AND BCER ENGINEERING, INC.

THIS AGREEMENT made and entered this ____ day of _____, 20____ by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and BCER Engineering, Inc., a registered Colorado Corporation. a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional planning, design, engineering and related services for Owner in connection with Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[ ] - Study and Report Phase

[ ] - 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, plumbing, environmental, and planning services. Engineer shall also provide any landscape engineering, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services.

1.3 Professional engineering services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered engineer.

1.4 Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5 Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine his requirements for the Project and review available data.

(b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Engineer's findings and recommendations with opinions of probable costs.

(g) Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (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 stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.

(b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

(c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.

(d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.

(f) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and Specifications describing such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Engineer **shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR ' 36 Standards.**

(b) Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

(e) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Engineer shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, Drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify Drawings or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Engineer under the terms of the construction contract.

(b) Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work
and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

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

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

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Engineer shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work

on the Project. The interpretations and decisions of the Engineer shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; except that Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Engineer's employees.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Schedule 3 - "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. *[Note: Schedule 3 will be an excerpt from Proposer's submittal]*

Within five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this

Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

2.7 Requirements Where Federal Assistance Provided.
[Remove if not needed for this Agreement or insert specific language required by the federal agency or state entity as required]

(a) Engineer understands that Owner will be funding the Project in part or in whole by a grant or loan from _____ (the "Federal Agency"). Engineer agrees it is subject to and shall comply with all applicable grant or loan conditions and the regulations of the Federal Agency which apply to the work under this Agreement, whether referenced in Schedule 1 or not. All applicable loan or grant conditions and regulations of the Federal Agency and regulations are incorporated into this Agreement by reference.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements,

a period of 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 Schedule 1 – "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 *[Enter bid grand total]* in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Exhibit 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 Schedule 2 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 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

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

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Engineer and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Engineer, Engineer shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Engineer or Client. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and Engineers, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Engineer's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 (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 shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless and indemnify Engineer from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

(b) Advertising. Unless specifically approved in advance in writing by Owner, Engineer shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Engineer's employees. If Engineer wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 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 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) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

7.3 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 Public Works, Attn: Andrew Hayes, 211 E. D Street, Pueblo, CO 81003 or to the Architect at BCER Engineering, Inc., Attn: Mike Schroeder, Principal-In-Charge, 5420 Ward Road, Arvada, CO 80002. 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 Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

7.6 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 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.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if 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, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands and agrees that entry to properties not under Owner's control may require Engineer to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Engineer shall proceed diligently with performance of his work under this Agreement.

SECTION 9. SCHEDULES

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

Schedule 1 - "Scope of Services" consisting of __ pages.
Schedule 2- "Fee Schedule" consisting of ___ pages.
Schedule 3 - "Work Schedule" consisting of _____ pages.
Schedule 4 – "Work Order" consisting of ____ pages.

SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Engineer therefore, will use his or her best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Engineer shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without Authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Engineer will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Engineer shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement;

(ii) Enter into a contract with a subcontractor that fails to certify to Engineer that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Engineer shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or Department Program.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Engineer obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Agreement, the Engineer shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Engineer has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Engineer shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Engineer is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Engineer shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Engineer shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Engineer to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Agreement.

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

BCER ENGINEERING, INC.

By_____
Mike Schroeder, Principal-In-Charge

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

NOTE: This form shall be completed at time of award for each individual project as applicable.

AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN CITY OF PUEBLO
AND BCER ENGINEERING, INC.

THIS AGREEMENT is made and entered this ___ day of _____, 20__, by and between Pueblo, a Municipal Corporation (hereinafter referred to as "Client") and BCER Engineering, Inc., a registered Colorado Corporation (hereinafter referred to as "Consultant"), for Consultant to render professional___*[service type]* _____ services for Client with respect to Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities 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 planning and 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___*[service type]* _____ services including any required drafting or design services incident to its work on the Project. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(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 drawings, 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. 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 tools, supplies, labor and utilities 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. $_____, 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 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, 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. REQUIRED FEDERAL PROVISIONS [Delete if inapplicable.]
NOTE - THIS SECTION MAY REQUIRE REVISION

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided _____. Consultant agrees it is subject to and shall comply with all applicable provisions of said _____, 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, _____ 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 11. 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, Public Works Department, Attn: Andrew Hayes, 201 E. D Street, Pueblo, CO 81003, or to Consultant at BCER Engineering, Inc., Attn: Mike Schroeder, Principal-In-Charge, 5420 Ward Road, Arvada, CO 80002. 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 12. 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 13. 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.

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 BCER ENGINEERING, INC.

By_____ By: _____

Naomi Hedden, Director of Purchasing Mike Schroeder, Principal-In-Charge

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

SCHEDULE 1

SCOPE OF SERVICES

At a minimum the Agreement shall include the following excerpt from Section 2 of the Request for Proposal dated May 11, 2022

[Note: Add additional Scope of Service as needed for each project.]

2.3 Scope of Service:

The Consultants shall provide all professional services necessary to complete the project which will consist of, but not be limited to, long range facility planning; project planning; detailed engineering design; preparation of bid documents; consultant/contractor evaluation and prequalification; process consulting; and construction management and inspection. [delete any items that do not apply to this project]

Specific tasks may include, but shall not be limited, to the following: [delete any items that do not apply to this project]

- Provide staff and services on an as-needed basis.
- Analysis of Project Site – Provide recommendations for locating all amenities listed in the project scope based on user safety and experience, economic feasibility, environmental sustainability, and constructability.
- Graphics – Provide necessary graphics (plans, perspectives, elevations, details, and renderings) to best illustrate the project.
- Final Design Criteria – Develop final design criteria, construction materials and methods, dimensions and site amenities.
- Preliminary Plan Sets – Prior to bidding the project, provide five (5) sets of plans for both a 70% and 90% complete Construction Documentation packet for review including specifications and a detailed cost estimate for construction.
- Pre-Submittal Meetings – Attend pre-submittal meetings and provide necessary addendums to the submittal.
- Final Construction Documents – Provide 2 sets of final construction documents and specifications to the project manager for bidding [including one (1) electronic copy].
- Provide all necessary duties for construction management, if requested.
- Attend and facilitate meetings as necessary with City staff throughout the development of the project.
- Firm must be familiar with public processes and coordinate with City staff in presenting details to City Council if required.

2.4 Project Implementation

- At no time will Consultant be allowed to begin a project prior to approval and expect to be reimbursed by City. All projects as assigned must be coordinated with the City's Project Manager.
- Cost overages during the project must be pre-authorized and obtain written approval of the City's Project Manager.

SCHEDULE 2

FEE SCHEDULE

Excerpt from Bidders Response to RFP dated June 8, 2022, pages 42 - 43
[Note: Add specific fee schedule for each project.]

BCER
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5420 Ward Rd., Suite 200
Arvada, CO 80002
303.422.7400
bcer.com

SCHEDULE OF HOURLY RATES

Effective July 1, 2022 through July 1, 2024

HOURLY RATES
Hourly rates in effect as of the date noted above are:

PERSONNEL CATEGORY	HOURLY RATE
Principal	$230
Director	$215
Program Manager	$210
Senior Project Manager	$190
Project Manager	$170
Senior Engineer/Designer/Consultant III	$215
Senior Engineer/Designer/Consultant II	$190
Senior Engineer/Designer/Consultant I	$170
Engineer/Designer/Consultant III	$150
Engineer/Designer/Consultant II	$125
Engineer/Designer/Consultant I	$110
Engineer/Designer/Consultant Intern	$80
Senior Construction Administrator I	$170
Construction Administrator II	$150
Construction Administrator I	$125
Senior BIM/3D Specialist	$165
Senior BIM/CAD Specialist II	$125
Senior BIM/CAD Specialist I	$115
BIM/CAD Specialist III	$95
BIM/CAD Specialist II	$80
BIM/CAD Specialist I	$70
Project Coordinator I	$90
Project Coordinator	$75
Clerical	$70

CUMMING
Building Value Through Expertise

2022 HOURLY RATES - DENVER

Discipline	Hourly Rate
Cost Management Services	
Managing Director / Director / Regional Director	$185.00
Associate Director	$175.00
Senior MEP Specialist Cost Manager	$165.00
Senior Cost Manager	$155.00
Cost Manager	$125.00
Assistant Cost Manager / Estimating Technician / Intern	$115.00

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SCHEDULE 3

IDENTIFICATION OF PERSONNEL, SUBCONTRACTORS, AND TASK RESPONSIBILITY

Excerpt from Bidders Response to RFP dated June 8, 2022, pages 20 - 27

TEAM ORGANIZATIONAL CHART



20

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MIKE SCHROEDER, PE

Principal-in-Charge/QA/QC



Mike's thoughtful leadership and engineering expertise have been a major contribution to BCER's success over the years. Mike excels at analyzing all aspects of a project, including the end user's needs, and figuring out how design can support it. His vast career experience allows him to take a holistic look at projects and to apply the best practices to each. He leads his teams to deliver consistent quality while always being on the pioneering forefront of new technologies and design standards. His own definition of success is having the entire design team so excited about a project that they want to do it all over again when complete.

Experience
28 years total, 19 years with BCER

Education
Bachelor of Science in Mechanical Engineering, Kansas State University

Registrations
Licensed as a Professional Engineer in CO, AZ, FL, IL, KS, KY, MN, NM, NC, TX, WY, and Puerto Rico

Affiliations
ASHRAE, ASHE, CAHED, CSI, NCEES

Representative project experience

Roaring Fork Transit Authority (RFTA), CO
Owners Representative - Glenwood Maintenance Facility

Colorado Dept. of Human Services, CO
Colorado Mental Health Institute - Suicide Risk Mitigation Project - Campus-Wide Assessment (Pueblo & Fort Logan Campuses)
Colorado Mental Health Institute - Suicide Risk Mitigation Project (Pueblo Campus)

Pueblo Community College, CO
Davis Building Remodel

Colorado Springs Utilities, CO
Mesa Water Treatment Upgrades

Ft. Carson Stryker HQ Colorado Springs, CO
Demolition and Renovation - Building 2352

Town of Larkspur, CO
Jellystone RV Park Wastewater Treatment Facility

Arapahoe County, CO
Detention Center Risk Mitigation

City and County of Denver, CO
FCAP (Facility Condition Assessment Program)
Sewer Replacement - Admin Building

Boulder County, CO
Justice Center DA Office Renovation
Sheriff Armory
Courthouse - East Wing Remodel

City of Aurora, CO
Public Library - Hoffman Heights (North Branch)
Southeast Aurora Maintenance (SEAM) Facility - New Maintenance Facility
Utah Pool - Renovations

Denver Museum of Nature and Science, CO
Morgridge Family Exploration Center - Multiple Renovations
Administration Remodel
Bond Projects - Chiller Replacement

Montrose County, CO
Historic Courthouse Renovation

SHANE NEWMAN, PE

Project Manager/Senior Mechanical Engineer



Shane has learned that one of the most important skills an engineer can possess is concise and timely communication. He has earned the trust of clients and owners alike with his knack for explaining technical issues clearly and always with a problem-solving mindset. Instead of running from issues during the project cycle, he tackles them expeditiously as they arise. As someone who is always looking for a challenge, Shane knows there are valuable lessons to be learned in every project. It gives him a diverse technical skillset beneficial to any team he is a part of.

Experience
20 years total, 4 years with BCER

Education
Bachelor of Science in Mechanical Engineering, University of Colorado Denver

Registrations
Licensed as a Professional Engineer in CO, TX

Affiliations
American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), International Society for Pharmaceutical Engineering (ISPE), American Society of Mechanical Engineers (ASME)

Representative project experience

State of Colorado, CO
State Capitol Building - Chiller Study
State Capitol Building - Chiller, Cooling Tower & Chilled Water Loop Upgrade
State Capitol Building - Relocate Subbasement Systems

City and County of Denver, CO
Police Admin Building - MEP Master Plan
Swansea Recreation Center - Natatorium Addition
FCAP (Facility Condition Assessment Program)

City of Aurora, CO
Southeast Aurora Maintenance (SEAM) Facility - New Campus

Town of Buena Vista, CO
Buena Vista Police/Town Hall - New Facility

Lake County, CO
Lake County Justice Center - New Facility

Boulder County, CO
Justice Center - DA Office Renovation
Courthouse - IT Room Cooling
Courthouse - 3rd Floor Remodel
Boulder County Jail - Central Plant Expansion
Boulder County Jail - Pod A Expansion
Boulder County Jail - Pod B Sub Day Rooms
Boulder County Jail - Pod C Hardening
Boulder County Jail - Administration Renovation
Boulder County Jail - Intake Renovation
Boulder County Jail - Alternate Sentencing

Sierra Nevada Corporation, CO
315 CTC Vail Lab
Boxelder SCIF Manufacturing
Composites Manufacturing
Consolidation Office Park Renovation
Willowbrook Park Hangar 1 Office

Upsher-Smith, CO
DHW Boiler Upgrade CD's
Exhaust Fan Emergency Power
Hot Water Heater Owner Revs
Power Safety Issues
Electrical As-Built
Facility CAD File Updating
Process Drain Review

JEFF VISNIC, PE, LEED-AP, MBA

Senior Electrical Engineer



Jeff is an experienced Electrical Engineer who understands the value of TEAM. He has a natural ability to mentor and develop his team members to help them grow and flourish in their roles. He enjoys working closely with clients and building those all important relationships to ensure projects go smoothly. Jeff has a passion for learning, and has worked hard to be a leader in this field. He brings a strong collaborative and constructibility mindset to this team and will ensure strong quality assurance and quality control for this project.

Experience

21 years total, 2 years with BCER

Education

M.B.A., Decision Sciences – Operation & Project Management, University of Colorado - Denver

B.S., Engineering, Electrical Specialty, Business Management Minor, Colorado School of Mines

Registrations

Licensed as a Professional Engineer in AZ, CA, CO, TX, WY.

Affiliations

CAHED - Colorado Association of Healthcare Engineers and Directors
A4LE - Association for Learning Environments

Representative project experience

City of Colorado Springs, CO
Spring Creek/Royer Lighting

Town of Parker, CO
Jordan Road Undercrossing

City of Aurora - Public Works, CO
25th Avenue Pedestrian Blvd.

City of Aurora, CO
Southeast Aurora Maintenance (SEAM) - New Campus

City of Centennial, CO
Centennial Bridge Replacement

City and County of Denver, CO
Police Admin Building - MEP Master Plan

City of Arvada, CO
Ralston Road - Yukon St to Garrison St. - Roadway Improvements

Boulder County, CO
Courthouse - 3rd Fl Remodel
Boulder County Jail - Administration Renovations
Boulder County Jail - Alternate Sentencing
Boulder County Jail - Intake

Wilmarc Precision Technology, CO
Manufacturing Facility - New

Sierra Nevada Corporation, CO
IAS Office Park Renovation
Composites Manufacturing Facility

E470 Public Highway Authority, CO
E470 - 38th Interchange
E470 Widening

Stanley Hotel, CO
Stanley Carriage House Restaurant

Aurora Public Schools, CO*
Central High School - Clinic Remodel
Gateway High School - Clinic TFO
Aurora Academy Charter School - Renovation

*Projects completed with another firm.

GREGG ADAMS, ASSOC IALD, LC, IES, LEED AP® BD+C

Senior Lighting Consultant



As a senior lighting consultant, Gregg is responsible for all phases of project management from proposal to design to completion. Gregg provides expertise in specification of high performance, energy-aggressive integrated lighting and lighting control systems as well as project management and project leadership. He has become a proponent of sustainability through the years and views it as the "mission and vision" of his work.

Experience
32 years total, 6 years with BCER

Education
MS Business Administration, University of Denver
Bachelor of Fine Arts, Arizona State University

Certifications
Lighting Certified, National Council on Qualifications for Lighting Professions (NCQLP)

Affiliations
Illumination Engineering Society of North America (IESNA), IESNA Progress Report Committee Secretary, International Association of Lighting Designers (IALD) - Associate Member

Awards
2021 IESNA Award of Merit for Lighting Control Innovation – Freyer-Newman Center at Denver Botanic Gardens

Representative project experience

Town of Parker, CO
Jordan Road Undercrossing
Main Street Improvements

Colorado Springs Airport, CO
Spring Creek/Royer Lighting Project

Douglas County Department of Public Works, CO
Douglas County Buckley Powder Code Study

City of Centennial, CO
Centennial Bridge Replacement

City of Aurora, CO
Street Lighting Standards
Quincy Widening Project
Westerly Creek Toll Gate Trail Connector
Interim LED Spec Misc
East Mississippi Widening
Gun Club Road Widening
Parker Quincy Smoky Hill Improvements
Potomac Street Utility Undergrounding

City and County of Denver, CO
39th Ave/Park Hill Greenway
48th Ave Viaduct Maint Final Design
DPAC-RTD Station Improvements
Lindsey-Flanigan Courthouse - Renovation
River North Park Lighting
Levitt Pavilion at Ruby Hill
Buell Theater Facade and Structural Study
Broadway I-25 Wedge Ramp
LaFamilia Rec. Center, Natatorium Design
Wildland Fire Storage Building

Denver Botanic Gardens, CO
Boettcher Memorial Center - New Facility
Freyer-Newman Center - New Facility

Denver Museum of Nature and Science, CO
Space Odyssey Initiative
West Atrium Sky Terrace Renovation

City of Arvada, CO
Candelas PV Street Light Study
Neighborhood Street Lighting Recommendations
Ralston Road - Yukon St to Garrison St
Wadsworth-Grandview Lighting Study

Sierra Nevada Corporation, CO
Composites Manufacturing

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RICH GARNER, CPD

Lead Plumbing Designer



Rich has more than 20 years of experience in the design of plumbing and fire protection systems specifically for Healthcare facilities across the Colorado Front Range. He has worked closely with the Mechanical design team to develop the plumbing and medical gas systems for the new Children's South Campus Hospital in Highlands Ranch, CO. Rich also served as the Project Plumbing Designer for Phase I construction of UCHealth Anschutz Inpatient Pavilion, and he served as the plumbing designer for this Phase II expansion of the Anschutz Inpatient Pavilion.

Experience
27 years total, 27 years with BCER

Education
Associates Degree, ITT Technical Institute

Certifications
Certified in Plumbing Design

Representative project experience

Colorado Department of Human Services, CO
Institute of Forensic Psychiatry
Colorado Mental Health Institute
- Pueblo HVAC and Water Softener
- Pueblo Boiler Plant Modular Study
- Pueblo/Fort Logan Suicide Risk Mitigation
- Pueblo High Security Forensic Institute
- Fort Logan Suicide Risk Mitigation Project
- Fort Logan High Security Forensic Institute

University of Colorado Colorado Springs, CO
Science Building - Renovation

Town of Parker, CO
Parker Town Hall

Douglas County, CO
Sheriff Sub-Station - New

Douglas County School District, CO
Core Knowledge Charter School

Douglas County Libraries, CO
Castle Pines - Mechanical Upgrades
Parker - Mechanical Upgrades
Lone Tree - Mechanical Upgrades

Children's Hospital Colorado South Campus, CO
New Hospital (200,000 sf Facility with future expansion capacity)
Inpatient Care Facility

City of Aurora, CO
Southeast Aurora Maintenance (SEAM) - New Campus

City and County of Denver, CO
District 2 Police Station
District 3 Police Station
LaFamilia Recreation Center - Natatorium Design
Swansea Recreation Center - Basis of Design

Boulder County, CO
Justice Center - DA's Office Renovation
Boulder County Jail - Alternate Sentencing
Boulder County Jail - Central Plant Expansion
Boulder County Jail - Intake

CLAIRE MESTLER, PE

Lead Life Safety Engineer



Claire not only understands what makes a project successful; she embodies it. She strives to make her part in every project the best that it can be through good communication, finding and solving problems early, and always doing a thorough follow-up to discuss lessons learned. She enjoys working with various people who bring a project to life from the drawing phase to project close-out. Her attention to detail and aptitude for identifying and solving problems are valuable to BCER's Life Safety and Fire Protection team and every project she is a part of.

Experience

10 years total, 5 years with BCER

Education

Bachelor of Science in Mechanical Engineering, Colorado School of Mines

Registrations

Licensed as a Professional Engineer in AZ, CO, FL, WY

Affiliations

Fire Marshals Association of Colorado (FMAC), Automatic Fire Alarm Association National Chapter (AFAA) and Rocky Mountain Chapter (RMAFAA), Society of Fire Protection Engineers, National and Rocky Mountain Chapters (SFPE)

Representative project experience

Children's Hospital Colorado Springs, CO
Lobby Remodel

Douglas County Department of Public Works, CO
Douglas County Buckley Powder - Code Study

Douglas County School District, CO
Ranch Middle School
Sierra Middle School
Stone Canyon - Water Supply Study
Stone Canyon - Fire Sprinkler Water and Base Camp
North Ridge Elementary School - Fire Alarm
Mountain View Elementary School - Fire/Smoke Dampers

City of Aurora, CO
Southeast Area Maintenance (SEAM) - New Campus, Fire Alarm Design

City and County of Denver, CO
Police Administration Building - Fire Alarm Study
Police Administration Building - Fire Alarm CD-CA
Webb Building - Fire Alarm Assessment
Arthmar Recreation Center - Remodel
St. Charles Recreation Center - HVAC & Electrical Upgrades

U.S. General Services Administration (GSA), CO
1801 California - GSA Fire Protection/Life Safety Assessment
370 17th Street - GSA Fire Assessment
Denver Place 6th Floor - GSA Assessment
Denver Place 7th & 8th Floor - GSA Assessment
Denver Federal Center Building 48 - Fire Protection/ Life Safety
Denver Federal Center Building 67 OIG - Fire Alarm/ Fire Protection
Denver Federal Center Building 16 - Chiller Replacement

State of Colorado Department of Human Services (CDHS), CO
Platte Valley Youth Services Center - Fire Sprinklers

Denver Museum of Nature and Science
Admin Remodel
New Volunteer Offices
Southeast Wing Basement Remodel

CUMMING
Building Value Through Expertise

LUCAS STOVER

Director



Education

Bachelor of Science, Civil Engineering, California Polytechnic State University, San Luis Obispo

Software

D-Profiler
Destini
On-Screen Take Off
Excel
PowerPoint
Word
AutoCAD
REVIT

Availability

Lucas is available to start this project immediately and will be available 15%-25%, depending upon phase.

Experience

Years Total: 7
With Cumming: 6

Lucas is a highly skilled cost management professional with a background in Civil Engineering. Since joining Cumming in 2015, he has performed estimating services across all sectors providing quantity take-offs, specification review, obtaining pricing quotes, change order estimating, value engineering, and project reconciliation from conceptual to close-out phases of projects. Lucas has successfully managed teams for programs ranging from $50,000 to $2 billion. With a strong emphasis on communication, Lucas ensures all costs are provided promptly and accurately.

Representative Experience

Highlands Ranch Senior Center, Highlands Ranch, CO
Adams County, DA Building, Brighton, CO*
Rocky Mountain Rescue Headquarters, Boulder, CO*
Union Colony Civic Center Master Plan, Greeley, CO
City of Fort Collins, Carnegie Building, Fort Collins, CO
City of Fort Collins, New North Transit Center Options, Fort Collins, CO
Commercial Development, Walnut Street, Fort Collins, CO
City of Aurora, Metro Center Mixed-Use Development Infrastructure, Aurora, CO
City & County of Denver, New National Western Center, Event & Education Complex Cost Update, Denver, CO
Craig Hospital Interim Master Plan, Englewood, CO
Denver Museum of Nature and Science, Nature Play and Deboer Waterway, Denver, CO
Denver Zoo, Phase 1 Master Plan Improvements Incl. New Animal Hospital-Brown Bear Exhibit Reno-4D Theater, Denver, CO
Denver Zoo, Flamingo Lagoon, Denver, CO
Durango–La Plata County Airport, Multi-Phased Terminal Expansion, Durango, CO
Elizabeth Parks and Recreation, Casey Jones Park, Elizabeth, CO
Greeley West, New 304-Unit Multi-Family Development, Greeley, CO
Larimer County Fairgrounds & Events Complex, FNBO Exhibition Building Expansion, Loveland, CO
Mobridge Regional Hospital & Clinics, Mobridge, SD
RFTA Employee Housing, Aspen, CO
SCL Health, New West Hospital Campus, Wheat Ridge, CO
Sherman St. Property, Office Building Conversion to Apartments, Denver, CO
State of Colorado, Capital Complex Buildings Renovations to Achieve LEED Certification, Denver, CO
Tincup Distillery Resort, New Campus Buildings, Blackhawk, CO
Town of Frisco, Village Center Building, Frisco, CO
CalFire/San Mateo County Fire Replacement No. 17 Feasibility Study, San Mateo, CA
Napa County, New Carneros Fire Station, Napa, CA
City of Alameda, Fire Station Five Historic Rehabilitation/Renovation Feasibility Study, Alameda, CA
City of Oakland, Fire Station No. 12 Renovation, Oakland, CA
City of Milpitas, Fire Station No. 2 Replacement, Milpitas, CA
Confidential Client, New Corporate HQ Bldg. Market/Feasibility Study, Fort Worth, TX

SCHEDULE 4

SAMPLE WORK ORDER

This Work Order is entered pursuant to and subject to the terms and conditions of the MASTER CONTRACT FOR MEP ENGINEERING SERVICES, including Exhibit B - Consultant Agreement Form incorporated therein, dated _____, 20__ between Pueblo, a Municipal Corporation ("City"), and _____ (“Engineer”).

Scope of Work:

Time for Completion:

Work Order Compensation:

Approved by:_____ Dated: _____
Public Works Director, City

Approved by:_____ Dated: _____
Director of Finance, City

Approved by:_____ Dated: _____
Director of Purchasing, City

Accepted by:_____ Dated: _____
Engineer Representative

ADDITIONAL INFORMATION FOR AGREEMENT

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

E-Verify Participation Letter

Corporate Authorization to Endorse Agreements

Insurance Certificate(s)



For this Record...
Filing history and documents
Trade names
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	BCER ENGINEERING, INC.		
Status	Good Standing	Formation date	11/01/1994
ID number	19941121225	Form	Corporation
Periodic report month	November	Jurisdiction	Colorado
Principal office street address	5420 WARD ROAD, SUITE 200, ARVADA , CO 80002, United States		
Principal office mailing address	n/a		

Registered Agent	
Name	BCER Engineering Inc
Street address	5420 Ward Road, Ste 200, Arvada, CO 80002, United States
Mailing address	n/a

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

BCER ENGINEERING, INC.

is a

Corporation

formed or registered on 11/01/1994 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19941121225 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/14/2022 that have been posted, and by documents delivered to this office electronically through 06/15/2022 @ 17:43:06 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/15/2022 @ 17:43:06 in accordance with applicable law. This certificate is assigned Confirmation Number 14097686 .

Secretary of State of the State of Colorado

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

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

PROPOSED MASTER CONTRACT FOR MEP ENGINEERING SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

THIS CONTRACT is made and entered this ___ day of _____, 20___, by and between Pueblo, a Municipal Corporation, PO Box 1427, Pueblo, CO 81001 (hereinafter referred to as the "City") and Bridgers & Paxton Consulting Engineers, Inc., a registered Colorado corporation, 1365 Garden of the Gods Rd., Suite 260, Colorado Springs, CO 80907 (hereinafter referred to as the "Engineer"),

WITNESSETH:

RECITALS

A. The City solicited competitive proposals for Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities to provide engineering services to include specific mechanical, electrical, and plumbing (MEP) engineering and related services for future City of Pueblo Public Improvement projects (hereinafter referred to as "RFP").

B. In response to the RFP, Engineer submitted its proposal (hereinafter referred to as "Response").

C. City has evaluated all Responses submitted and selected Engineer to perform MEP engineering services for various anticipated projects.

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants, City and Engineer agree as follows:

1. ENGAGEMENT.

(a) City engages Engineer and Engineer accepts such engagement to perform the services set forth in this Contract and the standard form of Agreement for Professional Mechanical, Electrical, and Plumbing (MEP) Engineering Services ("CIP Engineering Agreement Form") or the standard form Agreement for Professional Services ("Consultant Agreement Form") (collectively hereinafter referred to as "Approved Form Agreement"), execution of which will be required for each Project as may be directed by the City. A copy of the CIP Engineering Agreement Form is attached hereto and labelled Exhibit A and a copy of the Consultant Agreement Form is attached hereto and labelled Exhibit B.

(b) Anticipated Projects (hereinafter referred to as the "Projects") may include the Scope of Services for each Agreement for any Project and shall be consistent with and meet following requirements:

- Long range facility planning
- Project planning
- Detailed mechanical, electrical, and plumbing engineering design
- Preparation of bid documents
- Consultant/contractor evaluation and prequalification
- Process consulting
- Construction management and inspection.
- Analysis of project site
- Graphics including plans, perspectives, elevations, details, and renderings
- Final design criteria
- Preliminary plan sets
- Attend and facilitate meetings
- Final construction documents
- Provide all necessary duties for construction management, if requested.
- Other projects requiring support from Consultant/Engineer as need arises

(c) City may, or may not, in its sole discretion undertake any of the Projects. Upon written direction from City requesting Engineer to undertake a project, the Engineer shall prepare a specific Scope of Service, Fee Schedule (based upon Schedule 2 of this Agreement), and Work Schedule necessary to complete the project.

(d) After mutual approval of the Scope of Service, Fee Schedule, maximum compensation and Work Schedule, the City will incorporate such agreed upon terms into the Approved Form Agreement which shall be executed by Engineer.

(e) After execution of such agreement by Engineer, City will submit same to City Council of City for approval and any such agreement shall be subject to and conditioned upon City Council approval.

(f) In addition to the scope of work set forth in Subsections 1(a) through (e), City may request services on an as needed basis. Request for such services shall be initiated and documented by a written work order agreement ("Work Order") signed by the Public Works Director of City and approved by the Director of Finance and Director of Purchasing. The Work Order shall set forth the work to be performed, the time for completion and the compensation, including maximum compensation not to exceed $10,000, for performance of such work and shall otherwise be in substantially the same form as attached hereto as Schedule 4. Said compensation shall be approved as provided in Subsection 1(g) this Agreement. The work to be performed under any Work Order shall be included in the "Basic Services" and "Project" as such terms are used in Exhibit B - Consultant Agreement Form and shall be subject to all terms and conditions of Exhibit B - Consultant Agreement Form as if same had been fully executed by the parties for such work to be performed. The maximum sum under Section 3(a) of Exhibit B - Consultant Agreement Form shall, for the purposes of the work to be performed, be the maximum compensation set forth in the Work Order and approved pursuant to Section 1(g) of this Agreement. All such services shall include all usual and customary professional engineering services necessary for such work to be performed.

(g) When requested by City, Engineer shall prepare without charge to City a bid amount for any proposed Work Order ("Work Order Compensation") requested under Subsection 1(f) which shall be based upon the fee schedule set forth in Schedule 2 and shall itemize compensation amounts and include the maximum compensation amount necessary for completion and performance of all work set forth in the Work Order. Should City have any dispute, question, required clarification or other issue with respect to the Work Order Compensation, Engineer shall meet and confer in good faith with City to resolve such issue. No Work Order shall be signed and issued by the Public Works Director of City unless and until City approves the Work Order Compensation. No Work Order shall be approved for which the maximum compensation exceeds $10,000.

(h) No minimum amount of work is guaranteed under this Agreement. City reserves the right to engage and/or contract with other parties to perform services which otherwise might be requested under this Agreement.

2. TERM.

(a) This Contract is for a term of three (3) years commencing July 1, 2022 and ending June 30, 2025. The term of this Contract may be extended for an additional period of two (2) years by way of two (2) one (1) year options, upon mutual agreement of City and Engineer.

(b) In the event the City exercises the provision to extend the agreement after the initial term, adjustments in the Fee Schedule set forth in Schedule 2 shall be permitted. Such adjustment shall be calculated based upon the most current annual percentage change in the DOL CPI-W index for Denver-Aurora-Lakewood Colorado available during the date of adjustment; provided, however, in no event will the adjustment be greater than three percent (3%).

(c) This Contract may be terminated by the City at any time, without cause or liability, upon thirty (30) days prior written notice given to the Engineer specifying the date of termination, provided, however, that the termination of this Contract shall not terminate or be deemed to terminate any existing agreements or Work Orders executed by and between the parties pursuant to Section 1 of this Agreement.

3. GENERAL COVENANTS. Engineer covenants that it is:

(a) Competent and qualified to perform; and will perform the services and work contemplated by this Contract and the Agreement(s) in a professional manner to the satisfaction of the City.

(b) Familiar with the requirements stated in the RFP, Section 2 with respect to the services and work contemplated by this Contract and the Agreement(s) and will perform such services and work in compliance therewith.

4. RECORDS AND DATABASE. Engineer shall maintain a cost accounting system acceptable to City. The City shall have access to any books, documents, papers, and records of the Engineer that are directly pertinent or relate to this Contract or any Agreements for a specified Project, for the audit purposes, examination, inspection, excerpts, and transcription. The Engineer shall maintain such records for three (3) years after City makes final payments to Engineer and all pending matters are closed. Engineer shall prepare and maintain an electronic database (compatible with AutoCAD) that accurately represents all existing and future civil infrastructure for all Projects completed under this Contract and any Agreements for a specified Project.

5. SPECIFIC COVENANTS. Engineer covenants that, during the performance of this Contract and any Agreement for a specified Project, Engineer will:

(a) comply with all federal statutes and regulations relating to nondiscrimination in federally assisted programs.

(b) comply with the State of Colorado's requirements for State Revolving Fund Loan Projects.

(c) comply with all other laws, regulations, and requirements for applicable Federal, State, local , and grant funded Projects.

6. RIGHTS TO INVENTIONS. Plans, drawings, designs, specifications, inventions, reports and all other documents and materials generated under this Contract or any Agreement for a specified Project shall become the sole property of City, subject to applicable federal grant requirements, and City shall be vested with all rights therein of whatever kind and however created, whether by common law, statute, or equity. Engineer shall retain sole ownership of pre-existing proprietary property, including but not limited to, computer programs, software, diagrams, and models.

7. INSURANCE AND INDEMNITY.

(a) Engineer agrees that it has procured and will maintain during the term of this Contract, such insurance as will protect it and City from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(1) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the City.

(2) Commercial General Liability Insurance. The Engineer shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Engineer with respect to all work performed by him and all his subcontractors under the Agreement/Contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers, and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Engineer under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(3) Professional Liability Insurance with coverage of not less than $1,000,000 and in a form and with a deductible acceptable to City.

(4) Comprehensive Automobile Liability Insurance. The Engineer shall procure and maintain during the period of the Agreement/Contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Engineer from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes, and similar equipment whether owned, leased, hired, or used by Engineer.

(c) Engineer shall furnish to City a certificate or certificates of insurance showing compliance with this section 7. Engineer shall obtain a special endorsement from its insurance carrier that provides that the insurance shall not be changed or cancelled until ten (10) days after written notice has been given to City and provide a copy of such endorsement to City. Engineer shall immediately notify City of any substantial change in, or cancellation, or non-renewal of any such insurance.

(d) Engineer agrees to hold harmless, defend and indemnify City from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, its employees, subcontractors, and consultants.

8. 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 Contract.

(b) Engineer 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 Engineer 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 Engineer 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 Engineer 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 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 Contract, 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 contract 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.

9. CERTIFICATIONS. Engineer certifies that:

(a) Neither Engineer nor any of its principals are presently, or at the time of execution of any Agreement for a specified Project, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract or in any such subsequent Agreement for a specified Project by any entity or agency. Engineer will include this clause in all lower tier transactions, solicitations, proposals, contracts, subcontracts, and agreements.

(b) Engineer is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representatives and that it will comply with the Department of Transportation trade restriction regulations 49 CFR Part 30. Engineer will include this clause and other clauses required by said trade restriction regulations in all lower tier transactions, solicitations, proposals, contracts. subcontracts, and agreements.

10. NOTICES. Any notice required or permitted by this Contract shall be in writing and may be served personally or mailed by first-class mail, postage prepaid, addressed to the party at its address shown on the first page hereof, and if to the City, a copy of thereof shall be given to City of Pueblo, Department of Public Works, Attn: Andrew Hayes, 211 E. D Street, Pueblo, Colorado, 81003. Either party may change addresses upon written notice given to the other party specifying the changed address.

11. FINANCIAL OBLIGATIONS OF CITY. All financial obligations of the City under this Contract and any Agreement for a specified Project in any subsequent fiscal year of the City are subject to, and contingent upon, funds being specifically budgeted and appropriated for such purposes (Projects). This Contract 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 of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract and any Agreement for a specified Project, with respect to any financial obligation of the City which may arise under this Contract in any fiscal year after 2021, 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 or breach of this Contract or any Agreement for a specified Project by the City, and the City may terminate this Contract or any Agreement for a specified Project without liability.

12. MISCELLANEOUS.

(a) This Contract shall be governed and interpreted in accordance with the laws of the State of Colorado.

(b) In the event of any litigation arising out of this Contract, the court shall award to the prevailing party its costs and reasonable attorney fees. Venue for any such litigation shall be Pueblo County, Colorado.

(c) This Contract contains the entire agreement between the City and Engineer and incorporates all prior written and oral understandings and agreements between the parties.

(d) This Contract may only be modified or amended by written instrument signed by both City and Engineer.

(e) This Contract shall be binding upon and inure to the benefit of City and Engineer and their respective successors and assigns, provided, however, Engineer shall not assign this Contract, Agreement for a specific Project, or any interest herein without the prior written consent of City.

13. PERA LIABILITY. The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Contract. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Contract.

(Signature section on following page)

IN WITNESS WHEREOF the parties hereto have made and executed this Contract 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]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

By_____
Steve M. Taylor, President

Attachments:

CIP Engineering Agreement Form - Exhibit A
Consultant Agreement Form - Exhibit B
Schedule 1 – Scope of Services
Schedule 2 – Fee Schedule
Schedule 3 – Identification of Personnel, Subcontractors, and Task Responsibility
Schedule 4 – Work Order Form
Additional Information for Contract

NOTE: This form shall be completed at time of award for each individual project as applicable.

PROPOSED AGREEMENT FOR
PROFESSIONAL MECHANICAL, ELECTRICAL, PLUMBING (MEP) ENGINEERING SERVICESBY AND BETWEEN CITY OF PUEBLO
AND BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

THIS AGREEMENT made and entered this ____ day of _____, 20____ by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and Bridgers & Paxton Consulting Engineers, Inc., a registered Colorado corporation, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional planning, design, engineering and related services for Owner in connection with Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[ ] - Study and Report Phase

[ ] - 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, plumbing, environmental, and planning services. Engineer shall also provide any landscape engineering, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services.

1.3 Professional engineering services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered engineer.

1.4 Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5 Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine his requirements for the Project and review available data.

(b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Engineer's findings and recommendations with opinions of probable costs.

(g) Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (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 stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.

(b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

(c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.

(d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.

(f) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and Specifications describing such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Engineer **shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR ' 36 Standards.**

(b) Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

(e) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Engineer shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, Drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify Drawings or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Engineer under the terms of the construction contract.

(b) Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work
and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

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

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

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Engineer shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work

on the Project. The interpretations and decisions of the Engineer shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; except that Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Engineer's employees.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Schedule 3 - "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 five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or

additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

2.7 Requirements Where Federal Assistance Provided.
[Remove if not needed for this Agreement or insert specific language required by the federal agency or state entity as required]

(a) Engineer understands that Owner will be funding the Project in part or in whole by a grant or loan from _____ (the "Federal Agency"). Engineer agrees it is subject to and shall comply with all applicable grant or loan conditions and the regulations of the Federal Agency which apply to the work under this Agreement, whether referenced in Schedule 1 or not. All applicable loan or grant conditions and regulations of the Federal Agency and regulations are incorporated into this Agreement by reference.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 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 Schedule 1 – "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 *[Enter bid grand total]* in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Exhibit 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 Schedule 2 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 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

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

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Engineer and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Engineer, Engineer shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Engineer or Client. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and Engineers, or to perform work according to the highest professional standards, or to perform work

in a manner deemed satisfactory by Client's Project Representative, then in that event, Engineer's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 (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 shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless and indemnify Engineer from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

(b) Advertising. Unless specifically approved in advance in writing by Owner, Engineer shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Engineer's employees. If Engineer wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 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 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) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

7.3 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 Public Works, Attn: Andrew Hayes, Director, 211 E. D Street, Pueblo, CO 81003 or to the Architect at Bridgers & Paxton Consulting Engineers, Inc., Attn: Steve Taylor, President, 1365 Garden of the Gods Rd., Suite 260, Colorado Springs, CO 80907. 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 Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

7.6 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 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.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if 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, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands and agrees that entry to properties not under Owner's control may require Engineer to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Engineer shall proceed diligently with performance of his work under this Agreement.

SECTION 9. SCHEDULES

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

Schedule 1 - "Scope of Services" consisting of __ pages.
Schedule 2- "Fee Schedule" consisting of ___ pages.
Schedule 3 - "Work Schedule" consisting of _____ pages.
Schedule 4 – "Work Order" consisting of ____ pages.

SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Engineer therefore, will use his or her best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Engineer shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without Authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Engineer will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Engineer shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement;

(ii) Enter into a contract with a subcontractor that fails to certify to Engineer that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Engineer shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or Department Program.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Engineer obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Agreement, the Engineer shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Engineer has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Engineer shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Engineer is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Engineer shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Engineer shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Engineer to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Agreement.

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]

BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

By_____
Steve M. Taylor, President

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

NOTE: This form shall be completed at time of award for each individual project as applicable.

AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN CITY OF PUEBLO
AND BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

THIS AGREEMENT is made and entered this ___ day of _____, 20__, by and between Pueblo, a Municipal Corporation (hereinafter referred to as "Client") and Bridgers & Paxton Consulting Engineers, Inc., a registered Colorado corporation (hereinafter referred to as "Consultant"), for Consultant to render professional___*[service type]* _____ services for Client with respect to Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities 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 planning and 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___*[service type]* _____ services including any required drafting or design services incident to its work on the Project. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(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 drawings, 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. 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 tools, supplies, labor and utilities 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. $_____, 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 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, 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. REQUIRED FEDERAL PROVISIONS [Delete if inapplicable.]
NOTE - THIS SECTION MAY REQUIRE REVISION

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided _____. Consultant agrees it is subject to and shall comply with all applicable provisions of said _____, 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, _____ 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 11. 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, Public Works Department, Attn: Andrew Hayes, Director, 201 E. D Street, Pueblo, CO 81003, or to Consultant at Bridgers & Paxton Consulting Engineers, Inc., Attn: Steve Taylor, President, 1365 Garden of the Gods Rd., Suite 260, Colorado Springs, CO 8090. 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 12. 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 13. 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.

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]

BRIDGERS & PAXTON CONSULTING ENGINEERS, INC.

By: _____
Steve M. Taylor, President

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

SCHEDULE 1

SCOPE OF SERVICES

At a minimum the Agreement shall include the following excerpt from Section 2 of the Request for Proposal dated May 11, 2022

[Note: Add additional Scope of Service as needed for each project.]

2.3 Scope of Service:

The Consultants shall provide all professional services necessary to complete the project which will consist of, but not be limited to, long range facility planning; project planning; detailed engineering design; preparation of bid documents; consultant/contractor evaluation and prequalification; process consulting; and construction management and inspection. [delete any items that do not apply to this project]

Specific tasks may include, but shall not be limited, to the following: [delete any items that do not apply to this project]

- Provide staff and services on an as-needed basis.
- Analysis of Project Site – Provide recommendations for locating all amenities listed in the project scope based on user safety and experience, economic feasibility, environmental sustainability, and constructability.
- Graphics – Provide necessary graphics (plans, perspectives, elevations, details, and renderings) to best illustrate the project.
- Final Design Criteria – Develop final design criteria, construction materials and methods, dimensions and site amenities.
- Preliminary Plan Sets – Prior to bidding the project, provide five (5) sets of plans for both a 70% and 90% complete Construction Documentation packet for review including specifications and a detailed cost estimate for construction.
- Pre-Submittal Meetings – Attend pre-submittal meetings and provide necessary addendums to the submittal.
- Final Construction Documents – Provide 2 sets of final construction documents and specifications to the project manager for bidding [including one (1) electronic copy].
- Provide all necessary duties for construction management, if requested.
- Attend and facilitate meetings as necessary with City staff throughout the development of the project.
- Firm must be familiar with public processes and coordinate with City staff in presenting details to City Council if required.

2.4 Project Implementation

- At no time will Consultant be allowed to begin a project prior to approval and expect to be reimbursed by City. All projects as assigned must be coordinated with the City's Project Manager.
- Cost overages during the project must be pre-authorized and obtain written approval of the City's Project Manager.

SCHEDULE 2

FEE SCHEDULE

Excerpt from Bidders Response to RFP dated June 8, 2022, page 24
[Note: Add specific fee schedule for each project.]

PROFESSIONAL FEE SCHEDULE OF HOURLY RATES
MECHANICAL/ELECTRICAL/PLUMBING/TECHNOLOGY/CONTROLS
September 1, 2021 – September 1, 2022

PRINCIPAL	$195.00
PROJECT MANAGER	$175.00
SENIOR ENGINEER	$150.00
PROJECT ENGINEER	$135.00
ENGINEER	$115.00
ENGINEER INTERN	$ 95.00
SENIOR DESIGNER	$130.00
PROJECT DESIGNER	$ 90.00
DESIGNER	$ 80.00
BIM SERVICES	$120.00
CADD TECH	$ 70.00
ESTIMATING/CONSTRUCTION SERVICES	$130.00

NOTE:

1. The hourly rates quoted herein are applicable through September, 2022.

2. The hourly rates quoted herein do not include local or state gross receipts tax, as may be applicable.

REIMBURSABLE EXPENSES:

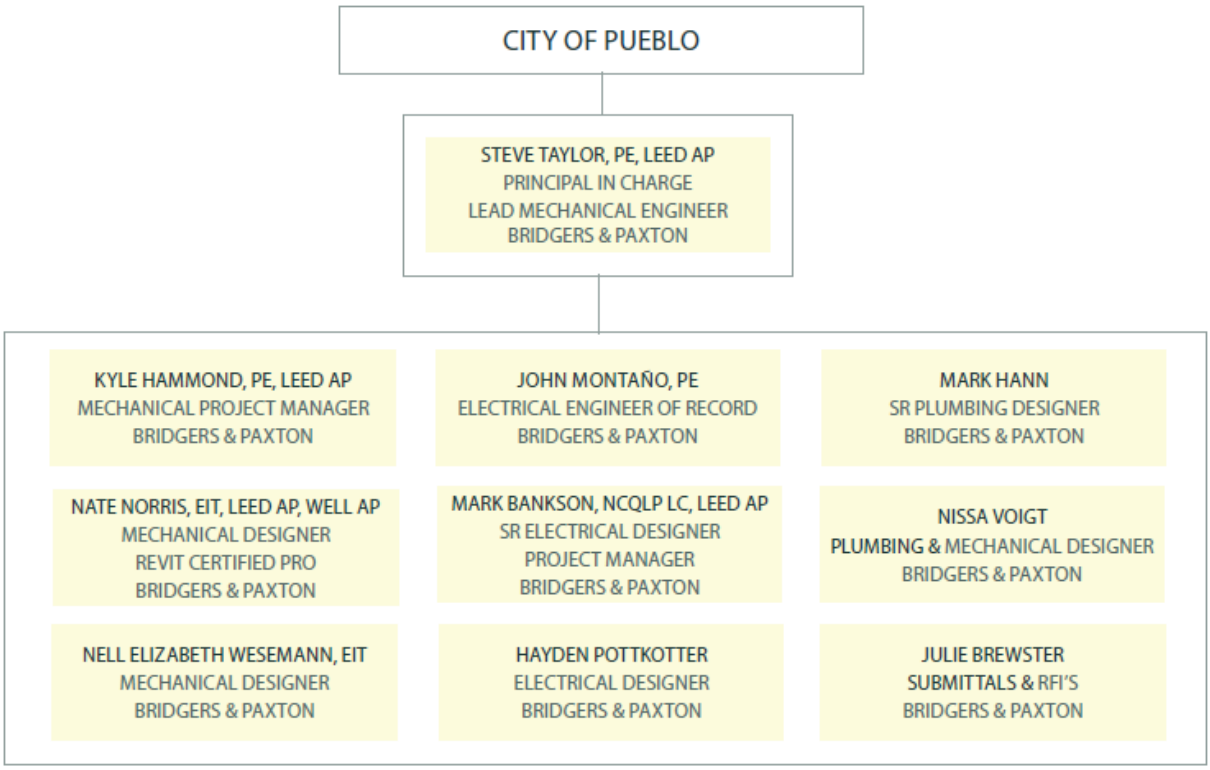
Travel and per diem (lodging, meals, etc.), reproduction, express mailing, etc. will be billed on a direct cost reimbursable basis, unless otherwise stipulated.

SCHEDULE 3

IDENTIFICATION OF PERSONNEL, SUBCONTRACTORS, AND TASK RESPONSIBILITY

Excerpt from Bidders Response to RFP dated June 8, 2022, pages 14-18

ORGANIZATIONAL CHART



STEVE TAYLOR, PE, LEED AP BD+C

PRINCIPAL IN CHARGE | LEAD MECHANICAL ENGINEER | BRIDGERS & PAXTON

Registrations: Professional Engineer CO #046750, AZ, WY
LEED Accredited Professional

Education: Bachelor of Science, Architectural Engineering, Kansas State University

Affiliations: ASHRAE



Steve Taylor is a Principal and Office Leader for B&P's Colorado Springs regional office. His project experience includes project management and mechanical engineering design for healthcare, commercial, industrial, and educational facilities. Steve's design experience includes facility assessment studies, pre-design investigation, heating and cooling load calculations, traditional HVAC system design, energy efficient HVAC, VRF systems, medical and laboratory gas, process piping, heat recovery systems, central plant, Divisions 21, 22 & 23 specification editing, EMCS, sequence of operation editing, LEED documentation and submission, and IECC compliance verification. Steve has completed energy simulations and life cycle cost analysis for both LEED and non-LEED buildings. Steve has extensive project management experience for large scale buildings and is authorized to stamp Mechanical and HVAC drawings.

RELEVANT EXPERIENCE

City of Pueblo On-Call Mechanical Engineering Services for Facilities
Pueblo, CO

Pueblo West Metro On-Call MEP Engineering Services
Pueblo West, CO

CSU-Pueblo Technology Building HVAC Upgrade
Pueblo, CO

CSU-Pueblo Technology Building Renovation Design Build
Pueblo, CO

CDOT On-Call MEP Engineering Services
State of Colorado

Pueblo District 60 Two New Schools (Design)
Pueblo, CO

Pueblo Community College Fremont Nursing & Science Renovation
Pueblo, CO

Pueblo SRDA Senior Resource Development
Pueblo, CO

Swallows Charter Academy Gym, Kitchen
Pueblo West, CO

Adams State University Richardson Hall Renovation
Alamosa, CO

City of Aurora New Fire Station #16
Aurora, CO

City of Aurora New Fire Station #15
Aurora, CO

City of Colorado Springs Airport Modernization & Fire Renovation
Colorado Springs, CO

Widefield Water & Sanitation District Admin Building
Widefield, CO

City of Castle Pines New City Hall
Castle Pines, CO

Colorado State University (CSU) Pueblo Natatorium HVAC Assessment
Pueblo, CO

Pueblo D60 Facility Planning and Assessment
Pueblo, CO

City of Aurora Fire Station Assessments
Aurora, CO

KYLE HAMMOND, PE, LEED AP BD+C

MECHANICAL ENGINEER | PROJECT MANAGER | BRIDGERS & PAXTON

Registrations: Professional Engineer CO #051803
Education: Bachelor of Science, Architectural Engineering, Kansas State University
Affiliations: ASHRAE



Kyle Hammond is a Mechanical Engineer for the Colorado Springs regional office. His project experience includes mechanical engineering design for K-12, university projects, religious buildings, military buildings, hotels, offices, parking garages, high-end residences, recreation centers and natatoriums. Kyle's design experience includes heating/chilled water (air and water-cooled chillers), AHU, RTU, ERV, VRF (heat pump & heat recovery), ground-source heat pump, radiant floor, infrared radiant heaters, snowmelt, dust collection, commercial kitchen, heat trace; and full plumbing system design; Divisions 21, 22 & 23 specification editing, sequence of operation editing, and LEED

RELEVANT EXPERIENCE

City of Pueblo On-Call Mechanical Engineering Services for Facilities
Pueblo, CO

Pueblo District 60 2 New High Schools, 2 New Elementary Schools
Pueblo, CO

Pueblo County DSS Judicial HVAC Replacement
Pueblo, CO (prior firm)

COS District 11 Boiler Replacement Designs and Construction Administration Mann Middle School,
Colorado Springs, CO

COS District 11 Boiler Replacement Designs and Construction Administration Mann Middle School,
Colorado Springs, CO

COS District 11 Jackson Elementary School Boiler HVAC Upgrade
Colorado Springs, CO

COS District 11 Mitchell High HVAC Replacement Design Colorado Springs, CO

Cobham CRAC and Test Lab HVAC Assessment
Colorado Springs, CO

City of Colorado Springs Airport Chiller/Cooling Tower Replacement (prior firm)
Colorado Springs, CO

JOHN MONTAÑO, PE

PRINCIPAL ELECTRICAL | ENGINEER OF RECORD | BRIDGERS & PAXTON

Registrations: Professional Engineer CO (#049797)
Education: Bachelor of Science, University of New Mexico, Electrical Engineering
Affiliations: Illuminating Engineering Society of North America



John Montaño is a Principal and Electrical Engineer for Bridgers & Paxton with over 29 years of experience. His expertise includes electrical studies, pre-design investigation, fee proposals, estimates of probable electrical construction costs, presentation of progress drawings to clients, lighting design and calculations, power systems design and load calculations, fire alarm system design, lighting protection, telecommunications, specification editing, construction administration and field observations.

John served as Lead Electrical Engineer for his relevant experience projects.

RELEVANT EXPERIENCE

Academy District 20 New Chinook Trail Middle School, Design-Build
Colorado Springs, CO

Adams State University Richardson Hall Renovation
Alamosa, CO

Maricopa County Engineering Services On-Call
Phoenix, AZ

Arizona Dept. of Administration Electrical Engineering Services On-Call,
Phoenix, AZ

Arizona Department of Revenue Building Cooling Tower Replacement
Phoenix, AZ

Arizona State Facilities Baltz Generator
Phoenix, AZ

MCC Scottsdale Community College Library Admin HVAC Upgrades
Scottsdale, AZ

Point South Mountain Corporate Center Central Plant Assessment
Phoenix, AZ

Maricopa County Faciltiies (MCF) Durango Campus 15KV Distribution Feasibility Study, Phoenix, AZ

MCF Maricopa County Sheriff's Office (MCSO) Headquarters Building - Coordination Study
Phoenix, AZ

MARK BANKSON, NCQLP LC, LEED AP

SR ELECTRICAL DESIGNER | PROJECT MANAGER | BRIDGERS & PAXTON

Registrations:	NCQLP Lighting Certified
Education:	Associate of Science, Central New Mexico Community College
Affiliations:	Illuminating Engineering Society of North America (IES), Member, National Fire Protection Association (NFPA), Member



Mark Bankson is a NCQLP Lighting Certified, Senior Electrical Designer with over 40 years of experience providing electrical engineering, lighting design, power design and project supervision for site lighting, athletic, medical, office buildings, manufacturing, government, educational, laboratory and retail facilities. He has oversight of complete electrical design and construction administration for projects with values ranging from $10,000 tenant finishes to $45,000,000 manufacturing and office facilities. As a project manager, Mark provides electrical design, satisfies building LEED certifications, implements new technologies, performs electrical code and lighting photometric analysis, and project programming from conceptual design to project completion. Mark has received several lighting awards to include the National Merit Award from The Illuminating Society of North America and the Colorado Brilliance Merit Award.

Mark served as Senior Electrical Designer or Project Manager for his relevant experience projects.

RELEVANT EXPERIENCE

Pueblo West Metro District On-Call
Pueblo West, CO

CSU-Pueblo Technology Building HVAC Upgrade
Pueblo, CO

CSU-Pueblo Technology Building Renovation Design Build, Pueblo, CO

Pueblo District 60 Two New Schools (Design)
Pueblo, CO

Pueblo District 60 Facility Master Planning,
Pueblo, CO

Pueblo District 70 Swallows Charter Academy Gym & Kitchen, Pueblo West, CO

Swallows Charter Academy,
Pueblo West, CO

City of Colorado Springs Fire Station 21,
Colorado Springs, CO

City of Castle Pines New City Hall Building, Castle Pines, CO

Colorado Springs Airport Modernization & Fire Renovation, Colorado Springs, CO

City of Aurora New Fire Station 16, Aurora, CO
City of Aurora New Fire Station 15, Aurora, CO

Colorado Springs Alley Lighting Project, Colorado Springs, CO

Creekwalk Development, Colorado Springs, CO
Adams State University Richardson Hall Renovation.
Alamosa, CO

Pueblo D60 Facility Planning and Assessment
Pueblo, CO
City of Aurora Fire Station Assessments
Aurora, CO

SCHEDULE 4

SAMPLE WORK ORDER

This Work Order is entered pursuant to and subject to the terms and conditions of the MASTER CONTRACT FOR MEP ENGINEERING SERVICES, including Exhibit B - Consultant Agreement Form incorporated therein, dated _____, 20__ between Pueblo, a Municipal Corporation ("City"), and _____ (“Engineer”).

Scope of Work:

Time for Completion:

Work Order Compensation:

Approved by:_____ Dated: _____
Public Works Director, City

Approved by:_____ Dated: _____
Director of Finance, City

Approved by:_____ Dated: _____
Director of Purchasing, City

Accepted by:_____ Dated: _____
Engineer Representative

ADDITIONAL INFORMATION FOR AGREEMENT

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

E-Verify Participation Letter

Corporate Authorization to Endorse Agreements

Insurance Certificate(s)



For this Record...
Filing history and documents
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	Bridgers & Paxton Consulting Engineers, Inc.		
Status	Good Standing	Formation date	09/16/2010
ID number	20101516730	Form	Corporation
Periodic report month	September	Jurisdiction	Colorado
Principal office street address	1365 Garden Of The Gods Rd Ste 130, Colorado Springs, CO 80907-3488, United States		
Principal office mailing address	4600-C Montgomery Blvd. NE, Albuquerque, NM 87109, United States		

Registered Agent	
Name	Bridgers & Paxton Consulting Engineers, Inc.
Street address	3630 Sinton Road, Suite 100, Colorado Springs, CO 80907, United States
Mailing address	7020 Prospect Place NE, Suite 100, Albuquerque, CO 87110-0000, United States

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

Bridgers & Paxton Consulting Engineers, Inc.

is a

Corporation

formed or registered on 09/16/2010 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20101516730 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/15/2022 that have been posted, and by documents delivered to this office electronically through 06/16/2022 @ 12:28:28 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/16/2022 @ 12:28:28 in accordance with applicable law. This certificate is assigned Confirmation Number 14099473 .

Secretary of State of the State of Colorado

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

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

PROPOSED MASTER CONTRACT FOR MEP ENGINEERING SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
PLANT ENGINEERING CONSULTANTS, INC.

THIS CONTRACT is made and entered this ___ day of _____, 20___, by and between Pueblo, a Municipal Corporation, PO Box 1427, Pueblo, CO 81001 (hereinafter referred to as the "City") and Plant Engineering Consultants, Inc., a registered Colorado corporation, 320 W. Filmore Street, Colorado Springs, CO 80907 (hereinafter referred to as the "Engineer"),

WITNESSETH:

RECITALS

A. The City solicited competitive proposals for Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities to provide engineering services to include specific mechanical, electrical, and plumbing (MEP) engineering and related services for future City of Pueblo Public Improvement projects (hereinafter referred to as "RFP").

B. In response to the RFP, Engineer submitted its proposal (hereinafter referred to as "Response").

C. City has evaluated all Responses submitted and selected Engineer to perform MEP engineering services for various anticipated projects.

NOW, THEREFORE, in consideration of the foregoing Recitals and mutual covenants, City and Engineer agree as follows:

1. ENGAGEMENT.

(a) City engages Engineer and Engineer accepts such engagement to perform the services set forth in this Contract and the standard form of Agreement for Professional Mechanical, Electrical, and Plumbing (MEP) Engineering Services ("CIP Engineering Agreement Form") or the standard form Agreement for Professional Services ("Consultant Agreement Form") (collectively hereinafter referred to as "Approved Form Agreement"), execution of which will be required for each Project as may be directed by the City. A copy of the CIP Engineering Agreement Form is attached hereto and labelled Exhibit A and a copy of the Consultant Agreement Form is attached hereto and labelled Exhibit B.

(b) Anticipated Projects (hereinafter referred to as the "Projects") may include the Scope of Services for each Agreement for any Project and shall be consistent with and meet following requirements:

- Long range facility planning
- Project planning
- Detailed mechanical, electrical, and plumbing engineering design
- Preparation of bid documents
- Consultant/contractor evaluation and prequalification
- Process consulting
- Construction management and inspection.
- Analysis of project site
- Graphics including plans, perspectives, elevations, details, and renderings
- Final design criteria
- Preliminary plan sets
- Attend and facilitate meetings
- Final construction documents
- Provide all necessary duties for construction management, if requested.
- Other projects requiring support from Consultant/Engineer as need arises

(c) City may, or may not, in its sole discretion undertake any of the Projects. Upon written direction from City requesting Engineer to undertake a project, the Engineer shall prepare a specific Scope of Service, Fee Schedule (based upon Schedule 2 of this Agreement), and Work Schedule necessary to complete the project.

(d) After mutual approval of the Scope of Service, Fee Schedule, maximum compensation and Work Schedule, the City will incorporate such agreed upon terms into the Approved Form Agreement which shall be executed by Engineer.

(e) After execution of such agreement by Engineer, City will submit same to City Council of City for approval and any such agreement shall be subject to and conditioned upon City Council approval.

(f) In addition to the scope of work set forth in Subsections 1(a) through (e), City may request services on an as needed basis. Request for such services shall be initiated and documented by a written work order agreement ("Work Order") signed by the Public Works Director of City and approved by the Director of Finance and Director of Purchasing. The Work Order shall set forth the work to be performed, the time for completion and the compensation, including maximum compensation not to exceed $10,000, for performance of such work and shall otherwise be in substantially the same form as attached hereto as Schedule 4. Said compensation shall be approved as provided in Subsection 1(g) this Agreement. The work to be performed under any Work Order shall be included in the "Basic Services" and "Project" as such terms are used in Exhibit B - Consultant Agreement Form and shall be subject to all terms and conditions of Exhibit B - Consultant Agreement Form as if same had been fully executed by the parties for such work to be performed. The maximum sum under Section 3(a) of Exhibit B - Consultant Agreement Form shall, for the purposes of the work to be performed, be the maximum compensation set forth in the Work Order and approved pursuant to Section 1(g) of this Agreement. All such services shall include all usual and customary professional engineering services necessary for such work to be performed.

(g) When requested by City, Engineer shall prepare without charge to City a bid amount for any proposed Work Order ("Work Order Compensation") requested under Subsection 1(f) which shall be based upon the fee schedule set forth in Schedule 2 and shall itemize compensation amounts and include the maximum compensation amount necessary for completion and performance of all work set forth in the Work Order. Should City have any dispute, question, required clarification or other issue with respect to the Work Order Compensation, Engineer shall meet and confer in good faith with City to resolve such issue. No Work Order shall be signed and issued by the Public Works Director of City unless and until City approves the Work Order Compensation. No Work Order shall be approved for which the maximum compensation exceeds $10,000.

(h) No minimum amount of work is guaranteed under this Agreement. City reserves the right to engage and/or contract with other parties to perform services which otherwise might be requested under this Agreement.

2. TERM.

(a) This Contract is for a term of three (3) years commencing July 1, 2022 and ending June 30, 2025. The term of this Contract may be extended for an additional period of two (2) years by way of two (2) one (1) year options, upon mutual agreement of City and Engineer.

(b) In the event the City exercises the provision to extend the agreement after the initial term, adjustments in the Fee Schedule set forth in Schedule 2 shall be permitted. Such adjustment shall be calculated based upon the most current annual percentage change in the DOL CPI-W index for Denver-Aurora-Lakewood Colorado available during the date of adjustment; provided, however, in no event will the adjustment be greater than three percent (3%).

(c) This Contract may be terminated by the City at any time, without cause or liability, upon thirty (30) days prior written notice given to the Engineer specifying the date of termination, provided, however, that the termination of this Contract shall not terminate or be deemed to terminate any existing agreements or Work Orders executed by and between the parties pursuant to Section 1 of this Agreement.

3. GENERAL COVENANTS. Engineer covenants that it is:

(a) Competent and qualified to perform; and will perform the services and work contemplated by this Contract and the Agreement(s) in a professional manner to the satisfaction of the City.

(b) Familiar with the requirements stated in the RFP, Section 2 with respect to the services and work contemplated by this Contract and the Agreement(s) and will perform such services and work in compliance therewith.

4. RECORDS AND DATABASE. Engineer shall maintain a cost accounting system acceptable to City. The City shall have access to any books, documents, papers, and records of the Engineer that are directly pertinent or relate to this Contract or any Agreements for a specified Project, for the audit purposes, examination, inspection, excerpts, and transcription. The Engineer shall maintain such records for three (3) years after City makes final payments to Engineer and all pending matters are closed. Engineer shall prepare and maintain an electronic database (compatible with AutoCAD) that accurately represents all existing and future civil infrastructure for all Projects completed under this Contract and any Agreements for a specified Project.

5. SPECIFIC COVENANTS. Engineer covenants that, during the performance of this Contract and any Agreement for a specified Project, Engineer will:

(a) comply with all federal statutes and regulations relating to nondiscrimination in federally assisted programs.

(b) comply with the State of Colorado's requirements for State Revolving Fund Loan Projects.

(c) comply with all other laws, regulations, and requirements for applicable Federal, State, local , and grant funded Projects.

6. RIGHTS TO INVENTIONS. Plans, drawings, designs, specifications, inventions, reports and all other documents and materials generated under this Contract or any Agreement for a specified Project shall become the sole property of City, subject to applicable federal grant requirements, and City shall be vested with all rights therein of whatever kind and however created, whether by common law, statute, or equity. Engineer shall retain sole ownership of pre-existing proprietary property, including but not limited to, computer programs, software, diagrams, and models.

7. INSURANCE AND INDEMNITY.

(a) Engineer agrees that it has procured and will maintain during the term of this Contract, such insurance as will protect it and City from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Engineer shall obtain and keep in force is as follows:

(1) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the City.

(2) Commercial General Liability Insurance. The Engineer shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Engineer with respect to all work performed by him and all his subcontractors under the Agreement/Contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than $1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and $1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers, and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Engineer under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(3) Professional Liability Insurance with coverage of not less than $1,000,000 and in a form and with a deductible acceptable to City.

(4) Comprehensive Automobile Liability Insurance. The Engineer shall procure and maintain during the period of the Agreement/Contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than $350,000 and for any injury to two or more persons in any single occurrence of not less than $1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Engineer from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes, and similar equipment whether owned, leased, hired, or used by Engineer.

(c) Engineer shall furnish to City a certificate or certificates of insurance showing compliance with this section 7. Engineer shall obtain a special endorsement from its insurance carrier that provides that the insurance shall not be changed or cancelled until ten (10) days after written notice has been given to City and provide a copy of such endorsement to City. Engineer shall immediately notify City of any substantial change in, or cancellation, or non-renewal of any such insurance.

(d) Engineer agrees to hold harmless, defend and indemnify City from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, its employees, subcontractors, and consultants.

8. 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 Contract.

(b) Engineer 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 Engineer 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 Engineer 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 Engineer 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 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 Contract, 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 contract 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.

9. CERTIFICATIONS. Engineer certifies that:

(a) Neither Engineer nor any of its principals are presently, or at the time of execution of any Agreement for a specified Project, debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract or in any such subsequent Agreement for a specified Project by any entity or agency. Engineer will include this clause in all lower tier transactions, solicitations, proposals, contracts, subcontracts, and agreements.

(b) Engineer is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representatives and that it will comply with the Department of Transportation trade restriction regulations 49 CFR Part 30. Engineer will include this clause and other clauses required by said trade restriction regulations in all lower tier transactions, solicitations, proposals, contracts. subcontracts, and agreements.

10. NOTICES. Any notice required or permitted by this Contract shall be in writing and may be served personally or mailed by first-class mail, postage prepaid, addressed to the party at its address shown on the first page hereof, and if to the City, a copy of thereof shall be given to City of Pueblo, Department of Public Works, Attn: Andrew Hayes, 211 E. D Street, Pueblo, Colorado, 81003. Either party may change addresses upon written notice given to the other party specifying the changed address.

11. FINANCIAL OBLIGATIONS OF CITY. All financial obligations of the City under this Contract and any Agreement for a specified Project in any subsequent fiscal year of the City are subject to, and contingent upon, funds being specifically budgeted and appropriated for such purposes (Projects). This Contract 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 of Pueblo, contrary to Article X, § 20 Colorado Constitution or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract and any Agreement for a specified Project, with respect to any financial obligation of the City which may arise under this Contract in any fiscal year after 2021, 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 or breach of this Contract or any Agreement for a specified Project by the City, and the City may terminate this Contract or any Agreement for a specified Project without liability.

12. MISCELLANEOUS.

(a) This Contract shall be governed and interpreted in accordance with the laws of the State of Colorado.

(b) In the event of any litigation arising out of this Contract, the court shall award to the prevailing party its costs and reasonable attorney fees. Venue for any such litigation shall be Pueblo County, Colorado.

(c) This Contract contains the entire agreement between the City and Engineer and incorporates all prior written and oral understandings and agreements between the parties.

(d) This Contract may only be modified or amended by written instrument signed by both City and Engineer.

(e) This Contract shall be binding upon and inure to the benefit of City and Engineer and their respective successors and assigns, provided, however, Engineer shall not assign this Contract, Agreement for a specific Project, or any interest herein without the prior written consent of City.

13. PERA LIABILITY. The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Contract. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Contract.

(Signature section on following page)

IN WITNESS WHEREOF the parties hereto have made and executed this Contract as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

By_____
Naomi Hedden, Director of Purchasing

PLANT ENGINEERING CONSULTANTS, INC.

By_____
C. LaVern Plant, President

Attest:_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

Attachments:

CIP Engineering Agreement Form - Exhibit A
Consultant Agreement Form - Exhibit B
Schedule 1 – Scope of Services
Schedule 2 – Fee Schedule
Schedule 3 – Identification of Personnel, Subcontractors, and Task Responsibility
Schedule 4 – Work Order Form
Additional Information for Contract

NOTE: This form shall be completed at time of award for each individual project as applicable.

PROPOSED AGREEMENT FOR
PROFESSIONAL MECHANICAL, ELECTRICAL, PLUMBING (MEP) ENGINEERING SERVICESBY AND BETWEEN CITY OF PUEBLO
AND PLANT ENGINEERING CONSULTANTS, INC.

THIS AGREEMENT made and entered this ____ day of _____, 20____ by and between the City of Pueblo, a Municipal Corporation (hereinafter "Owner" or "City") and Plant Engineering Consultants, Inc., a registered Colorado Corporation, a professional engineering firm (hereinafter "Engineer") for Engineer to render certain professional planning, design, engineering and related services for Owner in connection with Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Engineer shall satisfactorily perform professional engineering services for all phases of Project indicated below by mark placed in the appropriate box or boxes:

[ ] - Study and Report Phase

[ ] - 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, plumbing, environmental, and planning services. Engineer shall also provide any landscape engineering, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Engineer shall complete the work items described generally in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement which are applicable to each phase for which Engineer is to render professional services.

1.3 Professional engineering services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered engineer in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered engineer.

1.4 Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5 Any architect services provided under this Agreement shall be performed under the direction and supervision of an architect licensed to practice architecture in the state of Colorado.

SECTION 2. ENGINEERING SERVICES

2.1 Study and Report Phase. If Engineer is to provide professional services with respect to the Project during the Study and Report Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Consult with Owner to determine his requirements for the Project and review available data.

(b) Advise Owner as to the necessity of his providing or obtaining from others data or services of the types described in paragraph 2.2(c) and assist Owner in obtaining any such services.

(c) Provide special analyses of Owner's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.

(d) Identify and analyze requirements of governmental authorities and regulatory agencies involved in approval or permitting any aspect of Project.

(e) Provide general economic analysis of Owner's requirements applicable to various alternatives.

(f) Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to Owner and setting forth Engineer's findings and recommendations with opinions of probable costs.

(g) Furnish one (1) hard copy and one (1) electronic copy of the Report and present and review it in person with Owner. Owner may request additional copies as needed for no additional charge.

2.2 Preliminary Design (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 stated in Schedule 1:

(a) Consult with Owner and determine the general design concept and Project requirements based upon information furnished by Owner as well as any study Report on the Project.

(b) Prepare and submit to Owner preliminary design documents consisting of final design criteria, preliminary drawings, an outline of specifications, and written descriptions of all significant features of Project.

(c) Prepare and submit to Owner a requirements checklist of any subsurface investigation, additional data, permits, or other information and requirements which is anticipated will be necessary for the design or construction of Project.

(d) Provide written disclosure to Owner of significant design assumptions and design risks and advantages/disadvantages inherent in or presented by design alternatives and make recommendations to Owner based thereon.

(e) Prepare and submit to Owner a preliminary cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, costs of land and rights of way, compensation for damages and finance costs, if any.

(f) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.3 Final Design Phase. If Engineer is to provide professional services with respect to the Project during the Final Design Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) After consultation with the Owner, receipt of Owner's selection of any design options and review of the Preliminary Design Documents, if any, prepare and submit to Owner final Drawings showing the scope, extent, and character of the work to be performed by contractors, and Specifications describing such work and the requirement therefor. Such plans and Specifications shall comply with all applicable building codes and requirements of regulatory agencies having any approval authority. Final design, including Drawings and Specifications, shall also comply with ADA Accessibility Guidelines (ADAAG) Manual developed by the U. S. Architectural and Transportation Barriers Board (1998) or ADA Standards for Accessible Design published at 28 C.F.R. Part 36, Appendix A, whichever is applicable. Engineer **shall include an attest statement on each record drawing sheet of final plan drawings that certifies compliance with either the ADAAG Manual or 28 CFR ' 36 Standards.**

(b) Make reasonable revisions to the Drawings and Specifications requested by Owner, informing the Owner of any change in probable construction costs as a result of such revisions.

(c) Provide technical criteria, written descriptions, and design data for Owner's use, and disclose any significant risks and advantages/disadvantages inherent in or presented by design choices.

(d) Based upon Engineer's best professional judgment, prepare and submit to Owner a current detailed cost estimate for the Project including construction cost, contingencies, professional compensation, consultant fees, land and right of way costs, damages, and finance costs, if any.

(e) Engineer shall furnish one (1) hard copy and one (1) electronic copy of each above referenced submittal document to Owner for Owner's use and shall review same in person with Owner. Owner may request additional copies as needed for no additional charge.

2.4 Construction Documents & Bidding Phase. If Engineer is to provide professional services with respect to the Project during the Construction Documents & Bidding Phase, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Prepare and submit to Owner draft forms of contract agreement, general and special conditions, bid forms invitations to bid, information for bidders, forms of warranty and including any special requirements imposed upon such contracts by any federal or other funding source and by any regulatory agency. In preparing such draft forms, Engineer shall consider and incorporate, to the extent both advisable and feasible, Owner's standard forms of agreement, warranty, payment and performance bonds, general conditions, and selected specifications.

(b) After review and comment by Owner, prepare and submit all deliverables identified in Schedule 1 to this Agreement, final forms of contract agreement, general and special conditions, Drawings, specifications, bid forms, invitations to bid, information for bidders, and forms of warranty, together with any Addenda which may be required or appropriate to correct errors, clarify Drawings or Specifications or advise of changes. One (1) hard copy and one (1) electronic copy of these final bid documents shall be furnished to Owner. Unless otherwise specified in Schedule 1, a copy of all contract documents and drawings shall also be submitted to Owner in Microsoft Word and AutoCAD (2006 or later version) format on electronic media.

(c) Make recommendations to Owner concerning the need for prequalification of equipment, vendors or bidders, and, if requested by Owner, incorporate prequalification requirements in final bid and construction contract documents.

(d) Attend a pre-bid conference with bidders to discuss Project requirements and receive requests for clarification, if any, to be answered by Engineer in writing to all plan holders.

(e) Consult with and make recommendations to Owner concerning acceptability of bidders, subcontractors, suppliers, materials, equipment, suitability of proposed "or equals", amount of bids, and any other matter involved in consideration and review of bids and bidders upon which Owner may reasonably request Engineer's advice.

2.5 Construction Phase. If Engineer is to provide professional services with respect to the Project during the Construction Phase, after award by the Owner of a general contract or contracts for construction of the Project, Engineer shall perform the following unless otherwise stated in Schedule 1:

(a) Perform all duties and functions to be performed by Engineer under the terms of the construction contract.

(b) Visit the Project site, perform observations as to the progress and quality of the work and advise the Owner as to same. The frequency and level of observation shall be commensurate with the nature of the work
and size of the Project, except that any specific provisions set forth in Schedule 1 - Scope of Services concerning the level of observation shall determine Engineer's obligation concerning level of observation.

(c) Make determinations as to whether the work is proceeding in accordance and compliance with the construction contract documents.

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

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

(f) On request of the Owner, the construction contractor or any subcontractor on the Project, issue written interpretations as to the Drawings and Specifications and requirements of the construction work.

(g) Review shop drawings, samples, product data, and other submittals of the Contractor for conformance with the design concept of Project and compliance with the Drawings, Specifications, and all other contract documents, and indicate to Contractor and Owner with respect thereto, any exceptions noted, or modification or resubmittals required.

(h) Review all applications of Contractor for payment and in connection with same, issue certificates for payment to the Owner for such amounts as are properly payable under the terms of the construction contract. Each such certificate shall constitute Engineer's representation to Owner that he has inspected the Project and that to the best of his knowledge, the work for which payment has been sought has been completed by Contractor in accordance with the Drawings, Specifications, and other contract documents.

(i) Subject to written concurrence by Owner, promptly render a written recommendation to Owner concerning all proposed substitutions of material and equipment.

(j) Draft, for Owner's consideration, and offer recommendations upon, all proposed change orders and contract modifications.

(k) On application for final payment by the Contractor, make a final inspection of the Project, assembling and delivering to the Owner any written guaranties, instructions manuals, as-built drawings, diagrams, and charts required by the contract documents, and issuing a certificate of final completion of the Project.

(l) The Engineer shall, if provided in the construction contract, be the interpreter of the construction documents and arbiter of claims and disputes thereunder. Upon written request of the Owner or Contractor, the Engineer shall promptly make written interpretations of the contract documents and render written decisions on all claims, disputes and other matters relating to the execution or progress of the work

on the Project. The interpretations and decisions of the Engineer shall be final and binding on the Contractor and Owner, unless the Director of Public Works of the Owner shall, within seven calendar days after receipt of the Engineer's interpretation or decision, file his written objections thereto with the Architect and Contractor.

2.6 Additional Responsibilities. This paragraph applies to all phases of Engineer's work.

(a) Engineer shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Engineer's work, including that performed by Engineer's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence in same. Engineer shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Engineer shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Engineer's negligent act or omission; except that Engineer hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Engineer's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Engineer shall be completely responsible for the safety of Engineer's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Engineer's employees.

(e) Engineer acknowledges that, due to the nature of engineering and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Engineer assigns principal responsibility for services performed under this Agreement. Consequently, Engineer represents that Engineer has selected and intends to employ or assign the key personnel and consultants identified in Schedule 3 - "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 five (5) days of execution of this Agreement, Engineer shall designate in writing a Project representative who shall have complete authority to bind Engineer, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Engineer shall submit to Owner for approval a schedule showing the order in which Engineer proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Engineer will not be responsible for delays beyond his control.

(g) Before undertaking any work which Engineer considers beyond or in addition to the scope of work and services which Engineer has contractually agreed to perform under the terms of this Agreement, Engineer shall advise Owner in writing (i) that Engineer considers the work beyond the scope of this Agreement, (ii) the reasons the Engineer believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Engineer shall not proceed with such out of scope or

additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Engineer shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

2.7 Requirements Where Federal Assistance Provided.
[Remove if not needed for this Agreement or insert specific language required by the federal agency or state entity as required]

(a) Engineer understands that Owner will be funding the Project in part or in whole by a grant or loan from _____ (the "Federal Agency"). Engineer agrees it is subject to and shall comply with all applicable grant or loan conditions and the regulations of the Federal Agency which apply to the work under this Agreement, whether referenced in Schedule 1 or not. All applicable loan or grant conditions and regulations of the Federal Agency and regulations are incorporated into this Agreement by reference.

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Engineer shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Engineer of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Engineer with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project.

(d) Assist in arranging for Engineer to have access to enter private and public property as required for Engineer to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental engineering work or materials furnished hereunder shall not in any way relieve the Engineer of responsibility for the professional adequacy of his work. The Owner's review, approval, or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(f) Upon advice of the necessity to do so from Engineer, obtain required approvals and permits for the Project. The Engineer shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Engineer whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Engineer's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 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 Schedule 1 – "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 *[Enter bid grand total]* in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In the event compensation for services is set forth in Exhibit 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 Schedule 2 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 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Engineer's services on the Project phases for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Engineer submittals have been provided.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

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

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Engineer's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Engineer and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Engineer may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Engineer, Engineer shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Engineer or Client. In no event shall payment to Engineer upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3 In the event termination of this Agreement or Engineer's services is for breach of this Agreement by Engineer, or for other fault of Engineer including but not limited to any failure to timely proceed with work, or to pay its employees and Engineers, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Engineer's entire right to

compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Engineer's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 (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 shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Engineer agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Engineer, Owner shall hold harmless and indemnify Engineer from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

(b) Advertising. Unless specifically approved in advance in writing by Owner, Engineer shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Engineer's employees. If Engineer wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 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 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) Engineer agrees to hold harmless, defend and indemnify Owner from and against any liability to third parties, arising out of negligent acts, errors or omissions of Engineer, his employees, subcontractors, and consultants.

7.3 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 Public Works, Attn: Andrew Hayes, Director, 211 E. D Street, Pueblo, CO 81003 or to the Architect at Plant Engineering Consultants, Inc., Attn: Vern Plant, President, 320 W. Filmore Street, Colorado Springs, CO 80907. 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 Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Engineer may be assigned by him without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

7.6 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 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.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if 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, irrespective of Engineer's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Engineer acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Engineer and Engineer's employees and consultants shall, at Engineer's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Engineer in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Engineer understands and agrees that entry to properties not under Owner's control may require Engineer to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Engineer and Owner arising from or relating to this Agreement or Engineer's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

8.2 Pending resolution of any dispute or disagreement, or judicial review, Engineer shall proceed diligently with performance of his work under this Agreement.

SECTION 9. SCHEDULES

The following Schedules are attached to and made a part of this Agreement:
Schedule 1 - "Scope of Services" consisting of __ pages.
Schedule 2- "Fee Schedule" consisting of ___ pages.
Schedule 3 - "Work Schedule" consisting of _____ pages.
Schedule 4 – "Work Order" consisting of ____ pages.

SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Engineer therefore, will use his or her best reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Engineer shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "Worker Without Authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker Without Authorization"), who will perform work under this Contract and that the Engineer will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Engineer shall not:

(i) Knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement;

(ii) Enter into a contract with a subcontractor that fails to certify to Engineer that the subcontractor shall not knowingly employ or contract with a Worker Without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Engineer shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or Department Program.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Engineer obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker Without Authorization to perform work under this Agreement, the Engineer shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Engineer has actual knowledge that the subcontractor is employing or contracting with a Worker Without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker Without Authorization ; except that the Engineer shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker Without Authorization.

(iv) The Engineer is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section by the Engineer shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Engineer shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Engineer to violate any terms of participation in the E-Verify Program.

SECTION 12. PERA LIABILITY

The Engineer shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Engineer shall fill out the Colorado PERA Questionnaire at time of award and submit the completed form to City as part of the signed Agreement.

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

PLANT ENGINEERING CONSULTANTS, INC.

By_____
C. LaVern Plant, President

Attest:_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

NOTE: This form shall be completed at time of award for each individual project as applicable.

AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN CITY OF PUEBLO
AND PLANT ENGINEERING CONSULTANTS, INC.

THIS AGREEMENT is made and entered this ___ day of _____, 20__, by and between Pueblo, a Municipal Corporation (hereinafter referred to as "Client") and Plant Engineering Consultants, Inc., a registered Colorado corporation (hereinafter referred to as "Consultant"), for Consultant to render professional___*[service type]* _____ services for Client with respect to Bid 22-013 RFP MEP Engineering Consulting Services for City Facilities 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 planning and 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___*[service type]* _____ services including any required drafting or design services incident to its work on the Project. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(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 drawings, 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. 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 tools, supplies, labor and utilities 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. $_____, 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 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, 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. REQUIRED FEDERAL PROVISIONS [Delete if inapplicable.]
NOTE - THIS SECTION MAY REQUIRE REVISION

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided _____. Consultant agrees it is subject to and shall comply with all applicable provisions of said _____, 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, _____ 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 11. 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, Public Works Department, Attn: Andrew Hayes, Director, 201 E. D Street, Pueblo, CO 81003, or to Consultant at Plant Engineering Consultants, Inc., Attn: Vern Plant, President, 320 W. Filmore Street, Colorado Springs, CO 80907. 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 12. 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 13. 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.

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

PLANT ENGINEERING CONSULTANTS, INC.

By: _____
C. LaVern Plant, President

Attest:_____
City Clerk

[S E A L]

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

_____
Director of Finance

APPROVED AS TO FORM:

_____
City Attorney

SCHEDULE 1

SCOPE OF SERVICES

At a minimum the Agreement shall include the following excerpt from Section 2 of the Request for Proposal dated May 11, 2022

[Note: Add additional Scope of Service as needed for each project.]

2.3 Scope of Service:

The Consultants shall provide all professional services necessary to complete the project which will consist of, but not be limited to, long range facility planning; project planning; detailed engineering design; preparation of bid documents; consultant/contractor evaluation and prequalification; process consulting; and construction management and inspection. [delete any items that do not apply to this project]

Specific tasks may include, but shall not be limited, to the following: [delete any items that do not apply to this project]

- Provide staff and services on an as-needed basis.
- Analysis of Project Site – Provide recommendations for locating all amenities listed in the project scope based on user safety and experience, economic feasibility, environmental sustainability, and constructability.
- Graphics – Provide necessary graphics (plans, perspectives, elevations, details, and renderings) to best illustrate the project.
- Final Design Criteria – Develop final design criteria, construction materials and methods, dimensions and site amenities.
- Preliminary Plan Sets – Prior to bidding the project, provide five (5) sets of plans for both a 70% and 90% complete Construction Documentation packet for review including specifications and a detailed cost estimate for construction.
- Pre-Submittal Meetings – Attend pre-submittal meetings and provide necessary addendums to the submittal.
- Final Construction Documents – Provide 2 sets of final construction documents and specifications to the project manager for bidding [including one (1) electronic copy].
- Provide all necessary duties for construction management, if requested.
- Attend and facilitate meetings as necessary with City staff throughout the development of the project.
- Firm must be familiar with public processes and coordinate with City staff in presenting details to City Council if required.

2.4 Project Implementation

- At no time will Consultant be allowed to begin a project prior to approval and expect to be reimbursed by City. All projects as assigned must be coordinated with the City's Project Manager.
- Cost overages during the project must be pre-authorized and obtain written approval of the City's Project Manager.

SCHEDULE 2

FEE SCHEDULE

Excerpt from Bidders Response to RFP dated June 8, 2022, page 21
[Note: Add specific fee schedule for each project.]

HOURLY RATE SCHEDULE AND PROJECT COST DATA

(Effective January 1, 2022)

	Category	Hourly Rates
1.	Principal	$250.00
2.	Director of Engineering or BD	$180.00
3.	Senior Project Manager & Process Piping Eng	$160.00
4.	Electrical & Mechanical Project Manager	$145.00
5.	Process Piping, Electrical & Mechanical Project Engineers	$135.00
6.	Electrical & Mechanical Designers	$115.00
7.	CAD/BIM Manager	$115.00
8.	CAD/BIM Technician	$100.00
9.	Admin/Clerical Staff	$67.00

Miscellaneous Costs

1.	Sub-Consultants	1.15%
2.	Automobile Travel	$0.585 per mile
2.	Air Fare & Car Rental	Actual
3.	Per Diem	$40.00/Day
4.	Long Distance Telecommunications	Actual
5.	Plotting and Reproduction	- $0.17 per in-house print - $2.00 per in-house draft plot - $3.00 per in-house black-line print - $4.00 per in-house final plot - $30.00 per in-house mylar plot - 10% mark-up on actual cost for out-sources printing & reproduction
6.	Postage, FedEx, UPS Shipping	Actual
7.	Payment Terms	Net 30 days

SCHEDULE 3

IDENTIFICATION OF PERSONNEL, SUBCONTRACTORS, AND TASK RESPONSIBILITY

Excerpt from Bidders Response to RFP dated June 8, 2022, pages 10 - 13

Vern Plant, PE

PRESIDENT/ PRINCIPLE IN CHARGE

Vern has extensive experience designing interior and exterior illumination, medium and low voltage power distribution systems, access control and intrusion detection systems, fire alarm systems, public address/intercommunication systems, clock/program systems, television distribution and voice/data networks in all types and sizes of projects including higher education, K-12, commercial, industrial, institutional and governmental. Many renovation and design-build projects are included in his experience.

PROFESSIONAL REGISTRATION

Arizona
California
Colorado
Maryland
Virginia
Wyoming

EDUCATION

University of Colorado at Colorado Springs
Electrical Engineering

Pikes Peak Community College
Architecture and Construction Technology

PROFESSIONAL HISTORY

1993 – Present
Plant Engineering Consultants, Inc.

1985 – 1993
Farris Engineering
Colorado Springs, CO

1980 – 1985
Kohnert Engineering
Colorado Springs, CO

1979 – 1980
Mehuron & Associates
Omaha, NE

AFFILIATIONS

International Code Council
National Fire Protection Association
American Council of Engineering Companies
Construction Specifications Institute
Illuminating Engineering Society

RELEVANT PROJECTS

Fire Stations

Colorado Center Fire Station, Colorado Center, CO
Colorado Springs Fire Department

Education

Pikes Peak Community College, Colorado Springs, CO
- Downtown Studio Renovation
- Child Development Center, Centennial Campus
- Culinary Arts Renovation, Centennial Campus
- Building C Bookstore, Centennial Campus
- Book Storage Addition, Centennial Campus
- Child Development Center, Centennial Campus

Colorado School for the Deaf and the Blind, Colorado Springs, CO
- Campus Electrical Service and Distribution System Replacement
- Campus Fire Alarm System Replacement
- Emergency Lighting and Shop EPO System
- Visual Intercom System
- Wood Shop Emergency Power Shutdown

Front Range Community College, Welding Lab, Ft. Collins, CO

Lamar Community College
- Bowman/Trustee Fire Alarm – Generator & Emergency Lighting
- Todd/Burch Fire Alarm and Emergency Lighting
- Equestrian Center

University of Colorado at Colorado Springs
- Electrical Service System Replacement
- Campus Fire Alarm System

Manitou Schools, Manitou, CO
- New Integrated Learning Center
- Renovations at the High, Middle & Elementary Schools

Government

El Paso County, Colorado Springs, CO:
Health Department – Lorraine, Colorado

El Paso & Teller Counties, CO:
Emergency & Critical Power
Upgrades for E911 Public Safety Answering Points

Federal Building Generator, Colorado Springs, CO

Roger Full, PE, PMP, LEED AP

DIRECTOR of MECHANICAL ENGINEERING

Roger has over 24 years of experience with a wide variety of project types, typically more technically complex institutional and industrial projects. He has managed projects and lead design teams for central utilities plants, major HVAC equipment upgrades, operating rooms, USP 800 pharmacies, behavioral health care, schools, semi-conductor factory piping, military buildings, commercial kitchens and other commercial facilities. He has designed HVAC systems that include steam, humidification, glycol, gas, fuel oil, active room pressure control and many other features. He has delivered projects under design-bid, design-build and design-assist contracts.

PROFESSIONAL REGISTRATION

Colorado
California

EDUCATION

Bachelor of Science
Mechanical Engineering
West Virginia Institute of Technology

LEED Accredited Professional

AFFILIATIONS

ASHRAE (American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc.)

PMI, Project Management Institute

PROFESSIONAL HISTORY

WSP USA, Inc., Greenwood Village
July 2016 – May, 2021

Farnsworth Group, Colorado Springs
June 2013 – June 2016

PDC Engineers, Inc., Anchorage, AK
August 2008 – March 2013

RSA Engineering, Anchorage, AK
August 2005 – August 2008

KZF Design, Cincinnati, OH
February 2004 – August 2005

Lockwood Greene, Cincinnati, OH
July 2002 – February 2004

Jacobs Engineering, Cincinnati, OH
February 2002 – June 2002

Jacobs Engineering, Dublin, IRE
January 2001 – January 2002

RELEVANT PROJECTS

Government/Municipal/Military

United States Air Force Academy, Maintenance Facility; Colorado Springs, Colorado
Government Services Administration (GSA) Environmental Protection Agency (EPA) National Enforcement Investigations Center (NEIC) co-location with EPA Region 8; Denver, Colorado
Fort Carson Building 1117 Remodel; Colorado Springs, Colorado
Roaring Fork Transportation Authority, Aspen Maintenance Facility Addition;
Aspen, Colorado
Municipal Light & Power - 2 MW Black Start Generator; Anchorage, AK
Eielson AFB Alaska Air National Guard Mobility Warehouse Addition
Anchorage Police Department; Anchorage, AK
Elmendorf AFB Fitness Center; Anchorage, AK
McMurdo Station Water and Power Plant Upgrades; McMurdo, Antarctica
Simulation Analysis Facility / Controls Lab; Wright Patterson AFB, OH
C-5 Scheduled Maintenance Hangar; Wright Patterson AFB, OH
C-5 Multi-purpose Hangar; Wright Patterson AFB, OH
San Diego Power & Cooling Company; San Diego, CA

Healthcare

Banner Health

- McKee Medical Center, Central Utilities Plant Upgrades Phases 3A, 3B & 3C; Loveland, Colorado
- Churchill Community Hospital, Emergency Department Renovation & Expansion; Fallon, Nevada
- Churchill Community Hospital, Operating Room Upgrades; Fallon, Nevada
- Torrington Community Hospital, Operating Room Expansion; Torrington, Wyoming
- Churchill Community Hospital, Pharmacy Upgrades for USP 797 & 800; Fallon, Nevada
- McKee Medical Center, Endoscopy Suite Renovation; Loveland, Colorado

- McKee Medical Center, Medical Oncology Renovation with USP 797 & 800 Pharmacy; Loveland, Colorado
- North Colorado Medical Center, Surgical Oncology Suite Renovation; Greeley, Colorado

Carson Tahoe Health
- Regional Medical Center, Central Plant Evaluation, Emergency Department Expansion, Laboratory Expansion; Carson City, Nevada
- Three Pharmacies Upgrades for USP 797 & 800; Carson City, Nevada
  - Specialties Medical Center
  - Regional Medical Center
  - Cancer Center

Remedy Medical Properties, Medical Office Building; Basalt, Colorado
Saint Anthony North, Medical Office Building; Westminster, Colorado
University of Colorado Health, Poudre Valley Hospital, Renovations in Buildings C and F; Fort Collins, Colorado
University of Colorado Health, Harmony Campus, Linear Accelerator #3; Fort Collins, Colorado
Colorado Mental Health Institute Pueblo, Maximum Security Addition; Pueblo, Colorado

Industrial
Anheuser-Busch Fort Collins Brewery; Fort Collins, Colorado
GLOBALFOUNDRIES Fab 8; Malta, New York
Spectranetics Data Hardening; Colorado Springs, Colorado
BP Liberty Drilling Rig - 17 MW Power Generation Module; Endicott, AK
Wyeth Medica, pharmaceutical production plant; Newbridge, Ireland
Kraft – Planters Peanuts; Suffolk, VA
General Electric Aircraft Engines, Peebles Test Operation; Peebles, OH
Pfizer, pharmaceutical production plant; Terre Haute, IN

Education
Academy for Advanced and Creative Learning; Colorado Springs, Colorado
Boettcher Concert Hall; Denver, Colorado
Kodiak High School, renovation and addition; Kodiak, AK
North Slope Borough School District Project Analysis Report; Nuiqsut, AK
Glennallen School Upgrades; Glennallen, AK
Molecular Beam Epitaxy Lab, University of Central Florida; Orlando, FL
University of California San Diego, central utilities plant; San Diego, CA

Mitch Plant, PE, LEED Green Associate

DIRECTOR of ELECTRICAL ENGINEERING

Mitch has professional experience including project design and drawings, estimating, site investigation, code review, specifications, construction administration, and multidisciplinary project management. He has worked on various facility types including educational, industrial, commercial/office, government/municipal, military, health care, assited living, retail, data centers, and religious. His electrical engineering experience includes interior and exterior illumination and controls systems, interior and exterior emergency illumination systems, low and medium voltage power distribution systems, natural gas and diesel fueled emergency power systems, uninterruptible power systems (UPS), commercial kitchen fire detection and protection systems, fire alarm systems, and IT/communications systems.

PROFESSIONAL REGISTRATION

PE (Texas)
PE (Colorado)
PE (Washington)
PE (Nevada)
PE (New Mexico)
PE (Wyoming)
LEED Green Associate

EDUCATION

The Classical Academy, Colorado Springs, CO
Class 2005

LeTourneau University, Longview, TX
Bachelor of Science in Engineering
Electrical Engineering Concentration
Minors:
Mathematics and Applied Sciences

PROFESSIONAL HISTORY

2012 – Present
Plant Engineering Consultants, Inc.
Colorado Springs, CO

2010 – 2012
L-3 Communications
Missions Integration Division
Greenville, TX

2009 – 2009
Plant Engineering Consultants, Inc.
Colorado Springs, CO
(Summer internship)

RELEVANT PROJECTS

Government/Municipal Facilities

City of Garcia, CO – Garcia, CO
- Complete replacement of existing water treatment plant.

Colorado Department of Corrections – Pueblo, CO
- YOS entry building renovation and addition.

Colorado Department of Corrections – Pueblo, CO
- State Penitentiary site illumination and wireless control system design.
- New Gatehouse to control access to penitentiary.
- UPS design to provide emergency backup power to non-lethal electric fence.

Colorado Department of Corrections – Canon City, CO
- New recreational yards, including power for new observation towers and security equipment.

General Services Administration – Denver, CO
- Renovation of existing building to house new data center, including emergency backup diesel generator, 100kVA UPS, multiple in rack-rom CRAC units, and expansion to the existing power distribution system.
- Addition to an existing data center HVAC system for improved energy efficiency and utility service cost reductions. The project including adding 3 new 7.5hp floor mounted exhaust fans that would either exhaust the hot air from the data center outside in the summer or redirect the hot air from the data center into a large warehouse space in the winter.
- Evaluation of multiple existing diesel generators for life expectancy, maintenance issues, and replacement plan, including ROM costs.
- Renovation of an existing federal courthouse lighting system to allow for night lighting and emergency lighting.

Colorado Springs Utilities – Colorado Springs, CO
- Renovation of existing building and addition for IT and SCADA data centers, as well as emergency operations center.
- New double ended service with dual backup power diesel generators.
- Electrical service upgrade to existing warehouse.
- New site entrance to power plant, including multiple new gates, site lighting and lighting controls, and a new small IT room.

United States Air Force Academy – Colorado Springs, CO
- New 15kV underground three-phase power distribution system.

Pueblo City-County Library District – Pueblo, CO
- Renovation of four libraries, including new automated book sorting systems.

SCHEDULE 4

SAMPLE WORK ORDER

This Work Order is entered pursuant to and subject to the terms and conditions of the MASTER CONTRACT FOR MEP ENGINEERING SERVICES, including Exhibit B - Consultant Agreement Form incorporated therein, dated _____, 20__ between Pueblo, a Municipal Corporation ("City"), and _____ (“Engineer”).

Scope of Work:

Time for Completion:

Work Order Compensation:

Approved by:_____ Dated: _____
Public Works Director, City

Approved by:_____ Dated: _____
Director of Finance, City

Approved by:_____ Dated: _____
Director of Purchasing, City

Accepted by:_____ Dated: _____
Engineer Representative

ADDITIONAL INFORMATION FOR AGREEMENT

Certificate of Good Standing

Colorado PERA Questionnaire

Affirmative Action Plan

E-Verify Participation Letter

Corporate Authorization to Endorse Agreements

Insurance Certificate(s)



For this Record...
Filing history and documents
Get a certificate of good standing
File a form
Subscribe to email notification
Unsubscribe from email notification

Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Name	PLANT ENGINEERING CONSULTANTS, INC.		
Status	Good Standing	**Formation date**	12/24/1998
ID number	19981228621	**Form**	Corporation
Periodic report month	December	**Jurisdiction**	Colorado
Principal office street address	320 W FILLMORE ST, COLORADO SPRINGS, CO 80907, United States		
Principal office mailing address	n/a		

Registered Agent	
Name	C. LAVERN PLANT
Street address	320 W FILLMORE ST, COLORADO SPRINGS, CO 80907, United States
Mailing address	3615 Rainbow Ln, Colorado Springs, CO 80908-3707, United States

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

PLANT ENGINEERING CONSULTANTS, INC.

is a

Corporation

formed or registered on 12/24/1998 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19981228621 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/15/2022 that have been posted, and by documents delivered to this office electronically through 06/16/2022 @ 11:52:46 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/16/2022 @ 11:52:46 in accordance with applicable law. This certificate is assigned Confirmation Number 14099308 .

Jena Griswold

Secretary of State of the State of Colorado

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

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

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 HARP FOUNDATION FOR THE USE OF ALAN HAMEL AVENUE FROM SOUTH UNION AVENUE TO SANTA FE DRIVE AND MAIN STREET FROM D STREET TO CITY CENTER DRIVE, ON JULY 4, 2022, TO HOST THEIR 4TH OF JULY FIREWORKS CELEBRATION

SUMMARY:

Attached is an application for a revocable permit submitted by The HARP Foundation.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The HARP Foundation requests to use Alan Hamel Avenue from South Union Avenue to Santa Fe Drive and Main Street from D Street to City Center Drive on July 4, 2022, from 6:00 AM until July 5 12:00 PM to host their 4th of July Fireworks Celebration.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will cause the event to be canceled or relocated to another location.

RECOMMENDATION:

Approval of the Resolution.

Attachments: Background Paper, Letter of Intent, Certificate of Liability, Traffic Control Plan

RESOLUTION NO. 14924

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO THE HARP FOUNDATION FOR THE USE OF ALAN HAMEL AVENUE FROM SOUTH UNION AVENUE TO SANTA FE DRIVE AND MAIN STREET FROM D STREET TO CITY CENTER DRIVE, ON JULY 4, 2022, TO HOST THEIR 4TH OF JULY FIREWORKS CELEBRATION

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

SECTION 1.

The attached Revocable Permit is authorized to be issued to The HARP Foundation for the use of Alan Hamel Avenue from South Union Avenue to Santa Fe Drive and Main Street from D Street to City Center Drive on July 4, 2022, from 6:00 AM until July 5 12:00 PM to host their 4th of July Fireworks Celebration

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.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED June 27, 2022

BY: Vicente Martinez Ortega
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: HARP Foundation, 125 Riverwalk Place Pueblo CO 81003, 719-585-0242
2. Permitted Area: Alan Hamel between S. Union Avenue and Santa Fe Avenue, Main Street between D Street and 1st Street
3. Purpose of Revocable Permit: Street Closure for 4th of July Fireworks display.
4. Authorized Improvements: N/A
5. Commencement Date: 07/04/2022 Time: 06:00 AM
6. Ending Date: 07/05/2022 Time: 12:00 PM

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

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

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

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

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

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

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

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

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

(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 26 day of April, 2022.

PERMITTEE:

Organization: HARP Foundation

By: Laurie A. Kilpatrick

Title: Board Chair

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me the 26 day of April, 2022 by Laurie A. Kilpatrick as HARP Foundation Board Chair

My commission expires: 05-07-2023.

[SEAL]

MICHELLE LOUISE FRANCIS
Notary Public
State of Colorado
Notary ID # 20194017318
My Commission Expires 05-07-2023

Notary Public

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

By _____
Nicholas A. Gradisar, Mayor

Covid-19

125 Riverwalk Place
Pueblo, CO 81003

719-595-0242 ▪ www.puebloriverwalk.org

April 26, 2022
Pueblo City Hall
1 City Hall Place
Pueblo, CO 81003

To Whom It May Concern:

The HARP Foundation is hosting its annual 4th of July Fireworks Celebration on Monday, July 4, 2022, from 3:00 pm- 11:00 pm. The event will be a no-admission event and feature fireworks, entertainment, and food vendors.

For the safety of its spectators, the HARP Foundation would like to close the following streets:

- Alan Hamel between South Union Avenue and Santa Fe Avenue
- Main Street between D Street and 1st Street

By closing Alan Hamel Avenue and Main Street, the HARP Foundation will be assured plenty of open space for people to watch the fireworks, grab a bite to eat, and enjoy live entertainment.

A-1 Barricade and Sign Incorporated has been hired by the HARP Foundation to provide the street closure. The Foundation has asked that the streets be closed from Monday, July 4 at 6:00 am until Tuesday, July 5 at 6:00 am. A map showing the requested street closure is attached, along with the $50 fee, $500 deposit, and certificate of insurance.

Sincerely,

Shayla Keys

Shayla Keys
Recreation and Entertainment Operations Manager

HARP FOUNDATION is a 501(c)3 nonprofit organization, Federal Tax ID#84-1308918
No goods or services were received in consideration of this gift.

www.invarion.com

HARP AUTHORITY
ROLLING ON THE RIVER
PUEBLO RIVERWALK
JULY 4TH, 2022
MONDAY 6AM CLOSURE
TUESDAY 6AM OPEN STREETS



AMERICAN TRAFFIC SAFETY SERVICES ASSOCIATION
This is to affirm that
Victor Vialpando
has satisfied the requirements
to be designated as a
CERTIFIED TRAFFIC CONTROL SUPERVISOR

TRAFFIC CONTROL CONTRACTOR:
A-1 BARRICADE & SIGN, INC.
201 COLORADO AVE.
PUEBLO, CO 81004
719-543-1353 OFFICE
719-543-6244 FAX
A1BARRICADE@YAHOO.COM

PLAN NOT TO SCALE - CONCEPT ONLY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/04/2022

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

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

PRODUCER LIC #N/A 1-303-757-5475 CIRSA 3665 Cherry Creek North Drive Denver, CO 80209	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED Historic Arkansas Riverwalk of Pueblo Authority c/o HUB International Insurance Services P.O. Box 58 Pueblo, CO 81002	INSURER(S) AFFORDING COVERAGE / NAIC # INSURER A : CIRSA INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 64285400 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			LIAB 01-2022	01/01/22	01/01/23	EACH OCCURRENCE	$ 10,000,000
	X CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 10,000,000
	X $10m POL E&O Aggregate						MED EXP (Any one person)	$ 0
	GEN'L AGGREGATE LIMIT APPLIES PER:						PERSONAL & ADV INJURY	$ 10,000,000
	☐ POLICY ☐ PRO-JECT ☐ LOC						GENERAL AGGREGATE	$
	OTHER:						PRODUCTS - COMP/OP AGG	$ 10,000,000
								$
A	AUTOMOBILE LIABILITY			LIAB 01-2022	01/01/22	01/01/23	COMBINED SINGLE LIMIT (Ea accident)	$ 5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (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 is Additional Insured on Liability Policies if required by contract.
With respect to Rollin on the Riverwalk event held annually.
The liability policies contain a provision allowing the insured the right to waive subrogation prior to a loss.

CERTIFICATE HOLDER

City of Pueblo

1 City Hall Place

Pueblo, CO 81003 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jill Padbury

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City Clerk's Office Item # M-8

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: June 27, 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 PATRICK AVALOS TO THE PLANNING AND ZONING COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to the Planning and Zoning Commission to serve a four-year term expiring July 1, 2026.

PREVIOUS COUNCIL ACTION:

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

BACKGROUND:

Due to the term expiration of Patrick Avalos, there is one spot available to serve a four-year term expiring July 1, 2026 on the Planning & Zoning Commission.

Following an announcement on the City's webpage, social media, and in the Pueblo Chieftain seeking volunteers to serve on this committee, an application was received from Mr. Avalos who is interested in and eligible for reappointment.

FINANCIAL IMPLICATIONS:

Planning and Zoning Commission Members receive as compensation $25.00 for each regular or special meeting attended. The Chairman of the Board receives as additional compensation the sum of $50.00 per month for each month of service as Chairman. These monies are allocated in the Planning and Community Development's annual budget.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:
Proposed Resolution
Application

RESOLUTION NO. 14925

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF PATRICK AVALOS TO THE PLANNING AND ZONING COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Patrick Avalos to the Planning and Zoning Commission to serve a four-year term expiring July 1, 2026; NOW, THEREFORE;

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

SECTION 1.

The following individual is hereby reappointed to the Planning and Zoning Commission to serve a four-year term expiring July 1, 2026.

Patrick Avalos

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 June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

From: noreply@civicplus.com
To: CityAdmin
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Friday, May 20, 2022 11:43:15 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	5/20/2022
BOARD OR COMMISSION	Planning & Zoning Commission
Contact Information	
FIRST NAME	Patrick
LAST NAME	Avalos
HOME ADDRESS	10 Covina Ct.
CITY	Pueblo
STATE	CO
ZIP	81005
OFFICE ADDRESS	109 Colorado Ave.
CITY	Pueblo
STATE	CO
ZIP	81004
DAYTIME PHONE	719-542-5754
E-MAIL ADDRESS	pk.avalos@comcast.net
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Attorney
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.	Previous service on the Planning and Zoning Commission. Currently serving on the Pueblo Urban Renewal Authority.
2. Why are you interested in being appointed to this Board or Commission?	To assist the advancement of the community within the framework of planning and zoning codes.
3. What Goals would you like to see this Board or Commission accomplish?	Expand approval of housing and economic development projects within the city
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	I currently serve on this commission.
(Section Break)	
Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

City Clerk's Office Item # M-9

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: June 27, 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 YVONNE LUJAN-SLAK TO THE ZONING BOARD OF APPEALS

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to the Zoning Board of Appeals to serve a four-year term expiring June 30, 2026.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Zoning Board of Appeals selecting individuals to serve terms which expire at the end of a particular calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

Due to the term expiration of Yvonne Lujan-Slak, there is one spot available to serve a four-year term expiring June 30, 2026 on the Zoning Board of Appeals.

FINANCIAL IMPLICATIONS:

Members of the Zoning Board of Appeals receive $25.00 for each regular or special meeting actually attended. The Chairman of the Board receives as additional compensation the sum of $50.00 per month for each month of service as Chairman. These monies are allocated in the Planning and Community Services annual budget.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:
Proposed Resolution
Application

RESOLUTION NO. 14926

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF YVONNE LUJAN-SLAK TO THE ZONING BOARD OF APPEALS

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Yvonne Lujan-Slak to the Zoning Board of Appeals to serve a four-year term expiring June 30, 2026; NOW, THEREFORE;

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

SECTION 1.

The following individual is hereby reappointed to the Zoning Board of Appeals to serve a four-year term expiring June 30, 2026.

Yvonne Lujan-Slak

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 June 27, 2022

BY: Vicente Martinez Ortega
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: Monday, June 6, 2022 10:33:41 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	6/6/2022
BOARD OR COMMISSION	Zoning Board of Appeals
Contact Information	
FIRST NAME	Yvonne
LAST NAME	Lujan-Slak
HOME ADDRESS	637 Beulah
CITY	Pueblo
STATE	Colorado
ZIP	81004
OFFICE ADDRESS	*Field not completed.*
CITY	*Field not completed.*
STATE	*Field not completed.*
ZIP	*Field not completed.*
DAYTIME PHONE	7192515436
E-MAIL ADDRESS	*Field not completed.*
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Banker
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've served this board for many years and would like to continue. Banking experience for over 20 years. Knowledge of self employment, owner of 3 businesses 1 in Pueblo.
2. Why are you interested in being appointed to this Board or Commission?	This is my favorite board to serve on. It give me the opportunity to really serve the people of Pueblo. I enjoy the progress this board is selected for.
3. What Goals would you like to see this Board or Commission accomplish?	To continue strong and have the ability to improve Pueblo and our people.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	I feel as I'm educated and know the progress and process of the board and would like to continue on with a further term. My resume is already on file.
(Section Break)	
Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

City Clerk's Office Item # M-10

Background Paper for Proposed RESOLUTION

COUNCIL MEETING DATE: June 27, 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 SUSAN MCCARTHY TO THE HISTORIC PRESERVATION COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to the Historic Preservation Commission to complete a four-year term expiring January 1, 2023.

PREVIOUS COUNCIL ACTION:

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

BACKGROUND:

Due to the resignation of Angela Rayne, there is one appointment available to complete a four-year term on the Historic Preservation Commission.

Following an announcement on the City's webpage and social media seeking volunteers to serve on this committee, an application was received from Ms. McCarthy.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:
Proposed Resolution
Application

RESOLUTION NO. 14927

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF SUSAN MCCARTHY TO THE HISTORIC PRESERVATION COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Susan McCarthy to the Historic Preservation Commission to complete a four-year term expiring January 1, 2023; NOW, THEREFORE;

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

SECTION 1.

The following individual is hereby appointed to the Historic Preservation Commission to complete a four-year term expiring January 1, 2023.

Susan McCarthy

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 June 27, 2022

BY: Vicente Martinez Ortega
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, June 21, 2022 11:48:24 AM

External email. Please use caution.

BOARDS & COMMISSIONS Application

	BOARDS & COMMISSIONS Application for Appointment
	(Section Break)
DATE	6/21/2022
BOARD OR COMMISSION	Historic Preservation Committee
Contact Information	
FIRST NAME	Susan
LAST NAME	McCarthy
HOME ADDRESS	1401 Rancho Del Sol
CITY	Pueblo
STATE	Colorado
ZIP	81008
OFFICE ADDRESS	1401 Rancho Del Sol
CITY	Pueblo
STATE	Colorado
ZIP	81008
DAYTIME PHONE	7192501809
E-MAIL ADDRESS	susanhurdmc@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH	NO

THE CITY OF PUEBLO?	
OCCUPATION (or if RETIRED, your previous occupation)	Real Estate Broker
Questionnaire *Please complete the following general information.*	
1. Please list your areas of accomplishments that you feel could assist the mission of this Board or Commission.	Born and raised in Pueblo,Co. My family has owned and operated businesses in Pueblo for 100 yrs. My Dad moved to Pueblo in 1912 to open up Ford distribution. I have been a Real Estate broker for 37 yrs. in Pueblo, I am now retired.
2. Why are you interested in being appointed to this Board or Commission?	I am retired and have time to give back.
3. What Goals would you like to see this Board or Commission accomplish?	I think Pueblo has done a good job preserving structured, so if I can help in any way I would like to contribute.
4. List any other items that might be useful in consideration for your appointment to this Board or Commission.	I bring history to this commission.
(Section Break)	
Upload résumé, references and/or other pertinent information	*Field not completed.*

Email not displaying correctly? View it in your browser.

BACKGROUND PAPER FOR PROPOSED RESOLUTION

COUNCIL MEETING DATE: June 27, 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 AMENDMENT #1 TO THE AGREEMENT FOR PROFESSIONAL DESIGN CONSULTING SERVICES IN THE AMOUNT OF $680,890.75 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BOHANNAN HUSTON, INC. RELATING TO THE FINAL DESIGN AND CONSTRUCTION DOCUMENTS FOR THE UNION AND MAIN STREETSCAPE PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution approves amendment #1 to the Agreement for Professional Design Consulting Services awarded to Bohannan-Huston, Inc. ("BHI"), in the amount of $680,890.75 for the Union and Main Streetscape Project, CI2120.

PREVIOUS COUNCIL ACTION:

Ordinance 9564, dated October 15, 2019, approved an IGA between the City of Pueblo and Pueblo County relating to the use of 2016 Ballot Question 1A Capital Improvement Program funds, established the Main Street Pedestrian, Parking and Streetscape Project, CI1913 and budgeted and appropriated $100,000 for the design phase of the Project.

Ordinance 9565, dated October 15, 2019, approved an IGA between the City of Pueblo and Pueblo County relating to the use of 2016 Ballot Question 1A Capital Improvement Program funds, established the Union Avenue Pedestrian, Parking and Streetscape Project, CI1912 and budgeted and appropriated $100,000 for the design phase of the Project.

Resolution 14378, dated March 9, 2020, approved an agreement for Professional Design Consulting Services with Bohannan Huston, Inc (BHI) for $184,995 ($89,230 for Union Avenue paid from CI1912 and $95,765 for Main Street paid from CI1913.

Ordinance 10015, dated September 27, 2021, approved the master plan design for Union Avenue and Main Street.

Ordinance 10160, dated April 25, 2022, approved an IGA between the City of Pueblo and CDOT relating to the Revitalizing Main Streets (RMS) Opportunity 1 grant, established project CI2120 and budgeted and appropriated funds from CDOT totaling $2,000,000.

A pending Ordinance, on City Council agenda for final reading on June 27, 2022, is proposed to approve an IGA between the City of Pueblo and Pueblo County for final design, in the amount of $680,890.75, and to budget and appropriate the funds. This Resolution is contingent upon the approval of the IGA and budgeting and appropriating the funds.

BACKGROUND:

The City requested proposals from pre-qualified consultants (RFQ No. 19-062) to provide planning and design of master plan proposals for pedestrian, parking, and streetscape improvements on Union Avenue and Main Street. BHI was selected to complete all design phases, including study and report phase and preliminary design phase (master plan), final design phase, construction documentation and bidding phase and construction phase.

The Master Plan Design for Union Avenue and Main Street (Master Plan) was funded by the 2016 Pueblo County 1A Fund. The Project consultant, Bohannan Huston, was contracted by the City to engage with elected officials, City and County Staff, stakeholders, and the public to create a plan that addresses the following goals, pedestrian access, parking options, and streetscape improvements. The final plan incorporates all elements into two well defined recommendations for complete street buildout of Union Avenue and Main Street. With the master plan for the Union Avenue and Main Street complete, sub-projects have been selected for final design.

Additional funding, in the amount of $2,119,109.25, from the 2016 Pueblo County 1A Fund will be provided in the future for construction of this project. With those funds, and the $2,000,000 from the CDOT Revitalizing Main Streets Opportunity 1 funds, approximately an additional $2,700,000 will be needed to complete the project.

FINANCIAL IMPLICATIONS:

Funds in the amount of $680,890.75 shall be paid from the Union and Main Streetscape Project, No. CI2120.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

A focus group of approximately 25 interested stakeholders was held on November 17, 2020. Interactive polling and mapping were used to collect the preferences from the stakeholders from the vision to the specific improvement preferences.

Final presentation and approval of the Master Plan to City Council was completed on September 13, 2021. The City received approval from the Board of County Commissioners on October 19, 2021.

ALTERNATIVES:

Denial of this Resolution will result in the delay of the Project.

RECOMMENDATIONS:

Approve the Resolution.

Attachments:

Proposed Resolution

RESOLUTION NO. 14928

A RESOLUTION APPROVING AMENDMENT #1 TO THE AGREEMENT FOR PROFESSIONAL DESIGN CONSULTING SERVICES IN THE AMOUNT OF $680,890.75 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BOHANNAN HUSTON, INC. RELATING TO THE FINAL DESIGN AND CONSTRUCTION DOCUMENTS FOR THE UNION AND MAIN STREETSCAPE PROJECT AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, Project No. 19-062 (CI1912 & CI1913), Union Avenue and Main Street Pedestrian, Parking and Streetscape Improvements Project was awarded to Bohannan Huston, Inc., on March 9, 2020; and,

WHEREAS, additional design work contemplated by the Amendment is 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 June 28, 2022, by and between the City of Pueblo, a Municipal Corporation, and Bohannan Huston, Inc., a Colorado Corporation, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved, and City Council authorizes the additional work contemplated by the Amendment to be performed in the amount of $680,890.75.

SECTION 2.

Funds in the amount of $680,890.75 for said Professional Services shall be paid from the Union and Main Streetscape Project, No. CI2120.

SECTION 3.

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

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 is subject to and conditioned upon City Council passage and approval of an ordinance presented contemporaneously herewith and captioned "AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $680,890.75 AND AUTHORIZING THE MAYOR TO EXECUTE SAME" ("Funding Ordinance"). As such, this Resolution shall only become effective upon the date of final action by the Mayor and City Council approving this Resolution and the Funding Ordinance.

INTRODUCED: June 27, 2022

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

AMENDMENT NO. 1 TO THE
AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
CITY OF PUEBLO AND BOHANNAN-HUSTON, INC.

This Amendment No. 1 to the Agreement for Professional Services ("Amendment") is executed to be effective as of the _____day of _____, 2022 by and between the City of Pueblo, Colorado, a Colorado Municipal Corporation ("City") and Bohannan-Huston, Inc., a New Mexico Corporation authorized to do business in the State of Colorado ("Consultant"). City and Consultant are sometimes referred to herein as a "Party" and collectively, as the "Parties." WITNESSETH THAT:

WHEREAS, City and Consultant entered into that certain Agreement for Professional Engineering Services dated the 9th day of March, 2020 (the "Agreement") for Bid Project 19-062 Union Avenue and Main Street Masterplan Design Project; and

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

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

AGREEMENT

1. The Agreement is amended by expanding the scope of work to include the following additional services:

> Complete Final Design, Construction Documents, and Construction phase based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts, including entire master plan project lists, including sub projects, as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application, approximately $7.66 million construction budget. The work items with respect to such additional services are generally identified and set forth in the attached Attachment A.

2. Attachment A to this Amendment No. 1 shall be added to the original scope of work, and Consultant shall complete the work items as generally described in said Attachment A in accordance with the terms of the Agreement and any and all prior amendments thereto. Contractor stipulates and warrants that the work items set forth in Attachment A are additional work items not previously performed or required to be performed under the Agreement including deliverables under the City of Pueblo Master Plan for Union Avenue and Main Street.

3. With respect to services provided under the Amendment No. 1, the fee schedule attached as Attachment B to this Amendment No. 1 shall apply to compensation payable to Consultant and approved key personnel of Consultant in connection with the Consultant's services for the work authorized by the Amendment No. 1. The aggregate compensation payable to the Consultant for performance of the additional services authorized by this Amendment No. 1 shall not exceed the maximum amount of $680,890.75 as set forth in the Attachment B. The maximum amount of compensation for any phase shall not exceed the amount specified in Attachment B for such phase

4. Consultant shall commence and complete each major work item according to the work schedule attached hereto and labelled Attachment C; provided, however, Consultant will not be responsible for delays beyond Consultant's control. Dates may be revised based on start date of work as approved by all Parties.

5. This Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

6. Except as expressly modified by this Amendment No. 1, the Agreement shall remain in full force and effect. Except as modified by this Amendment No. 1, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment No. 1.

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

IN WITNESS WHEREOF, the Parties to this Amendment No. 1 have set forth their hand, to be effective as of the effective date shown above.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

By_____
Naomi C. Hedden, Director of Purchasing

Attest_____
Marisa Stoller, City Clerk

[S E A L]

BOHANNAN-HUSTON, INC.

By_____
Denise Aten, Senior Vice President

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

_____
Laura Solano, Chief of Staff

APPROVED AS TO FORM:

_____
Daniel Kogovsek, City Attorney

Attachment(s): Attachment A - Scope of Work dated January 7, 2022
Attachment B - Fee Schedule
Attachment C - Work Schedule
Additional Information for Amendment

City of Pueblo

Final Design and Construction Documents for Union Avenue and Main Street

(Pueblo Downtown Multi-Modal Safety Improvements)

SCOPE OF WORK
BOHANNAN HUSTON, INC.

January 7, 2022

A. PROJECT DESCRIPTION

Purpose: The BHI Team will complete Final Design and Construction Documents based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts, including entire master plan project lists, including sub projects, as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application, approximately $7.66 million construction budget.

Project Location: S Union Ave, from City Center Drive to Abriendo Ave, and S Main Street, from City Center Drive to Arkansas River, in Pueblo, CO. Also, C Street and D Street between Union and Main.

B. SCOPE OF SERVICES

This Scope of Services defines the work, deliverables, and schedule for each of the tasks described in detail below.

BHI will request written authorization prior to proceeding to each Phase defined below

Project Control

Approach:

BHI will provide continued Project Administration and Management for each Phase below through the remainder of the project, including:

1. Project Administration
    a. Initial client kick-off meeting
        i. Prepare Project Management Plan
        ii. Finalize project scope
        iii. Finalize project schedule
            1. Identify milestone and critical path elements

b. Subconsultant management
c. Monthly progress reports
d. Monthly invoicing

2. Monthly Project Meetings (virtual)
    a. Prepare agendas
    b. Progress report and schedule update
    c. Prepare meeting notes
3. Project Website Management
    a. Provide project updates during design and construction.

Assumptions:

1. Assumes a 12-month project design schedule and 12 monthly meetings. Progress meetings may be combined with review meetings.
2. Project progress/team meetings are assumed to be on Zoom or Conference Calls. Review meeting will be conducted in person.

Deliverables:

1. Project Management Plan
    a. Detailed project schedule
    b. Project Contact list
2. Monthly project meeting notes
3. Project website updates

Final Design Phase

Task 1: Data Acquisition and Survey

Approach:

BHI will provide field work in order to support design, including:

1. Design Survey and Mapping
    a. BHI will provide design surveying including:
        i. Prepare Survey Control, including a project benchmark

ii. Provide a Control Diagram and report.

iii. Perform Right-of-Way (ROW) Research and Mapping based upon record document research and review, field investigations to obtain boundary evidence, and collective evaluation of evidence to arrive at a defendable right-of-way determination.

iv. Topographic Design Surveying include features of interest such as pavement markings, edge of pavement, curb & gutter, curb cuts, sidewalks, signage, pedestrian access points, arterial streets, retaining walls, existing trees, and marked and visible evidence of utilities, within the roadway corridor per the attached project boundary map. Aerial mapping and/or field survey may be utilized to obtain the above data.

v. MIG will perform field investigation of irrigation system to determine existing irrigation points of connection, mainline, and equipment.

vi. The City will coordinate with design consultant on tree locations for removal if required.

2. Utility Location: BHI subconsultant UCS will provide field locating of existing utilities and preparation of a certified utility map, in accordance with Senate Bill (SB) 18-167

    a. Notify CO 811 of engineering required project and perform records research of existing subsurface within the project limits by contacting each utility owner and obtaining their available facility records (QL'D' designating)

    b. Perform QL'C' survey of existing gravity fed systems includes utility type, ownership, size and material composition based on available record information.

    c. Perform geophysical investigation (QL'B' designating) of existing traceable (metallic or nonmetallic buried with trace wire) subsurface utilities

    d. Perform survey of utility markings placed by our designators

    e. Complete utility mapping with depictions as outlined in the ASCE 38 standard.

    f. Survey in utility marks and structure appurtenances

        i. This portion of the project will be completed by BHI Survey as part of Design Survey and Mapping to ensure that the final utility drawing is completed in conformance with Senate Bill 167 requirements.

    g. QA/QC of investigative findings based on existing records, maps and as-built information.

    h. Determine locations for test holes (QL'A') based on proposed design and client coordination.

    i. Provide vacuum excavation test holes for the project, on existing subsurface utilities

    j. Provide mapping of the completed utility investigation findings

Assumptions:

1. Existing ROW documents exist, and adjacent individual deeds are not required to define the existing ROW. ROW monuments/property corners along the corridor of interest are existent. No title work will be required or provided.
2. Survey will be performed within public ROW. This scope of work does not include any right-of-entry requests or coordination of right-of-way corner monumentation. These services can be provided separately if determined to be necessary.
3. Traffic Control during field investigation is included.
4. Utility Test Holes will be completed as an additional service based on the number of holes determined during Final Design Phase.
5. The City will provide Geotechnical Investigation and Pavement Design as necessary for roadway rehabilitation and replacement.
6. Environmental field work and research will be completed by the City or CDOT.

Deliverables:

1. Survey control diagram and report
2. Right-of-way/Ownership map
3. ACAD Civil 3D topographic survey drawing, with an .xml surface in BHI engineering standards, 1"= 30' scale
4. ASCE 38 certified utility mapping sealed by a Colorado Registered Professional attesting to the utility depictions based on the ASCE 38 standard and electronic 2D CAD format.

Task 2: Final Design

Approach:

BHI, along with MIG landscape architects, will prepare final design of the streetscape improvements along S Union Ave and S Main Street based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts, including entire master plan project lists as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application.

1. Preliminary design package (30%) for the City and CDOT review.
2. Coordinate and facilitate the FIR meeting with City and CDOT. (Including minutes and revisions to plans)
3. Conduct public information meeting to present final design.
4. Project Website management and updates

Assumptions:

1. Final design will be based on conceptual design as reviewed and approved by the City and County as part of Preliminary Planning phase – see supporting documents attached for additional details.
2. Design will extend up to and include existing sidewalk. Modification to existing buildings, entryways, private property, or utility services are not included. Modification to bridge structures is not included.
3. BHI Subconsultant MIG will provide pedestrian streetscape design drawings, specifications, and quantities to a 30% level of completion, which will address: materials, color and finish information for pedestrian paving areas, as well as the dimensional location of site furnishings (e.g. seating, tree grates, planters, bike racks, trash receptacles, and wayfinding). MIG will also provide planting design drawings, specifications, and quantities.
4. Streetscape Design shall be based on Pueblo's City Center Streetscape Standards.
5. The project has received funding of $2 million for construction and therefore, coordination and approval by CDOT will be necessary. Design funding is being provided by the City.
6. Design and Construction of Gateway Features will be completed by the City. BHI will coordinate and indicate location placeholders for these features on plans.
7. City will provide public meeting advertisement and venue.
8. Individual Stakeholder/Property Owner meetings or coordination of design improvements has been excluded but can be included for an additional fee.

Deliverables:

1. Design Drawings (drawings shall be developed in CDOT format)
2. Draft specifications
3. Engineers Opinion of Probable Cost

Construction Documents and Bidding Phase

Task 1: Construction Documents

Approach:

BHI, and our team, will prepare construction documents for submittal and review with the City for purpose of construction bidding including:

1. Construction Drawings including, (Includes 90% / FOR & 100% / For Construction Plans)
    a. Title Sheet, Project Data, Plans Index

b. General Notes
c. Typical Sections
d. Project Control and Survey Sheet
e. Removal Plan
f. Grading Plans
g. Intersection and Curb Ramp Detail Sheets (1"=20')
h. Grading, Erosion and Sediment Control Plans and Details
i. Signage and Striping Plan
j. Landscape and Irrigation Plan and Construction Details
k. Lighting Plan
l. Signal Plans
m. Miscellaneous Construction Details
n. Standard Plans List

2. Technical Specifications
3. CDOT standard project provisions and project special provisions
4. Engineer's Estimate of Construction Cost
5. Attendance at FOR/Final Review (90%) meeting – in person
6. Provide all documents for City to coordinate with CDOT specialty units. Assist City in preparation of Utility, Right-of-Way and Environmental Clearance Letters.
7. Conduct public information meeting to provide update on final design and construction schedule.

Assumptions:

1. Standard Drawings and Specifications will be referenced where applicable, including City of Pueblo and CDOT Standard Drawings and Specifications and Black Hills Energy Standards for lighting.
2. BHI Subconsultant MIG will provide pedestrian streetscape design drawings, specifications, and quantities to a 90% and 100% level of completion, which will address elements listed in Task 2: Final Design.
3. Irrigation design shall be per City of Pueblo standards and requirements. CSI Standard Specifications may be utilized for landscape and irrigation. Owner to provide sleeving locations for lighting and irrigation equipment and point of connection for irrigation.
4. BHI and MIG will coordinate layout of street and pedestrian lighting. Electrical Engineering and photometrics are excluded.

5. Tree Removal and Replacement will be included in landscape plans based on recommendation by the City. Mitigation Plans or documentation are not included.
6. Traffic impact study or additional analysis of intersections or adjacent roadways is not included. New traffic signals are not anticipated or included; modification based on Master Plan recommendations only.
7. BHI will review/perform drainage analysis to comply with the current City of Pueblo Storm Drainage Design Criteria and Drainage Policies. Drainage improvements within the project area will be included. It is assumed that the overall run-off quantity and drainage patterns will remain relatively unchanged. Regional drainage management or offsite improvements are not included.
8. All improvements will be within City property and easements or ROW. Acquisition is not necessary.
9. Environmental documentation will be provided by CDOT or City for use in preparing permit and clearance letter.
10. Field locating of existing trolley tracks is not included. Location will be based on as-built plan drawings and mitigation standard specification, bid item and quantity will be included in contract documents if removal is needed.

Deliverables:

1. Final (90%) Construction Drawings for FOR review
2. Technical Specifications in Word (.doc) and Adobe PDF format
3. Engineer's Estimate of Construction Cost in Excel (.xcl) and Adobe PDF format.
4. Stamped final (100%) Construction Documents in AutoCAD 2016 or newer, Word (.doc), and Adobe PDF format.

Task 2: Bidding Assistance

Approach:

BHI will assist City staff on an on-call basis to provide specification and drawing clarifications. City Purchasing Department staff will complete advertisement, on-line distribution and bid receiving. BHI will provide the following services:

1. Attend and participate in pre-bid meeting.
2. Provide clarification of the contract document's intent during the bidding process and determine the need for issuance of addenda.
3. Prepare addenda when required.

Assumptions:

1. City to handle overall bidding and procurement process
2. City shall be responsible for placing bid advertisement.

3. City to maintain bidder's log and addenda distribution log.
4. City to schedule and conduct Pre-Bid and Bid Opening.

Deliverables:

1. Original documents for advertisement and distribution

Construction Phase

Task 1: Post Construction Award Services (PCAS):

Approach:

BHI will assist City staff on an on-call basis to provide construction administration services from contract award to close out and support of final payment to the contractor. BHI will perform services throughout this period as follows:

1. Provide "As-awarded" construction documents, reflecting any bid addendum
2. Attend a pre-construction meeting and identify critical observation points and coordination items necessary prior to and during construction.
3. Review shop drawings, material submittals and other submittals of the contractor
4. Respond to Request for Information (RFI) and render interpretations of Documents as necessary for Contractor and Inspection staff.
5. Prepare record drawings.

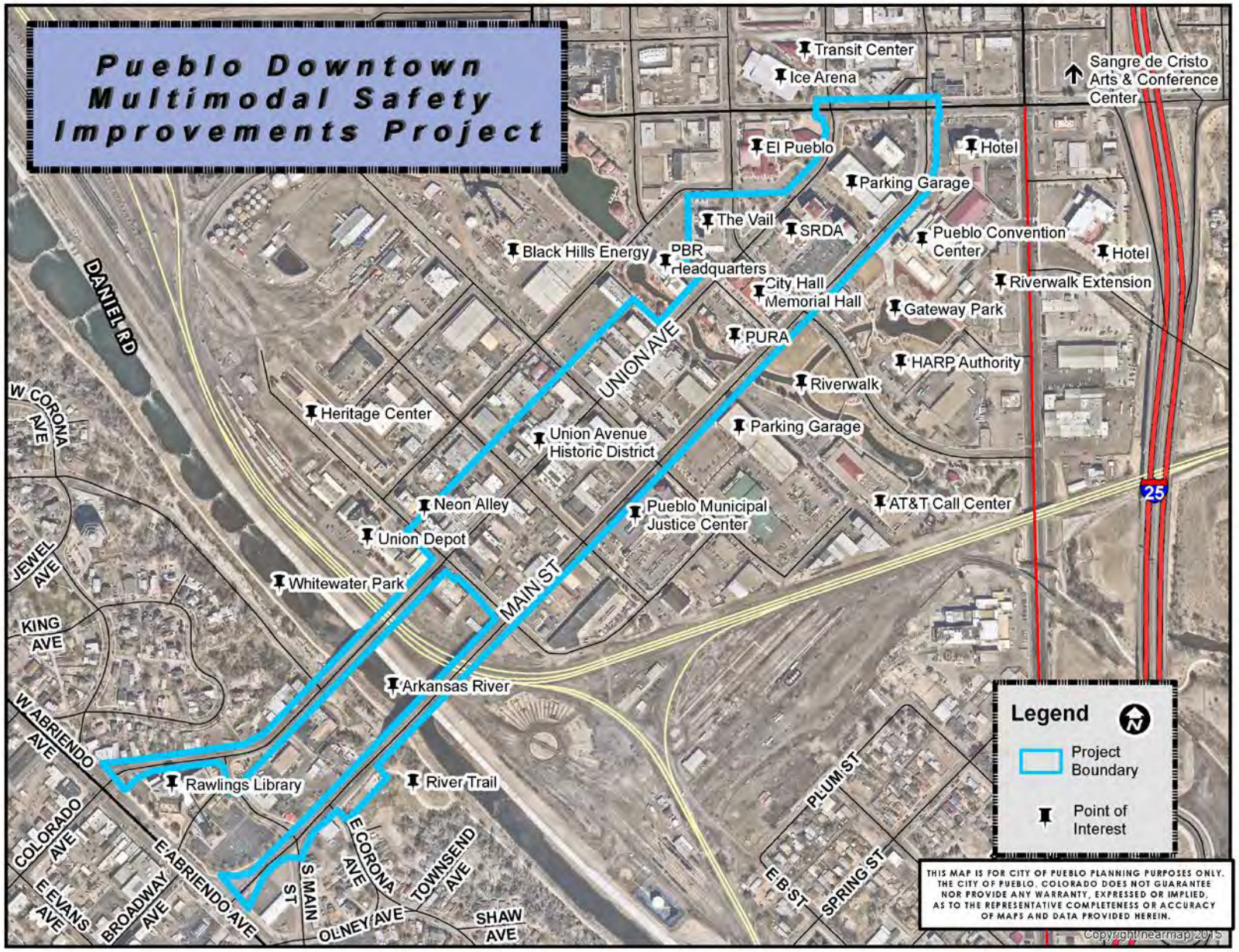
Assumptions:

1. Overall construction administration and inspection to be provided by City staff. BHI will support on an on-call basis.
2. Record drawings will be prepared based on actual as-builts provided by the construction contractor.

Deliverables:

1. As-awarded construction documents
2. Project related documentation as needed
3. Record drawings in AutoCAD 2016 or newer and Adobe PDF format.

ATTACHMENT A - PROJECT MAP



UNION AVE.

ABRIENDO AVE. TO B STREET

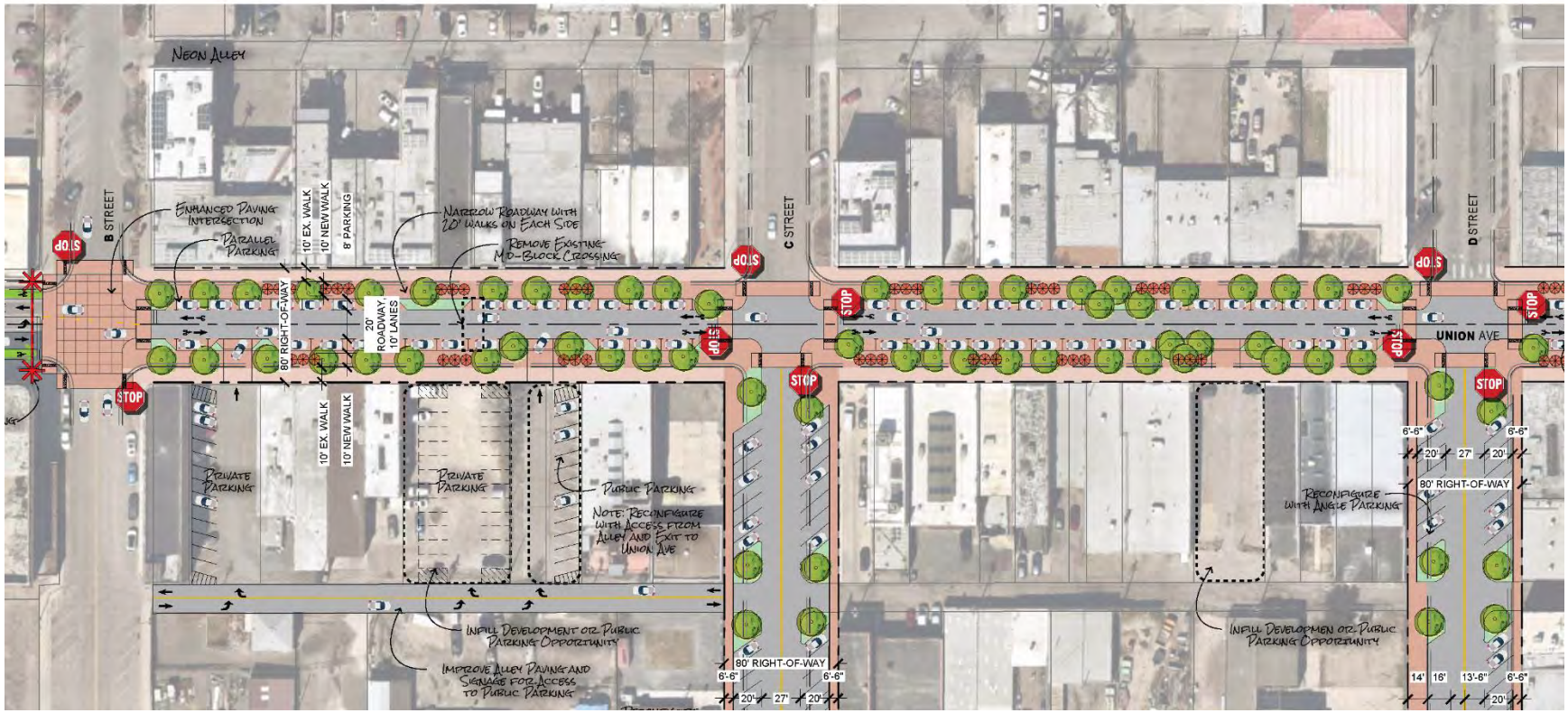




UNION AVE.

B STREET TO D STREET

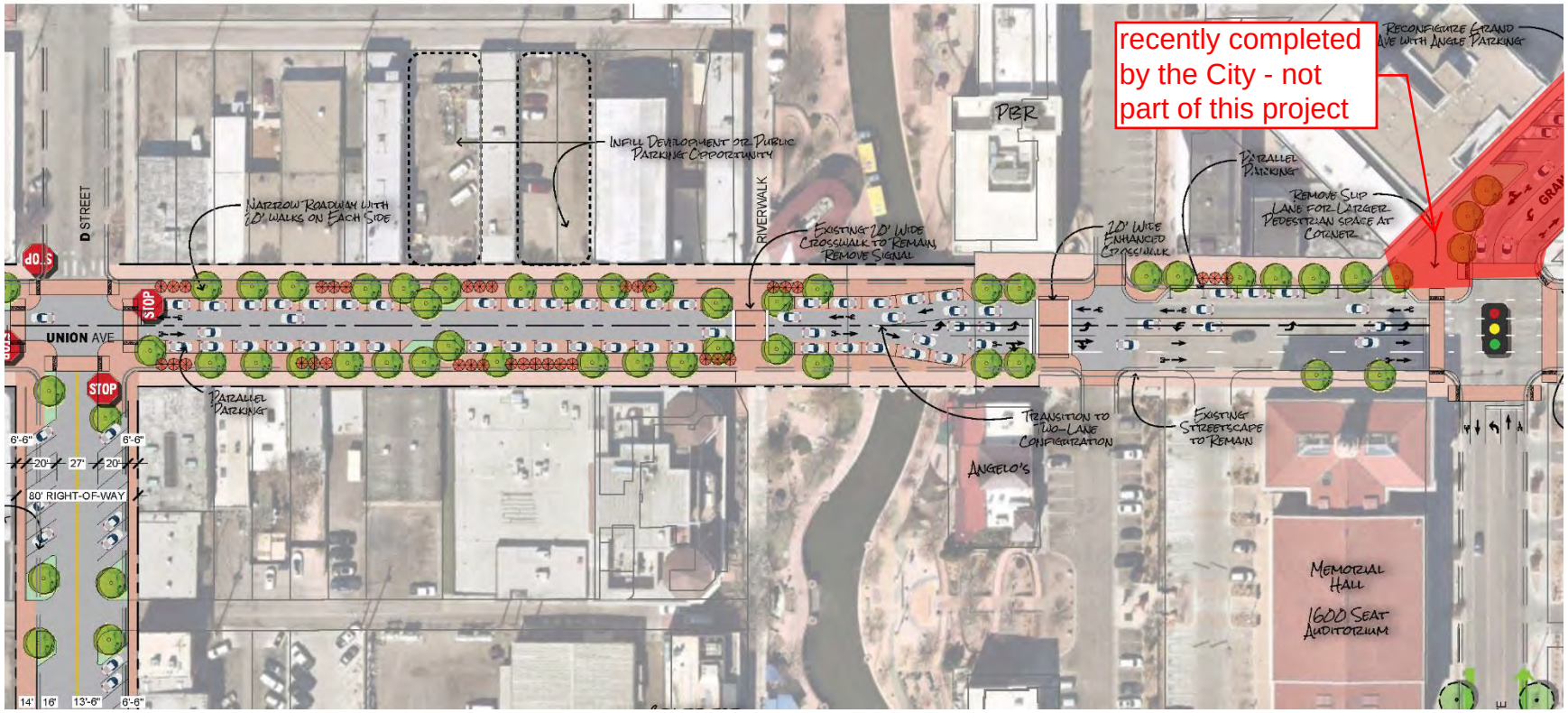




UNION AVE.

D STREET TO GRAND AVE.

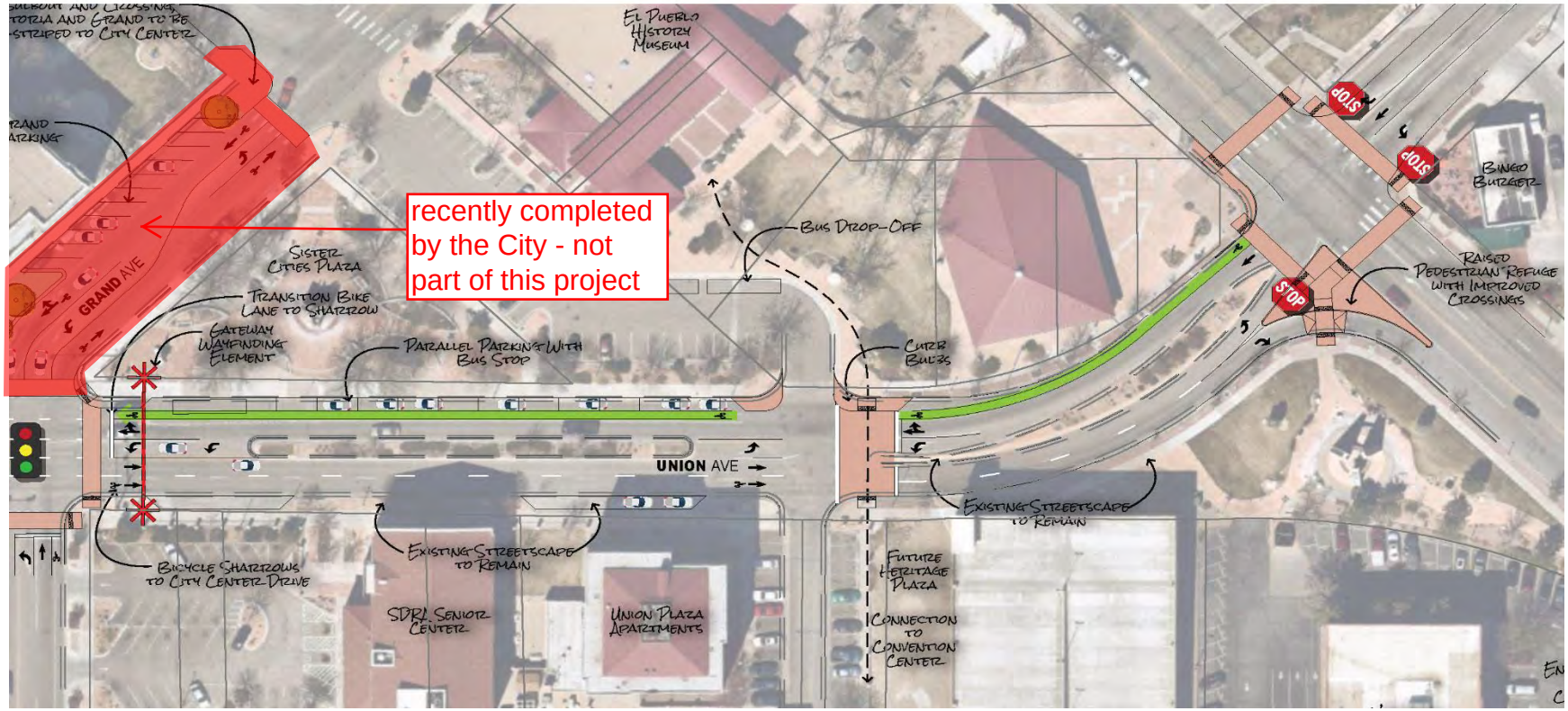




UNION AVE.

GRAND AVE. TO CITY CENTER





UNION AVE. (FROM B ST. TO C ST.) – EXISTING CONDITION



UNION AVE. (FROM B ST. TO C ST.) – FULL BUILDOUT



UNION AVE. (FROM B ST. TO C ST.) – EXISTING CONDITON



UNION AVE. (FROM B ST. TO C ST.) – FULL BUILDOUT



POTENTIAL SUB-PROJECTS FOR UNION AVENUE

As stated previously, the overall cost associated with the full buildout of the Master Plan may be daunting. Therefore, several potential sub-projects have been identified to help advance the build-out of the Master Plan for Union Avenue over time. The primary set of sub-projects align with the County 1-A funding requirements and range from striping and landscaping to roadway reconstruction. A list of other potential projects were also identified for supplemental funding sources, as they expand beyond the scope of the County 1-A funds but were determined to bring value to the overall Master Plan for Union Avenue. Sub-projects can be implemented as appropriate funds become available.

The list below provides a general overview of potential sub-projects for Union Avenue, with more detail including preliminary costs, found in Chapter 4: Implementation and Appendix 2.

Union Avenue Potential Sub-Projects	Location
Master Plan Improvements from B Street to Grand Avenue	
Four way stops at intersections	C Street and D Street
Bulb outs at intersections	B Street, D Street, C Street, Grand Avenue
Reconstruct curb-Line	B Street to Grand Avenue
Stripe roadway to two lanes with sharrows	B Street to Grand Avenue
Streetscape elements	B Street to Grand Avenue
Redesign of the corner slip lane and pork chop and remove right turn lane	Grand Avenue - SW corner
Mid-block crossings (2)	Riverwalk
Gateways	One at B Street and one at Grand Avenue
Master Plan Improvements from Abriendo Avenue to B Street	
Striping of Bicycle Lanes	Abriendo to B Steet
Master Plan Improvements from Grand Avenue to City Center Drive	
Pedestrian improvements - pork chop crosswalk	Southside of City Center/Union Intersection
Other Potential Projects	
Add diagonal parking on C & D Street	C Street and D Street between Union & Main
Add diagonal parking on Grand Avenue	Union Ave to Victoria
Encourage use of alleys	B Street to Riverwalk

MAIN STREET

ARKANSAS TRAIL TO C STREET

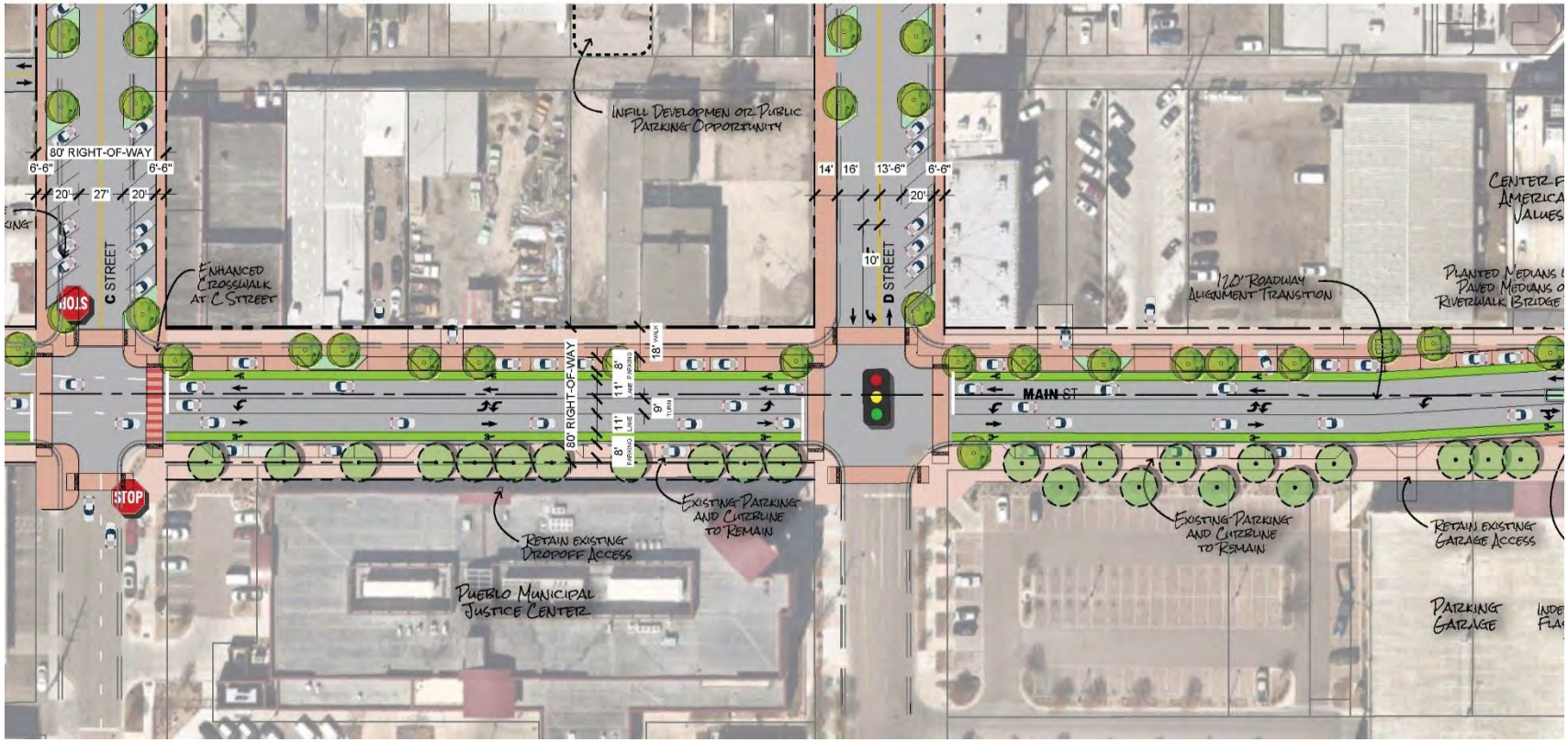




MAIN STREET

C STREET TO PARKING GARAGE

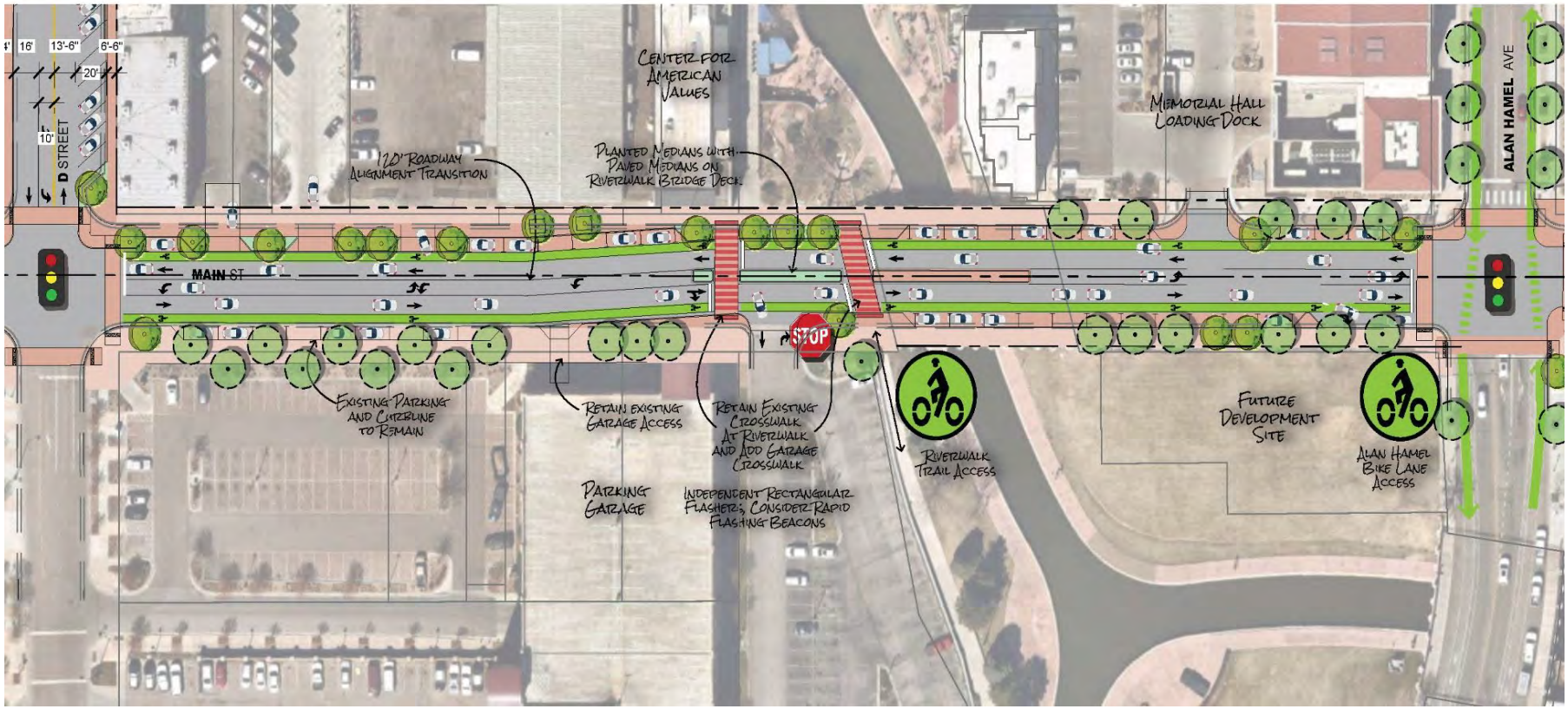




MAIN STREET

PARKING GARAGE TO ALAN HAMEL

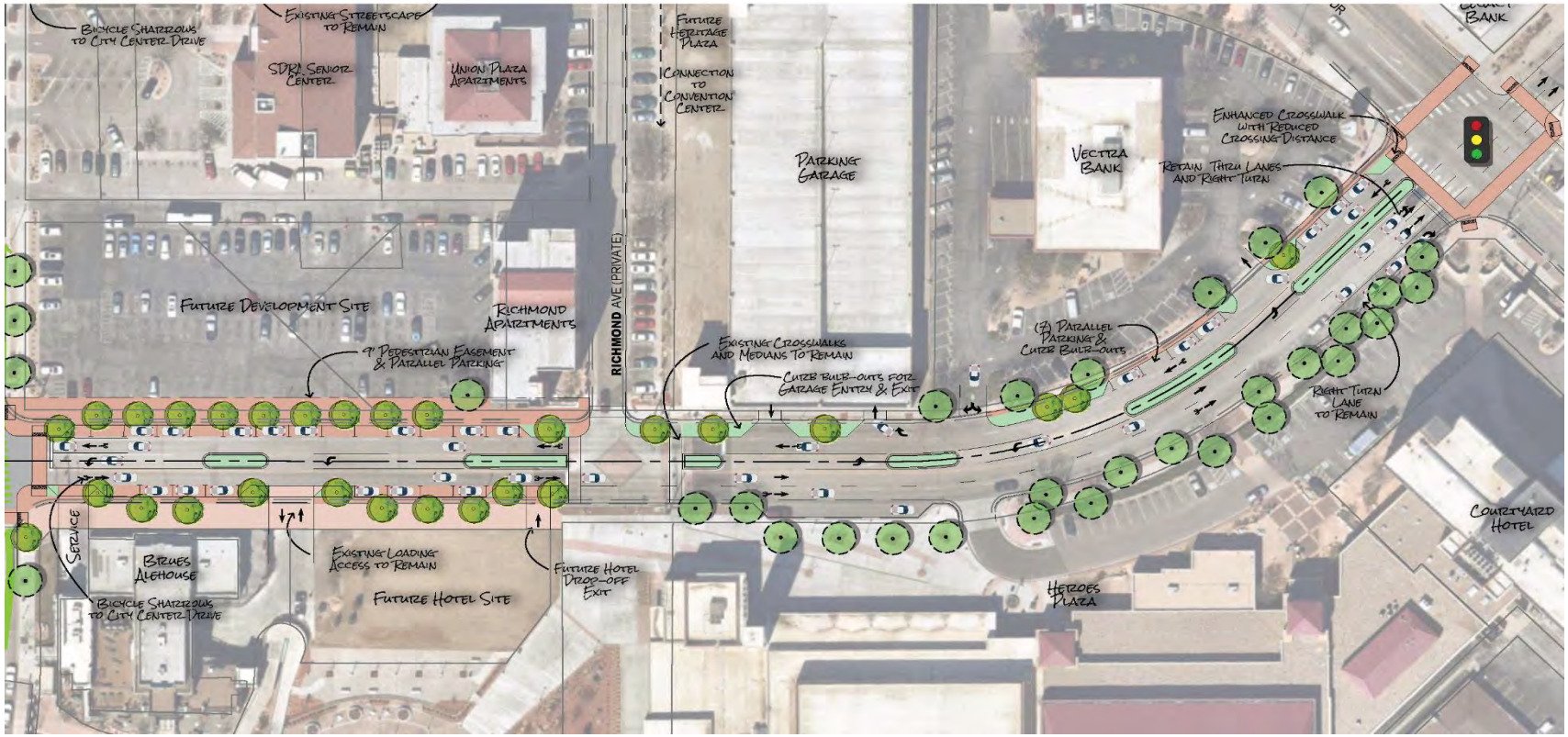




MAIN STREET

ALAN HAMEL TO CITY CENTER





MAIN ST. (FROM C ST. TO D ST.) – EXISTING CONDITION



MAIN ST. (FROM C ST. TO D ST.) – FULL BUILDOUT



POTENTIAL SUB-PROJECTS FOR MAIN STREET

As stated previously, the overall cost associated with the full buildout of the Master Plan may be daunting. Therefore, several potential sub-projects have been identified to help advance the build-out of the Master Plan for Main Street over time. The primary set of sub-projects align with the County 1-A funding requirements and range from crosswalks and landscaping to curbline reconstruction. A list of other potential projects was also identified for supplemental funding sources, as they expand beyond the scope of the County 1-A funds but were determined to bring value to the overall Master Plan for Main Street. Any and all sub-projects can be implemented as appropriate funds become available.

The list below provides a general overview of potential sub-projects for Main Street, with more detail including preliminary costs, found in Chapter 4: Implementation and Appendix 3.

Main Street Potential Sub-Projects	Location
Riverwalk (AT&T) Crosswalk	
Crosswalk improvements	Riverwalk crossing / AT&T parking lot
Signal modification	Riverwalk crossing / AT&T parking lot
Patterned concrete crosswalk (optional)	Riverwalk crossing / AT&T parking lot
Corridor Improvements from Richmond to City Center	
Parking (on-street striping)	Richmond to City Center
Adjust lanes at City Center	City Center
Bulb outs at intersections	Richmond to City Center
Landscape medians	Richmond to City Center (as noted on Plan)
Other Potential Projects	
Corridor Improvements from C Street to Richmond	
Bulb-outs	C Street to Richmond
Alan Hamel crosswalk	Alan Hamel
Stripe directional bicycle lanes	Arkansas River Trail to Alan Hamel
Stripe roadway to two lanes with a center turn lane	C Street to City Center

UNION AVE PROPOSED PROJECTS	Location	Cost Estimate - Infrastructure	Infrastructure Notes	Cost Estimate - Streetscape	Streetscape Notes
Master Plan	**Full Build-Out on Union Avenue**	**$3,406,000.00**		**$1,524,765.00**	**$4,903,985.00**
Priority Sub-Projects					
Master Plan Improvements from B Street to Grand Ave		**$3,134,000.00**		**$1,524,765.00**	
Four way stops at intersections	C Street and D Street	$17,000.00	*Sign installation, removal of 4 signal poles.		No Landscaping.
Bulb outs at intersections	B Street, D Street, C Street	$315,000.00	*12 Bulb-outs. ~$27,000.00 each.	$94,400.00	(22) Street Trees with Imported Soil, 3,065 Square Feet of Shrub Planting, Irrigation.
Reconstruct Curb-Line	B Street to Grand Avenue	$720,000.00	12' Sidewalk widening Approx 1900 LF.	$360,965.00	Decorative Finish Concrete Sidewalk with 7' Clay Brick Amenity Zone.
Repaving	B Street to Grande Avenue	$1,100,000.00	Repaving to acount for extended sidewalks. Assumed 8" HMA over 6" Base Course.		No Landscaping
Drainage Improvements	B Street to Grande Avenue	$500,000.00	Removal and replacement of 13 inlets, and storm sewer pipe to account for new flowline locations associated with sidewalk widening.		No Landscaping
Stripe roadway to two lanes with sharrows	B Street to Grand Avenue	$27,000.00	*Striping, and striping removals.		No Landscaping
Mid-Block Streetscape elements	B Street to Grand Avenue	$60,000.00	400 LF of Landsacping Bulb-Outs, and associated driveway cuts.	$1,069,400.00	(74) Street Trees in Raised Planters, Imported Soil, Shrub Planting, Irrigation, Site Furniture (Bike Racks, Trash Bins, Benches), Refurbishment and Re-setting of Existing Pedestrian Lights
Mid-block crossings (2)	Riverwalk	$145,000.00	Includes colored patterned concrete pavement.		No Landscaping
Gateways	One at B Street and one at Grand Avenue	$250,000.00	Per cost estimate from the City - for 2 gateway features		Included in Gateway Cost
			TOTAL for Priority Sub-Project Bstreet to Grand Ave		**$4,658,765.00**
Master Plan Improvements from Abriendo to B Street		**$205,000.00**	1700' Restriping, 6 ramps, 2 bulbouts, Relocation of concrete barrier along bridge.		No Landscaping
			TOTAL for Priority Sub-Project Abriendo to B Street		**$205,000.00**
Master Plan Improvements from Grand Ave to City Center		**$67,000.00**	750' restriping, 2 bulbouts		No Landscaping
			TOTAL for Priority Sub-Project Grand Ave to City Center		**$67,000.00**
Master Plan			**TOTAL for Master Plan Projects along the entire Union Ave corridor**		**$4,930,765.00**
Additional Projects Beyond the Scope of the County 1A Funds					
Pedestrian improvements - pork chop crosswalk	Southside of City Center/Union Intersection	$125,000.00			No Landscaping
Add diagonal parking on C & D Street	C Street and D Street between Union & Main	$193,000.00	C Street: $113,000.00 (130 LF, 13' Widening, 4' gutter pans to maintain existing flowlines, 2 Bulb-outs) / D Street: $80,000.00 (130 LF, 5' Widening, 4' gutter pan to maintain existing flowline, 2 Bulb-outs)	$180,400.00	Per Block Estimate, (8) Street Trees in 300 Square Foot Shrub Planters, Imported Soil, Irrigation, and Pedestrian Lighting at 60' On Center Spacing
Encourage use of alleys (minor improvements, restripe public lots, signage for parking)	B Street to Riverwalk	$20,000.00	Restriping and signage		No Landscaping

***Infrastructure costs** do not include landscaping, lighting, signal improvements, utility relocations/adjustments, design costs. All costs include a contingency.*

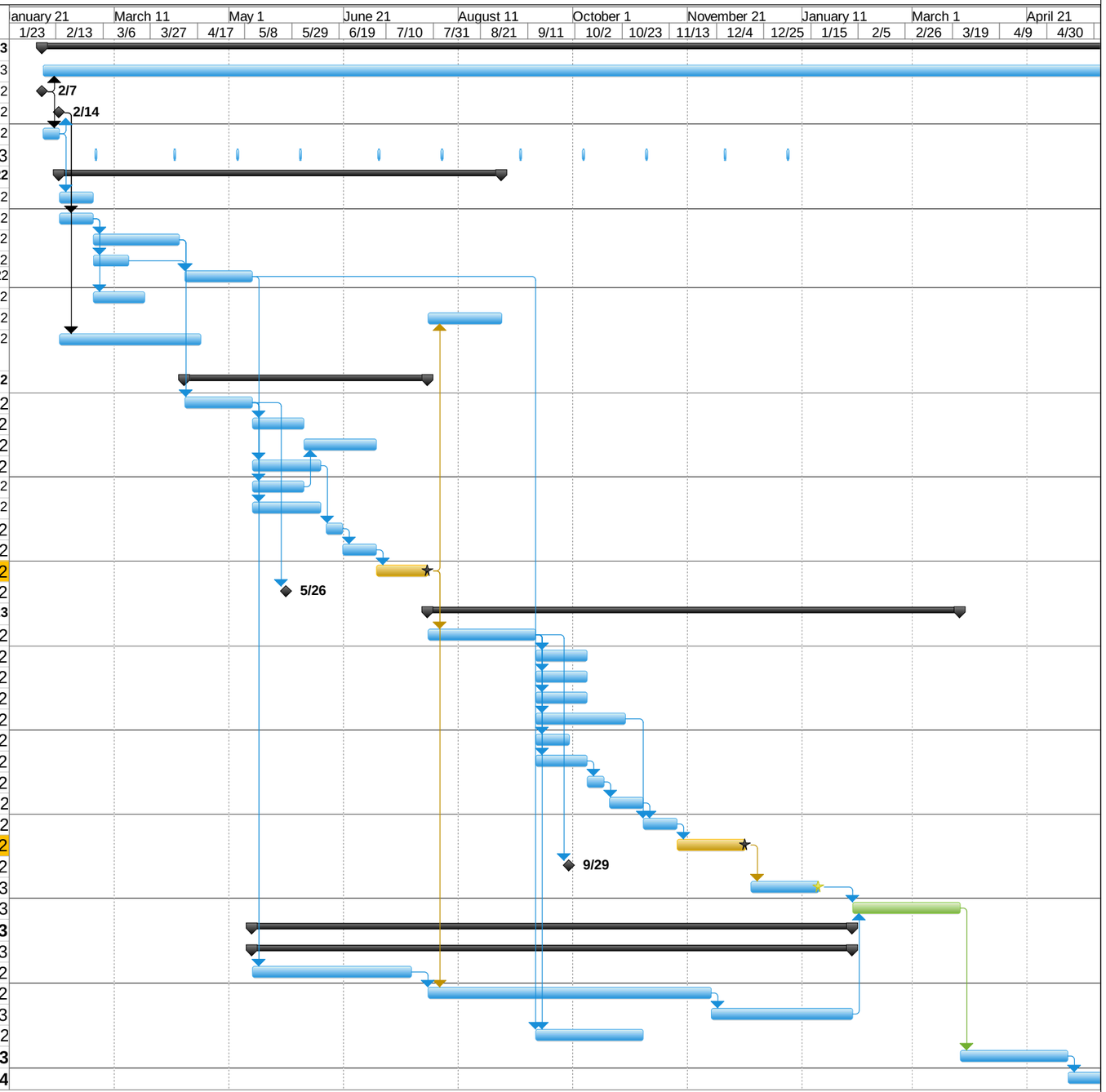
MAIN ST PROPOSED PROJECTS	Location	Cost Estimate - Infrastructure	Infrastructure Notes	Cost Estimate - Streetscape	Streetscape Notes
Master Plan	**Full Build-Out on Main Street**	**$1,335,000.00**		**$458,485.00**	**$1,793,485.00**
Priority Sub-Projects					
Riverwalk (AT&T) crosswalk		**$323,000.00**		**$31,290.00**	
Crosswalk Improvements	Riverwalk crossing /AT&T parking lot	$156,000.00	*4 Bulb outs on each side, restripe 2 cross walk, signs. 175 LF Median installation	$31,290.00	(4) Street Trees in 1333 Square Feet of Shrub Planting with Imported Soil, Irrigation
Signal modification	Riverwalk crossing /AT&T parking lot	$95,000.00	*Replace current signal with Rapid Flashing Beacon signal for crosswalk (confirm cost)		No Landscaping
Patterned Concrete Crosswalk	Riverwalk crossing /AT&T parking lot	$72,000.00	*Asphalt removal and patterned concrete only.		No Landscaping
			TOTAL for Priority Sub-Project Riverwalk (AT&T Crosswalk)		**$354,290.00**
Corridor Improvements from Richmond to City Center		**$312,000.00**		**$100,135.00**	
Parking (on-street striping)	Richmond to City Center	$11,000.00			No Landscaping
Adjust lanes at City Center	City Center	$20,000.00	*Restriping, signal head removal/modification		No Landscaping
Bulb outs at intersections	Richmond to City Center	$157,000.00	*6 Bulb-outs	$63,030.00	(10) Street Trees in 2,665 Square Feet of Shrub Planting with Imported Soil, Irrigation
Landscape medians	Richmond to City Center (as noted on layout)	$124,000.00	*375 LF of median installation	$37,105.00	1,885 Square Feet of Shrub Planting with Imported Soil, Irrigation
			TOTAL for Priority Sub-Project Richmond To City Center		**$412,135.00**
Corridor Improvements from C Street to Richmond		**$630,000.00**		**$327,060.00**	
Corridor improvements	C Street to Richmond	$505,000.00	13 Bulb outs, 1900' restriping. Landscape bulb-outs, adjust driveway cuts on north/west side, 110' of Landscaped Median.	$312,640.00	(20) Street Trees in 3,335 Square Feet of Shrub Planting with Imported Soil, Irrigation, decorative concrete sidewalk expansion and parking lanes (Does not include Alan Hamel Xwalk)
Alan Hamel crosswalk	Alan Hamel	$98,000.00	*4 Bulb-outs. Does not include potential signal modifications	$14,420.00	(4) Street Trees in 480 Square Feet of Shrub Planting with Imported Soil, Irrigation
Stripe roadway to two lanes with a center turn lane	C Street to City Center	$27,000.00	*Striping, and striping removals		No Landscaping
			TOTAL for Priority Sub-Project C Street to Richmond		**$957,060.00**
Stripe directional bicycle lanes	C Street to Alan Hamel	**$70,000.00**	Restriping		No Landscaping
				TOTAL for Priority Sub-Project Bicycle Lanes	**$70,000.00**
Master Plan			**TOTAL for Master Plan Projects along the entire Main St corridor**		**$1,793,485.00**
Additional Projects Beyond the Scope of the County 1A Funds					
Stripe directional bicycle lanes	Arkansas River to C Street	$50,000.00	Restriping		No Landcaping

**Infrastructure costs do not include landscaping, lighting, signal improvements, full roadway reconstruction, drainage modifications, utility relocations/adjustments, design costs. All costs include contigency.*

Final Design and Construction Documents for Union Avenue and Main Street

Bohannan Huston

ID	Task Name	Duration	Start	Finish
1	**Project Control**	**305.78 days**	**Mon 2/7/22**	**Thu 6/1/23**
2	Project Management	305.78 days	Mon 2/7/22	Thu 6/1/23
3	Notice to proceed	0 days	Mon 2/7/22	Mon 2/7/22
4	Kickoff and Site Review Meeting	0 days	Mon 2/14/22	Mon 2/14/22
5	Project Management Plan/Schedule	5 days	Mon 2/7/22	Mon 2/14/22
6	Monthly Project Meetings	.96.56 days	Wed 3/2/22	Thu 1/5/23
18	**Data Acquisition and Survey**	**125 days**	**Mon 2/14/22**	**Tue 8/30/22**
19	Engineering Research	10 days	Mon 2/14/22	Tue 3/1/22
20	ROW Research and Survey Control (BHI Survey)	10 days	Mon 2/14/22	Tue 3/1/22
21	Design Survey and Mapping (BHI Survey)	25 days	Tue 3/1/22	Fri 4/8/22
22	ROW Survey	10 days	Tue 3/1/22	Thu 3/17/22
23	Ownership Map	20 days	Mon 4/11/22	Wed 5/11/22
24	Utility Location Survey (UCS)	15 days	Tue 3/1/22	Thu 3/24/22
25	Utility Potholes (if needed)	20 days	Thu 7/28/22	Tue 8/30/22
26	Geotechnical Investigation/Pavement Design (City)	40 days	Mon 2/14/22	Mon 4/18/22
27	**Final Design (FIR)**	**70 days**	**Mon 4/11/22**	**Thu 7/28/22**
28	Layout	20 days	Mon 4/11/22	Wed 5/11/22
29	Preliminary Drainage Analysis/Plan	15 days	Wed 5/11/22	Fri 6/3/22
30	Preliminary Utility Coordination	20 days	Fri 6/3/22	Tue 7/5/22
31	Preliminary Signage and Striping Plan	20 days	Wed 5/11/22	Fri 6/10/22
32	Preliminary Lighting Plan	15 days	Wed 5/11/22	Fri 6/3/22
33	Preliminary Landscape/Irrigation Plan (MIG)	20 days	Wed 5/11/22	Fri 6/10/22
34	Preliminary Cost Estimate	5 days	Mon 6/13/22	Mon 6/20/22
35	Quality Control Review and Address Comments	10 days	Mon 6/20/22	Tue 7/5/22
36	FIR Submittal/Review Meeting	15 days	Tue 7/5/22	Thu 7/28/22
37	Public Meeting #1	0 days	Thu 5/26/22	Thu 5/26/22
38	**Construction Documents (FOR)**	**150 days**	**Thu 7/28/22**	**Wed 3/22/23**
39	Final Roadway Design	30 days	Thu 7/28/22	Wed 9/14/22
40	Final Utility Coordination	15 days	Wed 9/14/22	Fri 10/7/22
41	Final Drainage Report	15 days	Wed 9/14/22	Fri 10/7/22
42	Final Lighting Plan	15 days	Wed 9/14/22	Fri 10/7/22
43	Final Landscape and Irrigation Plan (MIG)	25 days	Wed 9/14/22	Mon 10/24/22
44	Traffic Control Plans	10 days	Wed 9/14/22	Thu 9/29/22
45	Final Signage and Striping Plan	15 days	Wed 9/14/22	Fri 10/7/22
46	Final Cost Estimate	5 days	Fri 10/7/22	Fri 10/14/22
47	Technical Specifications	10 days	Mon 10/17/22	Tue 11/1/22
48	Quality Control Review and Address Comments	10 days	Tue 11/1/22	Wed 11/16/22
49	FOR Submittal/Review Meeting	20 days	Wed 11/16/22	Fri 12/16/22
50	Public Meeting #2	0 days	Thu 9/29/22	Thu 9/29/22
51	PS&E/Final Plans/Bid Documents	20 days	Mon 12/19/22	Wed 1/18/23
52	Authorization to Bid	30 days	Thu 2/2/23	Wed 3/22/23
53	**Permitting**	**170 days**	**Wed 5/11/22**	**Thu 2/2/23**
54	Environmental	170 days	Wed 5/11/22	Thu 2/2/23
55	Field	45 days	Wed 5/11/22	Thu 7/21/22
56	Clearance	80 days	Thu 7/28/22	Thu 12/1/22
57	Permitting	40 days	Thu 12/1/22	Thu 2/2/23
58	ROW/Review	30 days	Wed 9/14/22	Tue 11/1/22
59	**Bidding**	**30 days**	**Wed 3/22/23**	**Tue 5/9/23**
60	**Construction**	**200 days**	**Tue 5/9/23**	**Tue 3/19/24**



Project: Union-Main_Final Design Sche
Date: Fri 1/7/22

Task | Project Summary | Inactive Milestone | Manual Summary Rollup | Progress
Split | External Tasks | Inactive Summary | Manual Summary | Deadline
ask | Start-only
nly | Finish-only

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Fee:

The table below contains the estimated fees to provide these services:

The lump sum fees are the following:

Final Design:	
Task 1: Data Acquisition and Survey	$139,408.75
Task 2: Final Design	$204,544.00
Construction Documents and Bidding:	
Task 1: Construction Documents	$271,938.00
Task 2: Bidding Assistance (T&M)	$ 15,000.00
Construction:	
Task 1: Post Construction Award Services (PCAS): (T&M)	$ 50,000.00
Total	**$680,890.75**

**Time and Materials (T&M) phases will be billed at hourly rates per attached fee schedule

Schedule:

Project schedule is included in the following pages

EXCLUSIONS

1. Title Work, vesting documents, Right-of-way appraisal, negotiations and acquisition.
2. Geotechnical engineering or pavement design – to be provided City.
3. Environmental investigation or documentation are not included in this scope of work – to be completed by the City or CDOT or provided as an additional service if determined to be needed.
4. Construction Phasing, Jointing and Traffic Control Plans.
5. Structural Design - City/Black Hills standard details will be used for lighting foundation design, etc.
6. Photometrics or Electrical Engineering. City of Pueblo and Black Hills Energy Standard Fixtures, Details, and Engineering will be referenced.
7. Illustrative Drawings/additional renderings beyond those provide in the master plan are excluded but can be included for an additional fee.
8. Design of wayfinding elements, bus shelters, and graphic design.
9. Coordination of unknown field conditions to be encountered during construction in a Downtown setting (e.g. basements, historical findings, and unknown utility findings during excavation) will be included in PCAS services. Additional design that be required

will be scoped with the City first or billed at hourly rates as an Additional Service.

10. Utility design – conflict identification only.
11. Easement preparation or acquisition.
12. Permitting or associated fees.
13. Providing any services requiring the preparation of multiple construction plan sets for multiple phases of development is not included.
14. Full time construction management or observation.
15. Performing construction staking, or materials testing is not included.

	1	2	3	4	5	6	7
ENGINEER Civil, Structural, Mechanical, Electrical	**$105**	**$123**	**$143**	**$163**	**$183**	**$220**	**$245**
SURVEYOR	**$105**	**$123**	**$143**	**$163**	**$183**	**$220**	**$245**
TECHNICAL MANAGER IT, GIS, Spatial Data, Construction, Project Manager	**$105**	**$123**	**$143**	**$163**	**$183**	**$220**	**$245**
PLANNER Community, Transportation	**$95**	**$105**	**$120**	**$135**	**$155**	**$190**	**$235**
GIS PROFESSIONAL Geographic Information Systems	**$90**	**$100**	**$115**	**$130**	**$150**	**$180**	**$210**
TECHNICAL SPECIALIST Engineering Tech, Survey Tech, Geospatial Analyst, Graphics Specialist	**$72**	**$77**	**$82**	**$92**	**$107**	**$120**	**$135**
CONSTRUCTION OBSERVER	**$73**	**$78**	**$83**	**$93**	**$108**	**$123**	**$163**
MATERIALS TECHNICIAN Field and Laboratory Materials Testing	**$55**	**$65**	**$75**	**$80**	**$95**	**$115**	**$135**
PROJECT ADMINISTRATOR	**$85**	**$100**	**$120**	**$140**	**$160**	**$180**	**$210**
ADMINISTRATIVE ASSISTANT Clerical Support	**$55**	**$65**	**$75**	**$85**	**$95**	**$105**	**$120**

MATERIALS AND REIMBURSABLE EXPENSES

Plotting, Printing and Binding - As invoiced at cost of labor and materials.

Courier / Delivery Service - As invoiced by provider.

Mileage - As published for the IRS Standard Mileage Rate.

Per Diem/Travel - Field personnel in accordance with the latest GSA Schedule based on location of service.

Office/Professional staff travel costs, meals and lodging will be billed at cost.

Survey Equipment Charge - $25.00/Hour.

Survey Material Charge - $2.60/Hour.

Expert Witness - Rates shall be negotiated based on the requirements of the contract with a minimum of four hours while in court.

Other Direct Project Expenses - At Cost.

Overtime - Performed upon request of the client; will be invoiced at 1.30 times the standard hourly rate.

Applicable Gross Receipts or Sales and Use Tax - Added to all fees charged for professional services unless they are exempt and official documentation is on file with Bohannan Huston, Inc.

UAV Usage Charge - Rates shall be negotiated based on the requirements of the contract.

ADDITIONAL INFORMATION FOR AMENDMENT

Certificate of Good Standing

Proof of Insurance

Summary

Details			
Name	BOHANNAN-HUSTON,INC.		
Status	Good Standing	**Formation date**	01/24/2005
ID number	20051036417	**Form**	Foreign Corporation
Periodic report month	January	**Jurisdiction**	New Mexico
Principal office street address	7500 Jefferson St., NE, Albuquerque, NM 87109-4335, United States		
Principal office mailing address	7500 Jefferson Street NE, Albuquerque, NM 87109, United States		

Registered Agent	
Name	Bohannan Huston, Inc.
Street address	9785 Maroon Circle, Ste 140, Englewood, CO 80112, United States
Mailing address	7500 Jefferson Street NE, ALBUQUERQUE, CO 87109, United States

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

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

BOHANNAN-HUSTON,INC.

is an entity formed or registered under the law of New Mexico , has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20051036417 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/10/2022 that have been posted, and by documents delivered to this office electronically through 06/13/2022 @ 16:03:42 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/13/2022 @ 16:03:42 in accordance with applicable law. This certificate is assigned Confirmation Number 14090917 .

Secretary of State of the State of Colorado

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

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

BOHAHUS-01 CMONTOYA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/23/2021

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 License # 0757776 HUB International Insurance Services (SOW) 6565 Americas Parkway Suite 720 Albuquerque, NM 87110	CONTACT NAME: Tammie Jojola PHONE (A/C, No, Ext): (505) 262-9457 FAX (A/C, No): E-MAIL ADDRESS: Tammie.Jojola@hubinternational.com
INSURED Bohannan Huston, Inc. 7500 Jefferson St. NE Albuquerque, NM 87109-4335	INSURER(S) AFFORDING COVERAGE / NAIC # INSURER A : Hartford Casualty Insurance Company 29424 INSURER B : Hartford Ins Co of the Midwest 37478 INSURER C : New Mexico Mutual Casualty Company 40627 INSURER D : WCF National Insurance Company 40517 INSURER E : Continental Casualty Company 20443 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	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC X OTHER: $0	X	X	34UUOL5067	8/1/2021	8/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY	X	X	34UENOL5066	8/1/2021	8/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			34XHUOL5068	8/1/2021	8/1/2022	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	70912	8/1/2021	8/1/2022	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
D	CO Work Comp			3483893	8/1/2021	8/1/2022	Per Statute	1,000,000
E	Prof/Poll Liability			AEH288359977	8/1/2021	8/1/2022	$4M Agg/100,000 ded	2,000,000

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

Project 19-062 Master Plan Design for Union Avenue and Main Street.

"The City of Pueblo, its agents, officers and employees are designated as additional insured."

CERTIFICATE HOLDER

City of Pueblo, a Municipal Corporation
230 South Mechanic Street
Pueblo, CO 81003

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW MEXICO CHANGES - ADDITIONAL INSUREDS - AUTOMATIC STATUS WHEN REQUIRED BY WRITTEN CONTRACT, WRITTEN AGREEMENT OR PERMIT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Paragraph **6.f. of Section II, Who Is An Insured** is replaced by the following:

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

f. Owners, Lessees Or Contractors – When Required In A Construction Agreement With You

Any owner, lessee or contractor when you and such person or organization have agreed in a construction contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused by your negligence, acts or omissions or the negligence acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations for the additional insured; or

(2) In connection with "your work" and included within the "products-completed operations hazard", but only if

(a) The written contract or agreement requires you to provide such coverage to such additional insured; and

(b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

B. The following is added to Paragraph **6. of Section II, Who Is An Insured:**

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

g. Any Other Party

Any other person or organization who is not an insured under Paragraphs **a.** through **f.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations; or

(2) In connection with your premises owned by or rented to you.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the Insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability;

(5) Property Damage to Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **j.** of Section I – Coverage **A** – Bodily Injury And Property Damage Liability;

(6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

5. Premium Audit

a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.

c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

9. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

a. (1) Radio;

(2) Television;

(3) Billboard;

(4) Magazine;

(5) Newspaper; or

b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

a. Injury;

b. Sickness; or

c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

Insurer with information on the time, place and nature of the **claim**;

3. immediately forward to the Insurer all documents that the **Insured** receives in connection with the **claim**;
4. fully cooperate with the Insurer or the Insurer's designee in the defense of a **claim**, including but not limited to assisting the Insurer in: the conduct of suits or other proceedings, settlement negotiations, and the enforcement of any right of contribution or indemnity against another who may be liable to the **Insured**. The **Insured** shall attend hearings and trials and assist in securing evidence and obtaining the attendance of witnesses;
5. refuse, except solely at the **Insured's** own cost, to voluntarily make any payment, admit liability, assume any obligation, or incur any expense, without the Insurer's prior written approval; and
6. pay the Deductible amount when due.

After the **Insured** reports a **circumstance** or a **claim** is made and the **Insured** has the right under any contract to either reject or demand arbitration or other alternative dispute resolution process, the **Insured** shall only do so with the Insurer's prior written consent.

C. The **Insured's** Rights and Duties in the Event of a **Circumstance**

If the **Insured** reports a **circumstance** for which there may be coverage under this Policy, and the **Insured** gives the Insurer written notice containing as much detail as the Insurer can reasonably provide regarding:

1. what happened and the **professional services** or activities the **Insured** performed;
2. the nature of any possible injury or damages; and
3. how and when the **Insured** first became aware of such **circumstance**;

then any **claim** or **related claims** that subsequently may be made against the **Insured** arising out of such **circumstance** shall be deemed to have been made on the date the Insurer received written notice of the **circumstance**.

The **Insured** will cooperate with the Insurer in addressing the **circumstance**, and refuse, except solely at the **Insured's** own cost, to voluntarily make any payment, admit liability, assume any obligation, or incur any expense without the Insurer's prior written approval.

D. Subrogation

If any **Insured** has rights to recover amounts from another, those rights are transferred to the Insurer to the extent of the Insurer's payment. The **Insured** must do everything necessary to secure these rights and must do nothing after a **claim** is made to jeopardize them. The Insurer hereby waives subrogation rights against the **Insured's** client to the extent that the **Insured** had a written agreement to waive such rights prior to a **claim** or **circumstance**.

E. Premium

All premium charges under this Policy will be computed according to the rules, rates and rating plans that apply at the effective date of the current **policy term**.

F. Examination and Audit

The **Insured** agrees to allow the Insurer to examine and audit the **Insured's** financial books and records that relate to this insurance. The Insurer may do this at any time during the **policy term** or any extensions, and up to three years after the end of the **policy term**.

G. Legal Action Limitation

1. The **Insured** agrees not to bring any legal action against the Insurer concerning this Policy unless the **Insured** has fully complied with all the provisions of this Policy.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

(1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.

(2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

(a) That is a partnership or joint venture,

(b) That is an "insured" under any other policy,

(c) That has exhausted its Limit of Insurance under any other policy, or

(d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

(1) The agreement requires you to provide direct primary insurance for the lessor and

(2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

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The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(1) During the policy period, and

(2) Subsequent to the execution of such written contract, and

(3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(3)** and **(4)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

(1) $100,000;

(2) The actual cash value of the damaged or stolen property at the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of $1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of $50 per day and a maximum limit of $1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto";

(2) Removable from a housing unit which is permanently installed in or upon the covered "auto";

(3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

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(4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

(2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

(3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or $250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

(1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;

(2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT,CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) A member, if you are a limited liability company; or

(4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

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We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of $2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is $10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to $1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is $5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

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New Mexico Assurance Company
Workers' Compensation and Employers' Liability Policy

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

BLANKET WAIVER

PER CONTRACT(S) ON FILE WITH EMPLOYER

WORK LOCATION(S):
NEW MEXICO AND WHILE TEMPORARILY WORKING OUTSIDE THE STATE OF NEW MEXICO

Nothing in this endorsement contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements, or limitations of this policy other than as above stated. Nothing elsewhere in this policy shall be held to vary, alter, waive, or limit the terms, conditions, agreements or limitations of this endorsement.

This endorsement when attached to Policy No. 70912.105 issued to BOHANNAN HUSTON, INC shall be valid and shall form part of said policy.

Endorsement No:

THE FOLLOWING SPACES ARE TO BE COMPLETED ONLY IF THIS ENDORSEMENT IS NOT ATTACHED TO THE POLICY WHEN ISSUED

Countersignature of Licensed Resident Agent _____

WC 00 03 13

City Clerk's Office Item # N-1

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT AND TRANSFERRING EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS ($8,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR PURPOSES THEREOF

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign an Agreement with the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF") to construct a 70,000 square feet shell building in the Pueblo Memorial Airport Industrial Park.

PREVIOUS COUNCIL ACTION:

City Council approved similar agreements with PDF on July 27, 2015 by Resolution No. 13284 and on June 8, 2020 by Ordinance No. 9712.

BACKGROUND:

PDF was formed in 1964 as a Colorado nonprofit corporation to promote economic development within the City of Pueblo and the areas surrounding the City. For more than fifty years, PDF has helped start up businesses and assisted existing businesses in relocating to Pueblo County and thereby has acquired expertise in economic development.

The City has planned the development of three industrial parks, i.e. Pueblo Memorial Airport Industrial Park; Minnequa Industrial Park and the St. Charles Industrial Park which are currently available for economic development and the relocation of new businesses to the Pueblo area. Section 14-4-85.5 of the Pueblo Municipal Code ("Criteria Ordinance") provides that the City Council may authorize the expenditure of monies from the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund ("Half-Cent Tax Fund") for the acquisition of land; the construction of so-called shell buildings and for infrastructure improvements within the industrial parks.

FINANCIAL IMPLICATIONS:

In the attached Agreement, the City has agreed to transfer up to $8.5 million from the Half-Cent Tax Fund to PDF for the construction of a shell building within the Pueblo Memorial Airport Industrial Park. The shell building shall be approximately 70,000 square feet. PDF shall use the 70,000 square feet shell building plans and specifications already prepared by Nakai & Associates for the work contemplated by this Agreement. After construction of the shell building, PDF agrees to convey title to the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, future development in the City's Pueblo Memorial Airport Industrial Parks will be delayed.

RECOMMENDATION:

The Pueblo Economic Development Corporation recommends approval of this Ordinance.

Attachments:
Proposed Ordinance
Agreement

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE PUEBLO DEVELOPMENT FOUNDATION, A COLORADO NONPROFIT CORPORATION, RELATING TO A JOB CREATING CAPITAL IMPROVEMENT PROJECT, AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT AND TRANSFERRING EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS ($8,500,000) FROM THE 1992-2026 SALES AND USE TAX CAPITAL IMPROVEMENT PROJECTS FUND FOR PURPOSES THEREOF

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

SECTION 1.

The City Council finds and determines that the expenditure of up to Eight Million Five Hundred Thousand Dollars ($8,500,000) for the job creating capital improvement project by the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF") described in the attached Agreement, meets and complies with the criteria and standards established by Section 14-4-85.5 of the Pueblo Municipal Code and will create employment opportunities justifying the expenditure of public funds.

SECTION 2.

The Agreement dated July 11, 2022 ("Agreement") between the City of Pueblo, a Colorado municipal corporation and PDF, relating to a job creating capital improvement project, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver the Agreement in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and to attest same.

SECTION 3.

Funds in the amount of Eight Million Five Hundred Thousand Dollars ($8,500,000.00) are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job creating capital improvement project authorized herein and in the manner described in the attached Agreement. The funds hereby authorized to be transferred and expended, shall be released, disbursed and paid by the Director of Finance as specified in the attached Agreement.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement which are necessary or desirable to implement the transactions described therein.

SECTION 5.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

AGREEMENT

THIS AGREEMENT is entered into effective July 11, 2022, between the City of Pueblo, a Colorado municipal corporation ("City") and the Pueblo Development Foundation, a Colorado nonprofit corporation ("PDF"), City and PDF are sometimes each referred to as a "Party" and collectively "Parties." WITNESSETH:

WHEREAS, PDF was formed in 1964 as a Colorado nonprofit corporation to promote economic development within the City of Pueblo and the area surrounding the City; and

WHEREAS, for more than fifty years, PDF has assisted new businesses in relocating to Pueblo County and has acquired expertise in economic development; and

WHEREAS, the City has planned the development of three industrial parks, i.e. Pueblo Memorial Airport Industrial Park; Minnequa Industrial Park and the St. Charles Industrial Park (collectively "Industrial Parks") which are currently available for economic development and the relocation of new businesses to the Pueblo area; and

WHEREAS, Section 14-4-85.5 of the Pueblo Municipal Code ("Criteria Ordinance") provides that the City Council may authorize the expenditure of monies from the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund ("Half Cent Tax Fund") for the acquisition of land and construction of so-called shell buildings and for infrastructure improvements within the Industrial Parks; and

WHEREAS, entering into this Agreement with PDF will create employment opportunities justifying the expenditure of public funds.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, the City and PDF agree as follows:

1. City hereby transfers funds from the Half Cent Tax Fund in the amount of up to Eight Million Five Hundred Thousand Dollars ($8,500,000.00) (the "City Funds") for use and expenditure by PDF for construction of a shell building, subject to and contingent upon the following conditions and covenants which City and PDF agree to perform and comply with:

(a) Up to Eight Million Five Hundred Thousand Dollars ($8,500,000.00) for the construction of a shell building within the Pueblo Airport Industrial Park. City is the owner of the real property more particularly described as Lot 12, Pueblo Memorial Airport Industrial Park Subdivision, County of Pueblo, State of Colorado according to the recorded plat thereof (Assessor's Parcel No. 426005010) (the "Property"). Immediately upon the execution of this Agreement and the related approvals by the City of Pueblo,

City agrees to transfer the Property to PDF, and PDF shall then commence and complete construction of a shell building on the Property. The shell building shall be approximately 70,000 square feet in size. After construction of the shell building, PDF agrees to convey title to the land and the constructed shell building improvements located thereon to the City, free and clear of any liens or encumbrances. The Parties acknowledge and agree that in order to obtain the building permit for the construction of the shell building, PDF will be required: (1) to obtain a Stormwater Discharge Permit from the Colorado Department of Public Health and Environment in compliance with the Colorado Discharge Permit System ("State Permit") and to register the same in its name, as the Responsible Owner in the Colorado Environmental Online Services ("CEOS") and (2) to agree to perform and/or comply with the requirements of the State Permit through completion of construction of the shell building. To the extent that some stormwater requirements are still outstanding, City agrees to accept the re-conveyance of the Property from PDF subject to all such stormwater requirements and obligations as are still outstanding. Upon reconveyance of the Property to the City, City agrees to be responsible and, where required, to pay for, at its sole and separate expense, all costs incurred in establishing and thereafter maintaining compliance with Stormwater Regulations.

(b) Plans and Bidding:

(I) PDF shall use the 70,000 square foot shell building plans by Nakai & Associates and specifications already approved by City Council and the Mayor prepared for the work contemplated by this Agreement.

(II) All construction contracts for the work contemplated by the approved plans and specifications ("Construction Contracts") shall be awarded by competitive bidding. PDF shall invite general contractors holding Building Contractors-A (General Unlimited) licenses having their principal place of business in the City or County of Pueblo who are qualified and experienced to perform construction work for the Project ("Local Contractors") to submit bids. PDF may invite other qualified general contractors with their principal place of business outside of Pueblo County, Colorado to submit bids. PDF shall assure that the same scope of work to be bid is timely furnished to each general contractor invited to bid. For "design-build" or other contractual arrangements, this requirement may be accomplished by a pre-bid conference or other acceptable competitive bidding procedures which allows Local Contractors a reasonable opportunity to participate in the competitive bidding process. PDF will use its best efforts in good faith to award the construction contract to the lowest qualified bidder. A similar provision with respect to local subcontractors and suppliers shall be included as part of the construction contract between PDF and the general contractor who shall use its best efforts in good faith to engage local subcontractors and suppliers for such construction. After ranking the bids received, PDF shall enter into one or more Construction Contracts for the work and cause the construction to be expeditiously completed and PDF shall timely pay all contractors for work upon the Project. PDF shall not allow nor suffer any mechanics liens

to be filed upon the Project and in the event any such liens are filed, shall cause the same to be promptly removed.

(III) City funds will be disbursed by City to PDF solely for the costs of design and construction in accordance with the plans and specifications approved by the City. PDF will be paid 1% of the total expenditures as a construction management fee. In the event the costs of design and construction exceeds the amount specified in Subsections (a) and (b) of this Section 1, such costs shall be promptly paid by PDF and not by the City.

2. This Agreement shall terminate upon completion of the construction project and transfer of Property back to the City. Any unspent City Funds remaining as of that date shall revert to the City's Half Cent Tax Economic Development Fund.

3. PDF represents and warrants that no person, entity, or organization has been employed or retained or will receive or be paid, directly or indirectly, any commission, percentage, contingent fee or any other remuneration, payment or receipt of which is contingent upon approval of this Agreement or City's advancement of City Funds to PDF hereunder except as specified in this Agreement. For breach or violation of this warranty, City shall have the right to terminate this Agreement, or recover the full amount of such commission, percentage, contingent fee or other remuneration, and/or to seek such other remedies legally available to City, which remedies shall be cumulative.

4. (a) In no event shall City or PDF, their officers, agents, or employees be liable to each other for damages, including without limitation, compensatory, punitive, indirect, special or consequential damages, resulting from or arising out of or related to this Agreement or the performance or breach thereof by the Parties hereto or the failure or delay of the Parties hereto in the performance of any covenant or provision under this Agreement on their part to be performed. In consideration of the other Party entering into this Agreement, City and PDF hereby waive and discharge each other, their officers, agents and employees from all claims for any and all such damages.

(b) Notwithstanding the above, in the event of breach of this Agreement by the City or PDF, the non-breaching Party shall have the right to request specific performance of this Agreement by the breaching Party, but not damages.

5. In the event of any litigation arising under this Agreement, exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado and each Party submits to the personal and subject matter jurisdiction of such District Court. To the extent allowed by law, each Party waives its right to a jury trial.

6. This Agreement expresses the entire understanding of the Parties and supersedes and abrogates any and all prior dealings and commitments, whether oral or written, with respect to the subject matter of this Agreement. This Agreement may not be amended or modified except in writing signed by City and PDF. Any waiver of any provision of this Agreement must be in writing and signed by the Party whose rights are being waived. No waiver of any breach of any provision hereof shall be or be deemed to be a waiver of any preceding or subsequent breach of the same or any other provision of this Agreement. The failure of either Party to enforce or seek enforcement of the terms of this Agreement following any breach shall not be construed as a waiver of such breach.

7. This Agreement shall be construed in accordance with and be governed by the laws of the State of Colorado without regard to conflict of law principles.

8. Any notices hereunder shall be sufficiently given if given in writing personally or mailed by first class, registered, or certified mail, postage prepaid, addressed:

(a) if to City, Mayor, City of Pueblo, 1 City Hall Place, Second Floor, Pueblo, CO 81003 with a copy to City Attorney, 1 City Hall Place, Third Floor, Pueblo, Colorado 81003, or

(b) if to PDF, President, 301 N. Main St., Suite 210, Pueblo, Colorado 81003.

or to such other person or address as either Party shall specify in written notice given to the other Party pursuant to the provisions of this paragraph 8.

9. Time is of the essence hereof. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, provided PDF may not assign this Agreement or any interest herein without the express written consent of the City, which consent may not be unreasonably withheld.

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

11. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the other provisions of this Agreement which shall remain in full force and effect.

12. Neither Party shall be, or hold itself out as, agent of the other or as joint venturers or partners under this Agreement.

13. Each Party acknowledges that this Agreement was fully negotiated by the Parties and, therefore, no provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

14. The provisions of this Agreement are for the exclusive benefit of the Parties hereto and their successors and permitted assigns, and no third party shall be a beneficiary, or have any rights by virtue of this Agreement.

15. This Agreement may be executed in any number of counterparts by physical or electronic signatures, and each such counterpart shall be deemed for all purposes to be an original, and all such counterparts shall together constitute but one and the same original.

Executed effective the day and year first above written.

[S E A L]

City of Pueblo
a Colorado Municipal Corporation

Attest: _____
City Clerk

By: _____
Mayor

[S E A L]

Pueblo Development Foundation
a Colorado nonprofit corporation

Attest: _____
Name: Dan Molello
Title: Secretary

By: _____
Name: Robert L. Root
Title: President

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 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 A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS ($127,500) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Subrecipient Agreement with the Board of Water Works of Pueblo, Colorado ("Pueblo Water") for a water infrastructure project, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Funds for the project, in the amount of $127,500.00 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:

Pueblo Water seeks to remove the hazardous Southside Diversion Dam which provides a source of water supply from the Arkansas River. The low head dam is located adjacent to Pueblo City Park and the Arkansas River Nature Trail and has been the site of multiple deaths by drowning over recent years.

Pueblo Water has requested that the City authorize the use ARPA Funds to construct a scaled physical model to design and develop the design documents into a design-build construction package to remove the hazardous low head dam.

FINANCIAL IMPLICATIONS:

Pueblo Water will receive $127,500.00 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 the removal of the low head dam by awarding ARPA funds to the project.

RECOMMENDATION:

Approval of the Ordinance

Attachments:
Proposed Ordinance
Proposed Subrecipient Agreement.

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE BOARD OF WATER WORKS OF PUEBLO, COLORADO, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF ONE HUNDRED TWENTY-SEVEN THOUSAND FIVE HUNDRED DOLLARS ($127,500) 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 and the Final Rule 31 CFR 35.6, the City of Pueblo, as a recipient of ARPA Funds, may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") for water infrastructure projects; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

The Subrecipient Agreement ("Agreement") dated July 11, 2022, between and the City of Pueblo, a Colorado municipal corporation and the Board of Water Works of Pueblo, Colorado, 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 said Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the amount of $127,500.00 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of the water infrastructure project described in the attached Agreement.

SECTION 4.

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 herein.

SECTION 5.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT ("Agreement") is made and entered into this 11th day of July, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and the Board of Water Works of Pueblo, Colorado, hereinafter referred to as "Pueblo Water" or as the "Subrecipient." City and Pueblo Water/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") for water infrastructure projects; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to construct a scaled physical model to design and develop the design documents into a design-build construction package to remove the hazards associated with the Southside Diversion Dam (hereinafter "SDD"), which serves the Southside Diversion Intake ("SDI") which is a source of water supply from the Arkansas River for the Subrecipient (hereinafter "Project"); and

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

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

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

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) Pueblo Water seeks to remove the hazards associated with the Southside Diversion Dam (SDD), which provides a source of supply from the Arkansas River, below City Park. In pursuit of this endeavor, Pueblo Water has contracted with SG1 Water Consulting, Ltd. (hereinafter "SGI") for the design.

(b) The low head dam is located adjacent to Pueblo City Park and the Arkansas River Nature Trail and has been the site of multiple deaths by drowning over recent years.

(c) The original proposal provided by SG1indicated that there would be a total of 4 phases in the development of a design for the proposed modifications. Phase 1 provided an evaluation of design alternatives and a recommendation. Phase 2 developed that design with computer modeling, providing a detailed digital model. Phase 3 proposes to construct and model a scaled physical model of the design and develop the design documents into a design-build construction package. Phase 4 proposes to aid through construction and commissioning of the modifications. Phase 1 is complete, and Phase 2 is nearing completion. This Subrecipient Agreement continues the design work through Phase 3.

(d) SG1 has solicited a proposal from Northwest Hydraulic Consultants, Ltd. (NHC) of Edmonton, Alberta. This group was chosen for their overall capacity and capability to perform the task of model construction and testing in addition to their physical proximity to the SG1 offices. This proximity will allow SG1 periodic involvement in the model development.

(e) The proposal from SGI requests an additional $510,000 to the existing professional services agreement of $108,520. This extension includes services to be provided by the laboratory (NHC) that will construct and test the physical model ($363,500) and services to coordinate and consult in the development of the physical model as provided by SG1 ($146,500).

(f) To date, Pueblo Water has borne the entire cost of planning to eventually modify the low head dam. The City's ARPA contribution of $127,500, at this time, will ensure that Pueblo Water will have a "shovel-ready" project as it continues to seek additional funding through grant opportunities.

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 Twenty-Seven Thousand Five Hundred Dollars (U.S. $127,500.00). 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) 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, 2024 unless this Agreement is sooner terminated as herein provided.

(b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2024 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

(a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.

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

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

7. ASSIGNABILITY

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

8. CONFLICT OF INTEREST

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

9. SUBRECIPIENT RECORDS

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

10. MONITORING AND EVALUATION

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

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

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

12. INDEPENDENCE OF SUBRECIPIENT

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

13. LIABILITY, INSURANCE

(a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property,

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

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General and Automobile Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

(e) Subrecipient shall furnish a certificate of insurance certifying such coverage to City's Director of Finance prior to disbursement of any funds to Subrecipient.

14. CERTIFICATIONS

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

15. REVERSION OF ASSETS

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

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

16. PERA LIABILITY

The Subrecipient shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

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

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

19. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, the court shall award to the prevailing Party its costs and reasonable attorney fees. Exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado, and each Party submits to the personal and subject matter jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

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

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

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

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

25. COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts and each such counterpart shall be deemed for all purposes to be an original and all such counterparts shall together constitute but one and the same original.

26. SIGNATURES

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

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

CITY OF PUEBLO
A COLORADO MUNICIPAL CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

[S E A L]

Subrecipient:
BOARD OF WATER WORKS OF PUEBLO, COLORADO

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

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

A. Performance Monitoring:

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

SUBRECIPIENT'S SCOPE OF SERVICES

B. Principal Tasks

Construct a scaled physical model to design and develop the design documents into a design-build construction package to remove the hazards associated with the Southside Diversion Dam which serves the Southside Diversion Intake.

C. Budget

$127,500.00

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. The City must review and approve your account system and internal controls prior to the release of funds.

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

3. A log listing all long-distance telephone calls must be maintained (showing date, city and agency called, person making call and person called).

4. 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 monthly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

5. All employees handling funds are required to be insured by a fidelity bond.

6. 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.

7. 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.

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

9. 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 municipal, state and federal statutes and regulations, including but not limited to the following:

Municipal and State

(1) The Charter, Municipal Code and the Rules and Regulations of the City of Pueblo, including but not limited to, the legal obligation to obtain all required licenses and permits from the City of Pueblo.

(2) The Constitution, Colorado Revised Statutes and the Rules and Regulations of the State of Colorado, including, but not limited to, the legal obligation to obtain all required licenses and permits from the State of Colorado.

Federal

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

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

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

a) Are you, or do you employ or engage in any capacity, including an independent contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes___, No___.

b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? Yes ____, No____.
If you answered "yes" please state which of the above entities best describes your business:
_____

c) If you answered "yes" to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree's regular salary or compensation.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 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 BUDGETING AND APPROPRIATING FUNDS FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND IN THE AMOUNT OF $15,000 TO COUNCIL CONTINGENCIES TO REIMBURSE PAYMENT TO GOODNIGHT BARN FOUNDATION

SUMMARY:

This Ordinance budgets and appropriates $15,000 from the unappropriated Fund Balance of the General Fund ("Reserves") to Council Contingencies to reimburse payment to Goodnight Barn Foundation.

PREVIOUS COUNCIL ACTION:

On May 9, 2022, by Resolution No. 14889, City Council approved the expenditure of funds in the amount of $15,000 to be paid from the Council Contingencies Account in the 2022 General Fund Budget to the Goodnight Barn Foundation to support the Chuck Wagon Rendezvous. This Ordinance increases council contingencies by $15,000 out of the City's 2022 budgetary reserves to reimburse the payment to the Goodnight Barn Foundation.

BACKGROUND:

The Goodnight Barn Foundation's 2022 Chuck Wagon Rendezvous was held on May 20 and 21, 2022. On Friday, May 20th, the public enjoyed participating in living history (featuring trappers, Kit Carson, Zebulon Pike, Buffalo Soldiers, etc.), seminars on chuck wagons and more. Friday evening included western music around a campfire, food trucks and some western vendors. On Saturday, May 21st participating wagons cooked and served traditional culinary fare at 3:00 p.m. Excess revenues from this event will fund construction of bathrooms at the Goodnight Barn.

FINANCIAL IMPLICATIONS:

Funds in the amount of $15,000 will be transferred from the 2022 unappropriated fund balance of the General Fund (the City of Pueblo's reserves).

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not Applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Council Contingencies Account in the 2022 General Fund Budget will not be reimbursed $15,000.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE BUDGETING AND APPROPRIATING FUNDS FROM THE UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND IN THE AMOUNT OF $15,000 TO COUNCIL CONTINGENCIES TO REIMBURSE PAYMENT TO GOODNIGHT BARN FOUNDATION

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

SECTION 1.

Funds in the amount of amount of $15,000 are hereby authorized to be budgeted and appropriated out of the unappropriated Fund Balance of the General Fund for budget year 2022 to Council Contingencies account.

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 established 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

City Clerk's Office Item # N-4

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marissa Stoller, City Clerk

FROM: Bryan Gallagher, Director, Housing and Citizen Services

SUBJECT: AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2022-2023 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

SUMMARY:

This Ordinance approves the 2022-2023 Action Plan as presented. The Action Plan contains the funding recommendations made by the Citizens' Advisory Committee (CAC) and Staff.

PREVIOUS COUNCIL ACTION:

The City Council has not taken any previous action on this matter.

BACKGROUND:

As an entitlement city, the City of Pueblo is required by the U.S. Department of Housing and Urban Development (HUD) to complete an Annual Action Plan for each of the years of the Consolidated Plan. This Action Plan and the accompanying documentation serve as the City's application to HUD for the 2022-2023 Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grant (HOME). This is the third Action Plan under the 2020-2024 Five-Year Consolidated Plan.

A public meeting was held to receive citizen input and to hear applicant presentations on July 22, 2021. HUD CPD Notice 22-05 requested a delay in the annual action plan submission process. The notice of the availability of the 2022 Annual Action Plan was published on March 10, 2022 and made available to the public for review on March 11, 2022, formally opening the public comment period for thirty-days. Public meetings were held on March 17, 2022 and April 14, 2022. Copies were available at the City Clerk's Office, the Rawlings Library, the Department of Housing and Citizen Services (Department), and the City's website.

FINANCIAL IMPLICATIONS:

The City anticipates receiving $1,495,303 in CDBG funding and $979,677 in HOME Consortium grant funding with an additional $479,134.72 in program income and $34,203.11 in homebuyer recapture for housing and community development projects in 2022. The HOME Consortium grant is shared with Pueblo County on an 87%/13% City/County basis. The HOME grant requires a 25% match. The City's portion is $196,547. The City received more program income and HOME formula grant funding than anticipated, and as such, the appropriated $135,000 within the City's 2022 budget is an insufficient match. Additional funds of $61,547 are requested from the General Fund Balance to be applied to the match deficit.

BOARD/COMMISSION RECOMMENDATION:

The Citizens Advisory Committee (CAC) has recommended that the City Council approve the activities outlined in the 2022-2023 Action Plan and presented its recommendations to Council during Work Session on September 13, 2021.

STAKEHOLDER PROCESS:

The following stakeholder processes were undertaken by the Department. On May 1, 2021, applications for grant funding were made available to the community. Public hearings were held before the CAC on July 22, 2021. The public hearings were open for public comments, and for funding applicants to present their requests to the CAC. The CAC deliberations were held on August 10, 2021. This was an open meeting, but opportunity for public comment is not provided. The 30-day comment period began March 12, 2022, with the publication of a public notice in *The Pueblo Chieftain*.

ALTERNATIVES:

The City Council can choose to not apply for the CDBG and HOME grants, in which case a number of community services will need to find alternative funding.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:
2022 CDBG and HOME Funding Attachment A
2022 Annual Action Plan
Application for Federal Assistance SF-424/SF-424D: HOME
Application for Federal Assistance SF-424/SF-424D: CDBG
Certifications
Department Certificate of Correctness

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND ADOPTING THE CITY OF PUEBLO'S 2022-2023 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND THE HOME INVESTMENT PARTNERSHIP ACT GRANT (HOME), AUTHORIZING THE MAYOR OF THE CITY OF PUEBLO TO SUBMIT THE APPLICATION TOGETHER WITH ALL REQUIRED AND NECESSARY CERTIFICATIONS, ASSURANCES, AND DOCUMENTATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND APPROPRIATING AND BUDGETING CDBG AND HOME FUNDS THEREFORE

WHEREAS, the City of Pueblo is designated as an entitlement city under the Housing and Community Development Act of 1974, and will receive Community Development Block Grant (CDBG) and HOME Investment Partnership Act Grants (HOME) for fiscal year 2022; and,

WHEREAS, the City of Pueblo conducted a citizen participation process that included two public hearings within the City of Pueblo in addition to a third public hearing before City Council to obtain the views of citizens, non-profit and neighborhood groups on the City's housing and community needs; NOW, THEREFORE,

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

SECTION 1.

The City Council hereby finds and determines that the City of Pueblo's 2022-2023 Action Plan listing projects and programs for funding from CDBG and HOME federal funds has been developed to give maximum feasible priority to activities which will benefit low- to moderate-income families and/or aid in the prevention or elimination of slum and blight, as required by HUD, and is hereby approved, adopted, and incorporated herein.

SECTION 2.

The Mayor is hereby authorized to submit, in the name of the City of Pueblo, the applications (SF-424/SF-424D) and the 2022-2023 Action Plan, together with all required and necessary certifications, assurances, and documentation to the U.S. Department of Housing and Urban Development for $1,459,303.00 in 2022 CDBG funds and $979,677.00 in 2022 HOME funds, along with $479,134.72 in HOME program income and $34,203.11 in homebuyer funds recaptured from prior years.

SECTION 3.

CDBG funds in the amount of $1,459,303.00 and HOME funds in the amount of $977,677.00, HOME program income in the amount of $479,134.72, and HOME homebuyer recaptured funds in the amount of $34,203.11, the 2022 allocation, are hereby budgeted and appropriated for the projects and in the amounts set forth in the 2022-2023 Action Plan. A list of the recommended projects is herein included as Attachment A.

SECTION 4.

The HOME Program requires local matching funds. The City's portion of matching funds is $196,547.00. During the annual budget process, $135,000.00 was previously budgeted and appropriated for the HOME match. The balance of City HOME matching funds in the amount of $61,547.00 are hereby budgeted and appropriated from the General Fund to the projects and in the amounts set forth in the 2022-2023 Action Plan.

SECTION 5.

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

SECTION 6.

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 7.

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

Action by City Council:

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

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

2022 Annual Action Plan

Attachment A

Community Development Block Grant Program Funds			
Project No.	**Project Name**	**Project Agency**	**Amount**
	Public Services		
CD2201	Administration	DHCS	$ 291,860.00
CD2202	Homeless Prevention	Posada	$ 35,000.00
CD2203	Homeless Supportive Services	Posada	$ 25,000.00
CD2204	Homeless Youth Services	Posada	$ 25,000.00
CD2205	Shelter Services	Pueblo Rescue Mission	$ 33,000.00
CD2206	Meal Program	Pueblo Rescue Mission	$ 20,000.00
CD2207	Senior Transportation	SRDA	$ 17,000.00
CD2208	Nutrition on Wheels Program	Pueblo Cooperative Care	$ 40,000.00
CD2209	Home Stability Program	Catholic Charities	$ 20,000.00
	Public Facilities/Neighborhood Improvements		
CD2210	ADA Curb Ramps	Public Works	$ 400,000.00
CD2211	Abatement of Dangerous Buildings	Public Works	$ 75,000.00
CD2212	Bradford Basketball Court Rehabilitation	Anthony Carbajal	$ 195,000.00
CD2213	Rawlings Library ADA Improvements	Pueblo Library District	$ 75,000.00
	Housing Activities		
CD2214	ERESP	Pueblo County	$ 40,000.00
CD2215	Minor Repair Program	DHCS	$ 64,943.00
CD2216	Rehabilitation	DHCS	$ 75,000.00
CD2217	Voluntary Demo	DHCS	$ 27,500.00
			$ 1,459,303.00
HOME Partnership Investement Act Program Funds			
Project No.	**Project Name**	**Project Agency**	**Amount**
HO2210	City Administration	City of Pueblo	$ 85,232.00
HP22PA	City Admin from Program Income	City of Pueblo	$ 47,913.00
HO2220	County Administration	Pueblo County	$ 12,735.00
HO2030	County Programs	Pueblo County	$ 95,520.00
HO2040	Community Housing Development Organization	TBD	$ 146,952.00
HO2050	City Programs	City of Pueblo	$ 639,238.00
HO2060	City Match	City of Pueblo	$ 196,547.00
HO22PI	Program Income	City of Pueblo	$ 431,221.72
HO22HP	Homebuyer Recaptured Funds	City of Pueblo	$ 34,203.11
			$ 1,689,561.83



2022 Annual Action Plan

City of Pueblo and Pueblo Consortium

March 12 – April 13, 2022

OMB Control No: 2506-0117 (exp. 09/30/2021)

Executive Summary

AP-05 Executive Summary - 91.200(c), 91.220(b)

1. Introduction

The City of Pueblo is a federal entitlement community under the U.S. Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program. The City of Pueblo and Pueblo County participate as a Consortium within the HOME Investment Partnerships Program (HOME).

As a CDBG Program HUD entitlement community, the City is required to prepare an Annual Plan to implement any federal programs that fund housing, community development, and economic development within the community. This Annual Plan covers FY 2022 (March 1, 2022 through February 28, 2023) and will be submitted to HUD for approval.

The purpose of the Annual Plan is to guide federal funding decisions in FY2022. The Annual Plan is guided by three overarching goals that are applied according to a community's needs. The goals are:

1. To provide decent housing by preserving the affordable housing stock, increasing the availability of affordable housing, reducing discriminatory barriers, increasing the supply of supportive housing for those with special needs, and transitioning homeless persons and families into housing.
2. To provide a suitable living environment through safer, more livable neighborhoods, greater integration of low-and moderate-income residents throughout the City, increased housing opportunities, and reinvestment in deteriorating communities.
3. To expand economic opportunities through more jobs paying self-sufficient wages, homeownership opportunities, development activities that promote long-term community viability, and the empowerment of low-and moderate- income persons to achieve self-sufficiency.

The overall priority for the investment of federal funds is to increase self-sufficiency and economic opportunity for lower income residents and individuals with special needs so that they can achieve a reasonable standard of living.

In addition to $479,134.72 in HOME program income, the City of Pueblo anticipates receiving the following federal resources in FY 2022:

- CDBG $1,459,303
- HOME $979,677

2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items, or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis, or the strategic plan.

The goals and objectives identified in the 2022 Annual Action Plan tie back to the Strategic Plan, which is part of the 2020-2024 Consolidated Plan. The Strategic Plan provides a framework to address the needs of the City using CDBG and HOME funds. The three overarching objectives guiding the proposed activities are:

- Providing Decent Affordable Housing
- Creating Suitable Living Environments
- Creating Economic Opportunities

Outcomes show how programs and activities benefit a community or the people served. The three outcomes that will illustrate the benefits of each activity funded by the CDBG and HOME programs are:

- Improve Availability/Accessibility to housing and services
- Improve Affordability of housing and services
- Improve Sustainability of housing and services

All activities funded in FY2022 will support at least one objective and one outcome. The identified priorities include:

1. Affordable Housing
2. Public Services including Services for Homelessness
3. Public Infrastructure and Facilities
4. Economic Development and Community Revitalization
5. Fair Housing Education and Outreach
6. Administration and Planning

3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

The following evaluation of past performance is from the FY2021 (March 1, 2021, through February 28, 2022) Consolidated Annual Performance and Evaluation Report (CAPER). This CAPER has been submitted to HUD but has not yet been approved. The accomplishments that follow are those achieved through the expenditure of CDBG and HOME funds:

In 2021, the City received $1,504,131 in CDBG grant funds. The City drew down CDBG funds in the amount of $549,636.68, based on PR26- Report. The 2021 HOME grant received was $852,826, and the City had not drawn down funds prior to yearend. The City will receive $479,134.72.00 in HOME program income and $34,203.11 in recaptured funds from previous homebuyer projects funded by the HOME grant. Matching funds to the HOME grant in the amount of $270,602.58 were provided by the Consortium members. Based on the PR-26 Report, $508,901.44 (92.59%) of the funds drawn benefited low and moderate-income households and neighborhoods.

The City and the Consortium fell short in its program year goals in several categories: public services, public facilities and infrastructure, and tenant-based rental assistance affordable housing, homeless prevention, and demolition. New rental housing projects were delayed seeking capital, A motel conversion was repurposed as a non-congregate care facility responding to the COVID19 virus. While the number of demolition projects are down, the costs of demolition is ever increasing. Additional expenses in this category account for reduced volume. Homeless service numbers are less than predicted due to facility relocation. The homeless supportive service facility was relocated to increase accessibility in service delivery. The program start was delayed by six months. The number served is at 47% of expected, and the City anticipates that the number served to return to expected levels.

There was a total of 10,752 persons assisted with CDBG and 51 households assisted via HOME. Among those assisted with CDBG funds, 98% identify as White, 45% as Hispanic and 1% as Black.

In 2021, the CDBG grant leveraged $2.5 million, in additional funding for public service programs. A Private Activity Bond in the amount of $6.2M was allocated to the Colorado Housing Finance Authority for single-family mortgage capital.

The City and County currently fund non-profit agencies through the CSAC Partnership. A total of $959,290 in general revenue funds were provided by the City and County. For the 2021 reporting period, the Commission recommended funding for 32 agencies. Health and human service agencies received $605,410 (63%); childcare received $125,755 (13%); youth program received $121,435 (13%), and cultural activities & events received $65,220 (7%). The County allocated the half of administration fee it normally receives, to go directly to the grantees.

The City of Pueblo's Department of Housing and Citizen Services developed an outreach effort to maximize input from a large cross-section of stakeholders. This outreach effort included an online survey, virtual public meetings, published meeting notices, and virtual stakeholder meetings. The outreach process highlighted several key issues within the community including the need for quality, affordable housing, accessible housing, and services for those experiencing homelessness, workforce training and economic development activities. A complete summary of Citizen Participation, including comments, is included in the Citizen Participation Appendix.

4. Summary of Citizen Participation Process and consultation process

Summary from citizen participation section of plan.

Notice of the 2022 Annual Action Plan and 30-day comment period was published in the Pueblo Chieftain on March 10, 2022. Copies of the 2022 Annual Action Plan were made available at the City Clerk's Office, the Rawlings Library, the Department of Housing and Citizen Services, and available electronically on the Department's website.

Public meetings were held on March 17, 2022 and April 14, 2022 in the Community Room of the Pueblo County Department of Human Services located at 2631 E 4th Street, Pueblo, Colorado.

5. Summary of public comments

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

No comments were received.

6. Summary of comments or views not accepted and the reasons for not accepting them

None

7. Summary

PR-05 Lead & Responsible Agencies - 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
CDBG Administrator	PUEBLO	Department of Housing and Citizen Services
HOME Administrator	PUEBLO	Department of Housing and Citizen Services

Table 1 – Responsible Agencies

Narrative

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Consolidated Plan Public Contact Information

The City of Pueblo's Department of Housing and Citizen Services administers the CDBG grant. The City of Pueblo and Pueblo County participate as a Consortium within the HOME Investment Partnerships Program (HOME). As the participating jurisdiction, the City of Pueblo undertakes all monitoring and reporting on behalf of Pueblo County. Pueblo County undertakes its affordable housing programs.

Consolidated Plan Public Contact Information

Bryan Gallagher, Director
City of Pueblo Department of Housing and Citizen Services
2631 E. 4th Street, Pueblo, CO. 81001
Phone: 719-553-2850
Email: housing@pueblo.us

AP-10 Consultation - 91.100, 91.200(b), 91.215(l)

1. Introduction

The City of Pueblo's Department of Housing and Citizen Services developed an outreach effort to maximize input from a large cross-section of stakeholders. This outreach effort included public meetings, published meeting notices, and stakeholder/focus group meetings meant to engage a broad variety of stakeholders and City residents consistent with the Citizen Participation Plan.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).

Meaningful collaboration as it relates to the development and implementation of housing and community development programs and services has become increasingly important as the federal resources available to these programs are taxed by extraordinary cost increases. Collaboration with housing and service providers helps the City to capture the maximum benefit for each dollar it invests and ensures that investments strategically address both short-term needs and advance long-term goals.

The Department of Housing and Citizen Services conducts ongoing consultation with human services agencies, housing development organizations, and municipal departments at various points in time during a program year.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Pueblo is a member of the statewide Colorado Coalition for the Homeless (Coalition) and receives funding through the statewide balance. The Colorado Balance of State Continuum of Care (BoS CoC) is represented locally by the various housing and service providers working to meet the needs of persons experiencing homelessness while also working to end homelessness. The City is in frequent communication with housing and service providers.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The City of Pueblo does not receive or administer ESG Funds. The City of Pueblo met with the Continuum of Care (COC) during the consultation process to coordinate between government, mental health, and other service agencies, and the Consolidated Plan reflects the same goals and objectives.

2. Agencies, groups, organizations and others who participated in the process and consultations

Table 2 – Agencies, groups, organizations who participated

1	**Agency/Group/Organization**	Posada
	Agency/Group/Organization Type	Housing Services - Housing Services-Elderly Persons Services-Persons with Disabilities Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted throughout the year during large, coordinated meetings, one-on-one meetings, and during monitoring review of ongoing projects. The anticipated outcome was the coordination of funding to allow the agency and complimenting agencies to address the homeless issues within the city.
2	**Agency/Group/Organization**	Pueblo Rescue Mission
	Agency/Group/Organization Type	Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homelessness Needs - Veterans Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted throughout the year during large coordinated meetings, one-on-one meetings, and during monitoring review of ongoing projects. The anticipated outcome was the coordination of funding to allow the agency to serve the homeless community.

3	**Agency/Group/Organization**	SRDA Pueblo, Inc.
	Agency/Group/Organization Type	Housing Services-Elderly Persons
	What section of the Plan was addressed by Consultation?	Non-Homeless Special Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted one-on-one and during monitoring review of ongoing projects. The anticipated outcome was the coordination of funding to allow the agency to address issues affecting the elderly within the city.
4	**Agency/Group/Organization**	Colorado Legal Services
	Agency/Group/Organization Type	Housing Service-Fair Housing
	What section of the Plan was addressed by Consultation?	Homelessness Strategy Avoiding Eviction
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	One-on-one consultation and coordinated inter-governmental agency consultation. The goal of the consultation was to coordinate funding and develop wrap around services to keep families housed.
5	**Agency/Group/Organization**	Housing Authority of the City of Pueblo
	Agency/Group/Organization Type	Housing PHA Services - Housing Services-homeless
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs Homelessness Strategy

	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted throughout the year during large, coordinated meetings, one-on-one meetings, and during monitoring review of ongoing projects. The anticipated outcome was the production of additional units and the coordination of LIHTC funding.
6	**Agency/Group/Organization**	PUEBLO COUNTY
	Agency/Group/Organization Type	Housing Services - Housing Services-Children Services-Elderly Persons Services-Persons with Disabilities Services-homeless Services-Health Service-Fair Housing Child Welfare Agency Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Homelessness Strategy Market Analysis Anti-poverty Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	Coordination and consultations with Pueblo County existed on multiple levels: non-profit funding, development of a strategic housing assessment, program operation and referral. The goal of consultation was to maximize community impact of programs and services.

7	**Agency/Group/Organization**	Pueblo Department of Public Health and Environment
	Agency/Group/Organization Type	Housing Services-Children Services-Health Health Agency Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Lead-based Paint Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	One-on-one consultation with the Health Department occurred with the purpose of assessing lead-based paint issues and smelter area revitalization. The goal was to stay informed on progress of agency projects.
8	**Agency/Group/Organization**	Planning Department, City of Pueblo
	Agency/Group/Organization Type	Housing Service-Fair Housing Other government - Local
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Market Analysis Economic Development Zoning
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted throughout the year during large, coordinated meetings and during one-on-one meetings. The anticipated outcome was the coordination of regulatory improvement to address the homeless, Fair Housing, and development issues within the city.

9	**Agency/Group/Organization**	NEIGHBORWORKS OF PUEBLO, INC.
	Agency/Group/Organization Type	Housing Services - Housing Services-homeless Community Development Financial Institution
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Non-Homeless Special Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The agency was consulted one-on-one and in larger group meetings to address housing issues and increase development. The goal of the consultation was to assist with the development of housing.

Identify any Agency Types not consulted and provide rationale for not consulting

No agencies were excluded from consultation.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	CoC	The goals of the strategic plan were developed in consultation with and influenced by the Continuum of Care members and the goals of each plan are in alignment.

Table 3 – Other local / regional / federal planning efforts

AP-12 Participation - 91.401, 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal setting

The participation process included stakeholder sessions, public meetings and a 30-day display period of the draft document followed by a second public hearing. Feedback received from stakeholders and the public helped shape the priority needs identified in the plan.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Non-English Speaking - Specify other language: Spanish	None	None	None	
2	Newspaper Ad	Non-targeted/broad community	Request for activities - Twenty proposed activity requests were received.	None	None	
3	Public Meeting	Non-targeted/broad community	None	None	None	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
4	Public Hearing	Non-targeted/broad community	Applicants for (20) proposed activities presented their requests to the Citizen's Advisory Committee for funding consideration.	No comments of project opposition were made. All comments made were promoting specific projects or programs.	None	
5	Public Meeting	Non-targeted/broad community	None	None	None	

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

Introduction

The City of Pueblo will use its allocation and program income to further the goals identified in the 2020-2024 Consolidated Plan.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	1,459,303	0	0	1,459,303	2,800,000	CDBG Entitlement Grant amount remaining is PY2023 & PY2024, estimated

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	979,677	513,338	0	1,493,015	1,200,000	HOME Consortium Allocation remaining is PY2023 & PY2024, estimated
Other	public - federal	Economic Development Other	0	0	0	0	0	

Table 2 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state, and local funds), including a description of how matching requirements will be satisfied

The City and County currently fund over 30 non-profit agencies through the Community Services Advisory Commission. This group makes funding recommendations to the governing bodies. Over $10 million in general funds have been granted to local agencies that serve the Pueblo community. These are general revenue funds, and allocations are made during the yearly budget process. Based on historical funding, $1.5 million will be made available to local non-profits over the balance of the 2020-2024 Consolidated Plan.

The City and County of Pueblo as the Pueblo Consortium matches the HOME Investment Partnership Act grant with general funds. HOME funds

are leveraged well with LIHTC developments as they are awarded in the jurisdiction. In addition, the Consortium will use qualifying affordable housing expenditures made by each entity as match and has some funds that it carries forward from prior years. Leveraging of private and non-federal resources will be sought whenever possible.

If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Through the Department of Housing and Citizen Services the City accepts the donation of property for the purposes of housing development. The properties are placed in the Vacant Lot Recycle Program. Many of these donations are from individuals that can no longer afford to maintain the properties, or who do not wish to maintain them. The properties are made available to local housing providers, contractors, and to low and moderate-income households for the development of affordable housing.

The City currently owns 11 vacant parcels. Some of these parcels are being land banked under the Neighborhood Stabilization Program and others have been donated as discussed above.

Discussion

The activities included in the 2022 Annual Action Plan and the associated funding will be dedicated to achieving the goals identified in the Consolidated Plan. Funding contained in this AAP will serve:

Public services in the areas of homelessness, eviction prevention, shelter, food security, budgeting, and senior transportation.

Neighborhood improvements planned is the renovation of the basketball court at Bradford Park.

Accessibility improvements are planned for the Rawlings Library.

Three housing programs will be funded to make necessary repairs to owner-occupied housing.

Annual Goals and Objectives

AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Planning and administration of federal programs	2020	2024	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	Citywide Countywide	Administration and Planning	CDBG: $291,860 HOME: $145,880	Other: 1 Other
2	Eliminate slum and blighting influences	2020	2024	Affordable Housing Non-Housing Community Development	Citywide	Economic Development and Community Revitalization	CDBG: $102,500	Buildings Demolished: 2 Buildings
3	Improve and maintain public infrastructure and facilities	2020	2024	Non-Housing Community Development	Citywide	Public Infrastructure and Facilities	CDBG: $670,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 42 Persons Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
4	Provide housing and services to homeless/ near	2020	2024	Affordable Housing Homeless	Citywide	Public Services including Services for Homeless	CDBG: $138,000	Public service activities other than Low/Moderate Income Housing Benefit: 9175 Persons Assisted
5	Preserve existing affordable units (rehab)	2020	2024	Affordable Housing	Citywide	Affordable Housing	CDBG: $179,943	Homeowner Housing Rehabilitated: 22 Household Housing Unit
6	New construction of affordable housing	2020	2024	Affordable Housing	Citywide	Affordable Housing	HOME: $1,347,135	Rental units constructed: 10 Household Housing Unit Homeowner Housing Added: 3 Household Housing Unit
7	Provide public services to non-homeless population	2020	2024	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	Citywide	Public Services including Services for Homeless	CDBG: $77,000	Public service activities other than Low/Moderate Income Housing Benefit: 2198 Persons Assisted

Table 3 – Goals Summary

Goal Descriptions

1	**Goal Name**	Planning and administration of federal programs
	Goal Description	Planning and administration for the successful implementation of CDBG and HOME programs
2	**Goal Name**	Eliminate slum and blighting influences
	Goal Description	Demolition of a vacant and dilapidated structure that pose a threat to health and safety.
3	**Goal Name**	Improve and maintain public infrastructure and fac
	Goal Description	Public facilities include neighborhood facilities, parks/recreation facilities, parking facilities, senior and youth facilities, childcare facilities, job training facilities, cultural facilities, non-residential historic preservation, and homeless facilities. Public infrastructure includes street and sidewalk improvements including lighting and streetscaping, water and sewer improvements, flood drainage improvements, solid waste management improvements.
4	**Goal Name**	Provide housing and services to homeless/ near
	Goal Description	Housing and services for homeless and near homeless include outreach, emergency, transitional and permanent supportive housing, Rapid Re-Housing, supporting services and rental assistance
5	**Goal Name**	Preserve existing affordable units (rehab)
	Goal Description	Rehabilitation/reconstruction of single and multi-family housing; energy efficiency improvements; accessibility modifications; lead based paint abatement; minor housing repairs; and preservation of affordable units.
6	**Goal Name**	New construction of affordable housing
	Goal Description	New construction of affordable housing units.

7	**Goal Name**	Provide public services to non-homeless population
	Goal Description	Other public services that are needed include: housing and services for persons with HIV/AIDS; services for persons with physical, developmental and/or intellectual disabilities; employment and workforce development; screening for lead-based paint hazards; housing counseling; neighborhood clean-up programs; crime awareness and prevention programs; transportation; health and mental health services; services for persons recovering from addiction; youth programs, food banks and other food-related services; childcare and related services; senior programs and related services; legal services; and financial literacy.

AP-35 Projects - 91.420, 91.220(d)

Introduction

The following is a list of the planned projects that will be funded with CDBG and HOME funds.

#	Project Name
1	CD2201 Administration
2	CD2202 Homeless Prevention
3	CD2203 Homeless Supportive Services
4	CD2204 Homeless Youth Services
5	CD2205 Shelter Services
6	CD2206 Pueblo Rescue Mission Meal Program
7	CD2207 SRDA Senior Transportation
8	CD2208 Nutrition on Wheels Program
9	CD2209 Home Stability Program
10	CD2210 ADA Curb Ramps
11	CD2211 Abatement of Dangerous Buildings
12	CD2212 Bradford Basketball Court Rehabilitation
13	CD2213 Rawlings Library ADA Site Improvements
14	CD2214 Emergency Repair and Essential Services Program for Seniors
15	CD2215 Minor Repairs Program
16	CD2216 Rehabilitation Program
17	CD2217 Voluntary Demolition Program
18	HO2210 - City HOME Administration
19	HO2220 Pueblo County HOME Administration
20	HO2230 - Pueblo County Housing Programs
21	HO2240 Community Development Housing Organization Project
22	HO2250 - City Housing Programs

Table 4 – Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

There are no specially identified target areas for allocating CDBG and HOME resources. CDBG funds will be expended within the City of Pueblo while HOME funds will be used in citywide as well as in the County. HOME funds are divided between the City and County. City HOME funds are spent within the City while County funds could be spent in either the City or County depending on the projects being funded. Funds are allocated in alignment with the identified priority needs and associated goals.

The primary obstacle in meeting the needs of the community is available resources as the need will always outpace the availability of resources. The City and County leverage funds to the extent possible and select projects based on the potential impact to the community.

AP-38 Project Summary

Project Summary Information

1	**Project Name**	CD2201 Administration
	Target Area	Citywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	CDBG: $291,860
	Description	Administrative and planning activities associated with the CDBG program and fair housing education and outreach.
	Target Date	5/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	
	Location Description	2631 E 4th Street, Pueblo, CO 81001 (CT11, BLK1)
	Planned Activities	Administrative and planning activities associated with the CDBG program as well as fair housing education and outreach.
2	**Project Name**	CD2202 Homeless Prevention
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $35,000
	Description	Funding will be used to assist low-income families who have a monthly income with rent assistance and case management services when financial emergencies occur to help them prepare and maintain a budget and/or increase their income to reduce the risk of their household becoming homeless.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	Up to 25 individuals and families will benefit from the proposed activity.
	Location Description	Services provided at 505 Belmont Avenue, Pueblo, CO (CT18, BLK 1)

	Planned Activities	Provide case management and one-time subsistence payment for rent or mortgage arrears including utilities covering up to a (3) month period.
3	**Project Name**	CD2203 Homeless Supportive Services
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $25,000
	Description	Funding will be used to provide supportive services to low-income, the newly unemployed and homeless families and individuals. Supportive services include comprehensive case management services, basic needs assistance and referrals and support.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	Provide service and case management to 1500 unduplicated individuals over the course of the year.
	Location Description	Services offered at 501 Belmont Ave, Pueblo, CO 81004 (CT18, BLK 1)
	Planned Activities	Supportive services include comprehensive case management services, basic needs assistance and referrals and support.
4	**Project Name**	CD2204 Homeless Youth Services
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $25,000
	Description	Funding will be used for the provision of case management and services for homeless youth, including emergency shelter, transitional housing supportive services, basic services, transportation, assistance with IDs and birth certificates, reunification, case management in conjunction with housing, education and employment services, life skills classes, and supplies for the homeless youth.
	Target Date	2/28/2023

	Estimate the number and type of families that will benefit from the proposed activities	Provide service and case management to 200 unduplicated individuals (Youth 18-25) over the course of the year.200 Individuals (Youth 18-25) will benefit from the activity
	Location Description	Services offered at 501 Belmont Ave, Pueblo, CO 81004 (CT18, BLK 1)
	Planned Activities	Funding will be used for the provision of case management and services for homeless youth, including emergency shelter, transitional housing supportive services, basic services, transportation, assistance with IDs and birth certificates, reunification, case management in conjunction with housing, education and employment services, life skills classes, and supplies for the homeless youth.
5	**Project Name**	CD2205 Shelter Services
	Target Area	Citywide
	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $33,000
	Description	Pueblo Rescue Mission program provides low-barrier shelter service available to the homeless within the community: Shelter, Food, and Resources are focused on achieving three outcomes for a homeless individual: securing housing, retaining good health, and obtaining work. CDBG funds will be used to support staffing that is critical to the facilitation and delivery of PRM's programs: 8.0 PTE (33%) Shelter Coordinators
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	Provide service and case management to 250 unduplicated individuals accessing the shelter.
	Location Description	Services are offered at 428 W 4th Street, Pueblo, CO 81003 (CT35, BLK 1)
	Planned Activities	CDBG funds will be used to support staffing that is critical to the facilitation and delivery of PRM's programs: 8.0 PTE (33%) Shelter Coordinators
6	**Project Name**	CD2206 Pueblo Rescue Mission Meal Program
	Target Area	Citywide

	Goals Supported	Provide housing and services to homeless/ near
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $20,000
	Description	The purpose of the program is to provide a community meal to individuals who are homeless and/or needing a meal. In response to the elimination of the only evening meal served in the Pueblo community, the Pueblo Rescue Mission will provide a daily meal Monday through Sunday in the evening. The meal will be open to anyone in Pueblo in need of a meal (include men, women, and children).
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	Provide meals to 7200 homeless individuals and/or families throughout the year.
	Location Description	Services are offered at 728 W 4th Street, Pueblo, CO 81003 (CT35, BLK 1)
	Planned Activities	Funds will be used to provide personnel support for the Community Meal Program services.
7	**Project Name**	CD2207 SRDA Senior Transportation
	Target Area	Citywide
	Goals Supported	Provide public services to non-homeless population
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $17,000
	Description	The SRDA Transportation program will purchase one (1) twelve passenger, five (5) wheelchair position equipped vehicle. The CDBG funding would secure the 20% needed for the local match, to secure the procurement of the vehicle. CDOT (Colorado Department of Transportation) would pay the other 80%. SRDA is in a vehicle replacement schedule; this enables us to replace older, higher cost vehicles to operate, higher mileage vehicle in our fleet.
	Target Date	2/28/2023

	Estimate the number and type of families that will benefit from the proposed activities	428 Individuals will be served by the program.
	Location Description	Citywide
	Planned Activities	The Program will provide transportation for seniors to needed appointments and essentials.
8	**Project Name**	CD2208 Nutrition on Wheels Program
	Target Area	Citywide
	Goals Supported	Provide public services to non-homeless population
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $40,000
	Description	Nutrition on Wheels Program (NOW) is a home delivery service providing food resources directly to those who lack transportation or have difficulty accessing traditional food resources. The NOW Program provides foods sacks and basic supplies for needy homebound seniors and disabled who have no reliable means of accessing sustainable food resources. Food resources are provided by other agencies utilizing other funding and provide between 40 and 70 lbs. of food items. The food sack may contain items such as beans, rice, flour, sugar, meats, breads, cereals, canned goods, and other items for clients to prepare. Blessing bags are also prepared for those who lack access to food preparation and food preservation. The NOW Program provides bi-weekly welfare checks with clients and provides other basic hygiene items.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	The program will provide services to 1650 unduplicated City residents throughout the year.
	Location Description	326 W. 8th Street, Pueblo, CO 81003 (CT35, BLK 1)
	Planned Activities	CDBG funds will be used to fund staff positions integral to the food sack and NOW projects.
9	**Project Name**	CD2209 Home Stability Program
	Target Area	Citywide

	Goals Supported	Provide public services to non-homeless population
	Needs Addressed	Public Services including Services for Homeless
	Funding	CDBG: $20,000
	Description	Home Stability program, which has been in operation since 1967, benefits City of Pueblo residents by helping them navigate the legal and financial landscape, with the goal of creating stable and sustainable housing and neighborhoods. CCDP advocates for people who may not have the skills to negotiate with lenders who might take advantage of persons unfamiliar with consumer protection laws. CCDP works to protect the interests of clients with banks, credit agencies, and landlords. Clients are City of Pueblo residents who are especially vulnerable to becoming homeless due to disabilities, lack of support systems, and limited incomes.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	The program will provide services to 120 unduplicated clients throughout the year.
	Location Description	Services will be delivered at 429 W 10th Street, Pueblo, CO 81003 (CT6, BLK1)
	Planned Activities	Services include a unique financial counseling course that includes setting goals, developing action plans, reaching outcomes, and accessing follow up support when needed. Counseling is not ongoing but targeted to specific HUD outcomes such as mortgage brought current, mortgage refinanced, or found alternative rental housing.
10	**Project Name**	CD2210 ADA Curb Ramps
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and facilities
	Needs Addressed	Public Infrastructure and Facilities
	Funding	CDBG: $400,000

	Description	Install ADA compliant accessible curb ramps at street intersections and crosswalks throughout the City of Pueblo. The project will entail replacement of existing curb and gutter, concrete cross pans, asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. Project may include the relocation of existing street lighting, signal lights, associated electrical boxes and wiring. Relocation of adjacent utilities may be required to complete the proposed project.
	Target Date	5/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	Forty curb ramps shall be installed to increase accessibility.
	Location Description	Project will replace multiple ADA curb ramp in Census Tract 9.02 BLK 1 (56.9% LMI) and Census Tract 9.04 BLK 1 (59.7% LMI)
	Planned Activities	The project will entail replacement of existing curb and gutter, 7" concrete cross pans, 4" asphalt repair, striping, decorative concrete and retaining walls, signage, disturbed landscaping, and irrigation. Project may include the relocation of existing street lighting, signal lights, associated electrical boxes and wiring. Relocation of adjacent utilities may be required to complete the proposed project.
11	**Project Name**	CD2211 Abatement of Dangerous Buildings
	Target Area	Citywide
	Goals Supported	Eliminate slum and blighting influences
	Needs Addressed	Economic Development and Community Revitalization
	Funding	CDBG: $75,000
	Description	This project entails the demolition of vacant and dilapidated structures deemed unsafe for human habitation and that pose a threat to health of safety of residents.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	The program will raze (1) dangerous structure with this funding.

	Location Description	Citywide, Low-Mod Areas only
	Planned Activities	This project will demolish buildings which have been deemed unsafe by the Pueblo Regional Building Department. The demolition will include abatement of any asbestos containing material as required by the Colorado Department of Health and Environment prior to demolition of the buildings.
12	**Project Name**	CD2212 Bradford Basketball Court Rehabilitation
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and facilities
	Needs Addressed	Public Infrastructure and Facilities
	Funding	CDBG: $195,000
	Description	Structural defects have caused the closure of the basketball courts at Bradford Park. The North two basketball courts will be replaced with new basketball courts. The project will include subgrade preparation, sleeving for future electrical lighting, and the installation of two new basketball courts. Dimensions may be shortened from existing as the short court or half-court game is more popular. Project to included benches.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	The proposed project will improve one public facility.
	Location Description	Bradford Park; CT12, BLK 2
	Planned Activities	Restoration to the existing facilities to provide neighborhood recreational activities.
13	**Project Name**	CD2213 Rawlings Library ADA Site Improvements
	Target Area	Citywide
	Goals Supported	Improve and maintain public infrastructure and facilities
	Needs Addressed	Public Infrastructure and Facilities
	Funding	CDBG: $75,000

	Description	The proposed project will fund the architectural design for a significant infrastructure accessibility improvement to city's main library. Project includes improving location and number of accessible parking spaces, creating a van accessible drop-off loop. General site improvements and an accessible outdoor space located in a vacated street.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	One public facility will be improved with increased and inclusive accessibility.
	Location Description	Mesa Junction Neighborhood, CT 14 BLK 1
	Planned Activities	CDBG funding will provide the architectural design and architectural management of the renovation.
14	**Project Name**	CD2214 Emergency Repair and Essential Services Program for Seniors
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	CDBG: $40,000
	Description	The ERESP program is a successful emergency rehab project that is now in its 20th year. The program has assisted over 873 senior citizens. The CDBG funds will be used to provide the emergency repairs to low-income senior households. All CDBG funds will be utilized within the Pueblo City limits. ERESP provides emergency repairs to situations such as faulty plumbing, no water, no heat, faulty electrical wiring, leaking roofs, and a myriad of other emergency situations. Additionally, there has been a tremendous increase in demand for accessibility modification such as handrails, ramps, handicapped showers, and grab bars.
	Target Date	12/31/2023
	Estimate the number and type of families that will benefit from the proposed activities	Seven households will benefit from the program.
	Location Description	TBD

	Planned Activities	ERESP provides emergency repairs to situations such as faulty plumbing, no water, no heat, faulty electrical wiring, leaking roofs, and a myriad of other emergency situations. Additionally, there has been a tremendous increase in demand for accessibility modification such as handrails, ramps, handicapped showers, and grab bars.
15	**Project Name**	CD2215 Minor Repairs Program
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	CDBG: $64,943
	Description	Repairs to low- to moderate-income, owner occupied, housing. The Minor Repair Program was established in 2009 and was designed to make singular type repairs in people's homes that cannot afford to make the repairs themselves. The program restores service to the home, makes necessary improvements to the habitability of the home, and/or increases the longevity of the home through restoration of deferred maintenance.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	(12) Owner-Occupied households will be assisted will be assisted through code compliant housing repairs during the year.
	Location Description	TBD
	Planned Activities	Each individual Minor Repair project is capped at $5,000 and can repair one item in the home or one category within the home such as a replacing an exterior door as a single item or replacing the water supply lines throughout the home as an item within the Plumbing category. The assistance provided in the program is a grant. Eligible repairs include mechanical/electrical/plumbing systems, safety and security, handicap accessibility, exterior residence appearance and weatherization.
16	**Project Name**	CD2216 Rehabilitation Program
	Target Area	Citywide
	Goals Supported	Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	CDBG: $75,000

	Description	The project will provide housing rehabilitation services to low-income, owner-occupied, single-family homes. The program is capped at $25,000 per home and can repair or replace mechanical, electrical, and plumbing systems within the home as well as other structural repairs or weatherization elements to include: roofing, siding, painting, doors, and windows. Cosmetic items are allowed if they are ancillary to the overall project's goal of providing decent, safe, and sanitary housing.
	Target Date	TBD
	Estimate the number and type of families that will benefit from the proposed activities	Three households will benefit from the rehabilitation program.
	Location Description	TBD
	Planned Activities	CDBG funds will be used for direct construction expenses of the projects as well as required services: LBP inspection, LBP risk assessment, clearance testing, asbestos and other environmental consulting, engineering, credit and ownership reports, printing, and publication.
17	**Project Name**	CD2217 Voluntary Demolition Program
	Target Area	Citywide
	Goals Supported	Eliminate slum and blighting influences
	Needs Addressed	Economic Development and Community Revitalization
	Funding	CDBG: $27,500
	Description	Property owners in low-mod areas with structures that are not financially feasible to repair may access the program to raze the structure to reduce blight within a low-mod neighborhood. The program is capped at $50,000 per property. Projects less than $25,000 qualify for a 15-year deferred forgivable loan, projects over $25,000 require a 15-year amortized loan for the full value.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	One household will be served by the program.
	Location Description	Low-Mod areas within the City.

	Planned Activities	CDBG funds will be used to demolish structures, site cleanup, waste removal, permits, State regulatory expenses and environmental consultants.
18	**Project Name**	HO2210 - City HOME Administration
	Target Area	Citywide Countywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	HOME: $133,145
	Description	Administration and planning activities for the HOME program.
	Target Date	5/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	
	Location Description	Department of Housing and Citizen Services, 2631 E 4th Street, Pueblo, CO 81001
	Planned Activities	Administration of the HOME program
19	**Project Name**	HO2220 Pueblo County HOME Administration
	Target Area	Countywide
	Goals Supported	Planning and administration of federal programs
	Needs Addressed	Administration and Planning
	Funding	HOME: $12,735
	Description	
	Target Date	5/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	
	Location Description	Pueblo County Department of Human Services, 405 W. 9th Street, Pueblo, CO 81003

	Planned Activities	Pueblo County administration of the HOME program
20	**Project Name**	HO2230 - Pueblo County Housing Programs
	Target Area	Countywide
	Goals Supported	New construction of affordable housing Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	HOME: $95,520
	Description	This includes a range of activities including TBRA, new construction, rehabilitation, acquisition/rehab, in-fill development, and other housing activities allowed by HOME regulations.
	Target Date	2/28/2023
	Estimate the number and type of families that will benefit from the proposed activities	
	Location Description	
	Planned Activities	The HOME allocation in support of multifamily rental projects.
21	**Project Name**	HO2240 Community Development Housing Organization Project
	Target Area	Citywide
	Goals Supported	New construction of affordable housing Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	HOME: $146,952
	Description	15% of the HOME grant is reserved for Community Development Housing Organization Projects
	Target Date	8/31/2024
	Estimate the number and type of families that will benefit from the proposed activities	The CHDO set aside funding is anticipated to assist in the construction or rehabilitation of one unit.
	Location Description	Project and location to be determined.

	Planned Activities	A CHDO project has not yet been identified. The funds will be targeted towards the production of one of the following activities: New construction or rehabilitation of housing units For the purpose of rental or homebuyer projects.
22	**Project Name**	HO2250 - City Housing Programs
	Target Area	Citywide
	Goals Supported	New construction of affordable housing Preserve existing affordable units (rehab)
	Needs Addressed	Affordable Housing
	Funding	HOME: $1,104,662
	Description	This includes a range of activities including TBRA, new construction, rehabilitation, acquisition/rehab, in-fill development, and other housing activities allowed by HOME regulations.
	Target Date	8/31/2024
	Estimate the number and type of families that will benefit from the proposed activities	Eleven new units will be constructed or rehabilitation for homeownership or rental projects.
	Location Description	Projects and locations to be determined.
	Planned Activities	The City will use its HOME allocation in support of infill construction of three affordable homeowner units for low- and moderate-income homeowners. HOME funds may also support the rehabilitation of rental projects to be determined. Recapture provisions shall be placed on rental rehabilitation activities for the amount invested in the property. Infill Construction projects, HOME funds shall be used to construct the home. A direct subsidy will be provided to buyers below 80% AMI, who qualify for an FHA mortgage or other 30-year fixed rate mortgage but are unable to obtain a mortgage for the appraised value. The affordability period shall be based on the amount of direct subsidy provided. The subsidy amount shall be within established subsidy limits.

AP-50 Geographic Distribution - 91.420, 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

There are no identified geographic priorities within the City or County where funds will be expended as described below.

Geographic Distribution

Target Area	Percentage of Funds
Citywide	96
Countywide	4

Table 5 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The majority of funds will be allocated in the City of Pueblo. Only the City receives CDBG funds, so all of those funds will be expended within the City. The HOME funds are divided between the City and County with the majority going to the City. Within the City, funds are allocated in different neighborhoods to meet the needs of residents throughout the City.

Discussion

Access to transit, services, and broadband is limited outside of the city limits. Directing the majority of the funding to promote housing and services within the city limits will benefit more low-income individuals and families with a greater coordinated access to the funded services and amenities.

Affordable Housing

AP-55 Affordable Housing - 91.420, 91.220(g)

Introduction

The following tables outline the affordable housing goals funded with CDBG and HOME funds using 2022 dollars.

One Year Goals for the Number of Households to be Supported	
Homeless	0
Non-Homeless	43
Special-Needs	2
Total	45

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	10
The Production of New Units	13
Rehab of Existing Units	22
Acquisition of Existing Units	0
Total	45

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

Per 91.220(1), there are some program-specific requirements for HOME as described below. Eligible applicants for HOME-funded programs are all low- and moderate-income households residing in the City or County or projects that are to be completed by developers, for example, that seeks to construct or rehabilitate units that are income-restricted. This includes applications for HOME funds in support of Low-Income Housing Tax Credit (LIHTC) projects or RAD conversions undertaken by the Housing Authority.

AP-60 Public Housing - 91.420, 91.220(h)

Introduction

The following actions planned will address the needs to public housing.

Actions planned during the next year to address the needs to public housing

Per its 2022 Annual Plan, the HACP has leveraged private and other public funds to begin construction on Crawford Townhomes, consisting of 49 new affordable housing units. The Crawford Townhomes project is the third phase of a four-phase project to demolish and replace the 212-unit Sangre de Cristo Apartments. Phase one and two of the project, construction of 123-units has been completed.

Public housing residents also may have needs for reasonable accommodations. The most requested accommodation is related to assistance animals. Other identified needs and requests are lawn mowing and yardwork assistance among elderly and disabled residents and requests for additional bedrooms has increased recently. There are also requests made for grab bars, wheelchair ramps, walk in showers, flat units, and transfers for various reasons. The Housing Authority has met its Section 504 requirements and has 74 ADA units, 6 for sensory impairment.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

HACP continues to try to increase resident involvement in management by providing regular resident meetings where residents can express concerns to housing management. The Agency maintains a strong working relationship with the City-wide resident organization, which provides resident involvement in strategic and agency planning.

HACP also administers the Family Self-Sufficiency Program, which is a five-year voluntary program for participants in both the Housing Choice Voucher and the Public Housing programs. The program is designed to help individuals with improving their economic status by reducing their dependence on public assistance. There are currently 40 Public Housing and 18 HCV participants in the program. Since October 1998, there have been 218 FSS contracts completed.

The Family Self Sufficiency Coordinator will assist with developing an individualized plan leading to self-reliance and identifying the steps and activities that need to be taken to reach those goals.

There are various referrals to supportive social services such as childcare, job preparation, credit counseling, education, home ownership, transportation, and vocational training

If the PHA is designated as troubled, describe the manner in which financial assistance will be

provided or other assistance

The Housing Authority of the City of Pueblo is not designated as troubled.

Discussion

Built seventy years ago, the Sangre de Cristo Apartments were designed at a time when public housing was treated like an institutional setting. At their current age, the units need to be replaced from a functionality and accessibility standpoint as well as from a social/psychological mitigation standpoint. The City, the County, and the Housing Authority have dedicated a substantial number of resources to the project and looks forward to its completion in the upcoming final phase.

AP-65 Homeless and Other Special Needs Activities - 91.420, 91.220(i)

Introduction

This section describes the goals and actions for reducing and ending homelessness.

The City of Pueblo does not receive ESG funds directly. The City utilizes a portion of its CDBG funds for public services in support of persons experiencing homelessness or who are at risk of becoming homeless. This includes CDBG-funded projects such as youth outreach, homeless prevention, and operating costs for housing providers.

The Pueblo CoC has goals for assisting families and individuals experiencing or at-risk of homelessness that are consistent with the BoS goals:

- Expand access to quality, integrated health care
- Expand housing opportunities
- Improve public policy and community engagement towards ending homelessness
- Develop a highly trained, equipped and engaged Colorado Coalition for the Homeless (CCH) workforce
- Improve CCH's financial stability.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The Pueblo CoC, which is part of the Colorado Balance of State, has a long-term goal of decreasing the number of persons experiencing homelessness by moving individuals and families from homelessness into permanent housing. To achieve this objective, the CoC meets regularly to monitor, discuss ongoing needs and issues that affect those impacted by homelessness. Health Solutions serves as the lead CoC agency and provides outreach to assess the individual needs of those experiencing homelessness. The CoC is engaging in the Built for Zero campaign, which is an approach that seeks to end homelessness using a By-Name list for each subcategory (i.e., veterans, families, etc.).

Addressing the emergency shelter and transitional housing needs of homeless persons

Posada and the Pueblo Rescue Mission on a limited basis provides homeless outreach to local camps and areas of town where individuals become stranded, i.e., railroad tracks, interstate, and Fountain Creek. The team includes medical and mental health professionals; veteran's representatives; retired Medevac personnel and law enforcement. Documentation is made of the camps including pictures of the camps and its occupants. Basic needs are offered that include basic medical care. Resources and referrals,

which include shelter, are provided to individuals and families. The goal of the outreach program is to build trust among the homeless street population and to get those individuals to care so that they can ultimately move off the street.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

Funding has been and remains the primary obstacle to the expansion of housing and services to persons and families experiencing homelessness and to those who are at-risk of becoming homeless. The City of Pueblo will continue to invest CDBG funds to provide services. Tenant-based rental assistance through HOME funding remains constrained due to a shortage of available housing and market rents that exceed the HOME rental limit.

The Pueblo CoC has goals for assisting families and individuals experiencing homelessness or are at-risk of homelessness that are consistent with the BoS goals:

1. Expand access to quality, integrated health care
2. Expand housing opportunities
3. Improve public policy and community engagement towards ending homelessness
4. Develop a highly trained, equipped and engaged Colorado Coalition for the Homeless (CCH) workforce
5. Improve CCH's financial stability.

Local agencies working to end homelessness work together to provide services and housing. One of the greatest current challenges is finding safe, affordable units into which individuals and families can be placed. The city will continue its participation in the Continuum of Care and support the Pueblo CoC in seeking additional funding.

In 2019, the City established a 92-bed homeless shelter to assist in meeting the emergency shelter needs of persons experiencing homelessness. In 2021, the Right Place, a 35-unit permanent supportive housing facility came online and is operating at capacity.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services,

employment, education, or youth needs.

At-risk populations consist of those individuals being released from a correctional system, the Colorado Mental Health Institute and youth transitioning out of foster care. The City's Tenant-Based Rental Assistance Program targets these populations with its funding. All three systems have a discharge plan, which includes short-term funding for housing. The problem arises when these individuals have exhausted the program available resources but have not achieved self-sufficiency. These individuals are eventually served by members of the CoC.

Stakeholders note the continued need to engage healthcare institutions in following the discharge policies and ensuring that persons with high levels of medical needs are not directly discharged into homelessness. If they are, there is a need for medical respite beds in emergency shelters to meet the individuals' needs.

Discussion

The Pueblo Consortium will coordinate its efforts to administering the HOME-ARP received in 2021 with the strategies outlined in the program requirements along with the needs and obstacles outlined above.

AP-75 Barriers to affordable housing -91.420, 91.220(j)

Introduction

The Draft Analysis of Impediments to Fair Housing Choice has been completed. The new AI identifies barriers to fair housing that are also barriers to affordable housing. The City may select additional actions to take than the ones listed below.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Some identified strategies to overcome barriers to affordable housing are:

- Provide financial assistance to renters and owners in the form of TBRA, down payment and closing cost assistance and/or security deposit assistance.
- Invest CDBG and HOME funds in the development of affordable housing.
- Revise zoning regulations to improve the ability of developers to build missing middle housing
- Revise zoning definitions to expand areas allowing manufactured housing.
- Revise zoning definitions to re-define a family unit to permit group homes where allowed by State law.
- Revise the City's limited English proficiency policy to conform with updated guidance.
- Update the City's Anti-displacement and Relocation Plan to ensure that lower income individuals and households at risk are protected.
- Provide fair housing education and outreach to landlords, management companies, renters, lenders, potential homebuyers, real estate agents and others in the real estate industry as well as provide legal assistance to move housing through probate.

Discussion

In 2021, the City and County conducted a strategic housing assessment which identified the lack of market rate housing as a sever impediment to affordable housing. The lack of market housing is not allowing the real estate market to operate effectively leading to sales price escalations and increasing rents. The number one goal of the City is to increase housing supply, of all types, in order to increase the vacancy rate and relieve rents.

AP-85 Other Actions - 91.420, 91.220(k)

Introduction

The following section describes other actions to be taken to meet the needs of the community.

Actions planned to address obstacles to meeting underserved needs

The primary obstacle to meeting underserved needs is the limited funding resources available to address identified priorities. In addition, the gap in what households can afford to pay for housing and the price of housing is another obstacle in meeting the needs of the underserved. The City has a lack of decent, affordable units to meet the needs of the community.

The effect of greater community needs in the form of homelessness, risk of homelessness, the increased demand for supportive services (particularly for persons with multi-system contact), the rising cost of housing, negative wages adjusted for inflation, and an aging housing stock in need of revitalization puts added pressures on the systems within the City.

The City of Pueblo will continue to partner with other public agencies and non-profit organizations, when feasible, to leverage resources and maximize outcomes in housing and community development. Using CDBG and CDBG-CV funds, the City will work with local service providers during the upcoming year to help prevent homelessness by providing rent assistance and utility assistance to very low-income households. In addition, the City will provide housing counseling and case management services.

Lastly, the City and the County both contribute approximately $500,000 annually toward funding various public services. While the need remains greater than the available resources, the approximately $1M assists numerous agencies working to meet the needs of the most vulnerable residents.

Actions planned to foster and maintain affordable housing

The City will utilize its CDBG funds to continue several housing rehabilitation programs including programs for seniors and persons needing accessibility modifications to age in place. These housing rehab programs work to maintain the quality of the affordable housing stock occupied by low- and moderate-income households. Additionally, the City will utilize HOME funds toward the new construction of rental units.

Actions planned to reduce lead-based paint hazards

The Pueblo County Department of Public Health and Environment operates a lead blood testing program

for residents. The lead program offers the following service to residents of the County:

- Lead risk and hazard reduction education to resident owners, property managers, and tenants.
- Lead risk and hazard reduction education for occupational and hobby exposures.
- Environmental testing program for Lead hazard screening (cost: $42.00/hour or no cost to those located within the Superfund Study Area).
- Blood Lead screening for children up to age 16, women of child-bearing age, pregnant or nursing women; and
- Blood Lead monitoring program for children with blood levels at or above 5.0 µg/dL.

The County also provides additional information regarding the common sources of lead exposure, potential health effects and methods to reduce exposure.

The City will continue to work with the Health Department as needed to reduce lead-based paint hazards and will continue to comply with all regulatory requirements of the CDBG and HOME programs as related to lead-based paint.

Actions planned to reduce the number of poverty-level families

Ongoing efforts to strengthen economic development and provide the City's lowest-income households with needed housing-related assistance and services directly address needs identified in this plan. The City will work with existing agencies that serve persons in poverty in order to evaluate their needs, coordinate the delivery of services, and determine if funding assistance should be made available through the CDBG Program in cases where there are insufficient resources to meet the identified needs. In addition, the City will:

- continue to work to coordinate community development strategies, needs assessments and integrated planning.
- continue to work within the Continuum of Care process and other coordinating agencies to reduce duplication, improve integration, and identify unmet service needs.
- expand coordination among local funding entities to streamline the application process, and to maximize the impact of those resources.
- coordinate efforts to develop a financial navigation center to increase banking participation and financial literacy.
- provide letters of support and other documentation to agencies in support of their fundraising efforts.
- enhance public access to information about community services.

Actions planned to develop institutional structure

The City of Pueblo is committed to the continued coordination of all Anti-Poverty and Community

Development initiatives. The City has entered into several intergovernmental agreements with other entities such as Pueblo County to administer the Community Services Advisory Commission process, which allocates general revenue funds from both entities to non-profit agencies and economic development organizations that enhance the quality of life in the community. The City is also working to reduce silos through groups such as the Pueblo Community Commission on Housing and Homelessness, which is a group of over 40 individuals from across government, housing and medical services that meet regularly to discuss issues and problem solve.

Another local group is the Pueblo Business Economic Recovery Team (BERT) is a collaboration between local government, chambers of commerce, and economic development focused agencies who have all come together to develop resources, support messaging, and positively impact local businesses during the COVID-19 pandemic. Various BERT sub-committees are connecting businesses that need different types of assistance with individuals and organizations that can help. Types of assistance include financial, marketing and management consulting.

Actions planned to enhance coordination between public and private housing and social service agencies

Meaningful collaboration as it relates to the development and implementation of housing and community development programs and services has become increasingly important as the federal resources available to these programs continue to decline. Collaboration with housing and service providers helps the City to capture the maximum benefit for each dollar it invests and ensures that investments strategically address both short-term needs and advance long-term goals.

The Department of Housing and Citizen Services conducts ongoing consultation with human services agencies, housing development organizations, and municipalities at various points in time during a program year.

Discussion

Of all the activities listed above, the development of affordable housing is of highest priority. The creation and preservation of affordable housing will relieve market stress on many fronts.

Program Specific Requirements

AP-90 Program Specific Requirements - 91.420, 91.220(l)(1,2,4)

Introduction

The following section describes program-specific requirements for the CDBG and HOME programs.

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	**0**

Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	90.00%

HOME Investment Partnership Program (HOME)
Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

   The City has available $513,337.83 in program income and homebuyer recapture that has been allocated in the FY2022 projects. The County does not anticipate receiving any additional program

income for its HOME programs during FY2022 or any other forms of investment.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

   The Consortium has elected to enforce recapture provisions to preserve the affordability of units during the HOME period of affordability, where said provisions are stated in this policy and the Consortium's consolidated plan. These provisions are imposed for the duration of the period of affordability on all HOME-assisted homebuyer projects through a written agreement with the homebuyer and enforced via covenants running with the land. The HOME recapture provisions are established at 24 C.F.R. §92.254(a)(5)(ii) and HUD CPD Notice 12-003.

   This recapture policy ensures that the Consortium recoups all or a portion of the HOME assistance to the homebuyer if the housing does not continue to be the principal residence of the family for the duration of the period of affordability. A subsequent homebuyer may assume the HOME assistance (subject to the HOME requirements for the remainder of the period of affordability) if the subsequent homebuyer is low-income, and no additional HOME assistance is provided. The original homebuyer may sell the property to any willing buyer during the period of affordability while the Consortium is able to recapture all, or a portion of the HOME-assistance provided to the original homebuyer. The Consortium will recapture the direct HOME subsidy from the original buyer.

   The recapture provisions are triggered by any transfer of title, either voluntary or involuntary, during the established HOME period of affordability. For HOME-assisted homebuyer units under the recapture option, the period of affordability is based upon the direct HOME subsidy provided to the homebuyer that enabled the homebuyer to purchase the unit. Any HOME program income used to provide direct assistance to the homebuyer is included when determining the period of affordability. The HOME period of affordability is shown on the chart below:

   If the total HOME investment of direct subsidy in the unit is under $15,000 the period of affordability will be 5 years.

   If the total HOME investment of direct subsidy in the unit is between $15,000 and $40,000 the period of affordability will be 10 years.

   For assistance above $40,000, the period of affordability will 15 years.

   Direct HOME subsidy is defined as the amount of HOME assistance, including any program income, which enabled the homebuyer to buy the unit. The direct subsidy includes down payment, closing costs, interest subsidies, or other HOME assistance provided directly to the homebuyer. In addition, direct subsidy includes any assistance that reduced the purchase price from fair market value to an affordable price. If HOME funds are used for the cost of developing a property and the unit is sold below fair market value, the difference between the fair market value and the purchase price is

directly attributable to the HOME subsidy.

The Consortium has chosen to recapture a portion of the net proceeds should the property sell during the period of affordability. Net proceeds are defined as the sales price minus superior loan repayment (other than HOME funds) and any closing costs. Under no circumstances will the Consortium recapture more than is available from the net proceeds of the sale.

The Consortium will not utilize recapture provisions when a project receives only a development subsidy. Programs will be structured such that a direct subsidy will be required for eligibility. Applicants not requiring a direct subsidy would be served by the market.

The form of recapture to be used by the Consortium: recapture the full amount of the direct subsidy provided to the homebuyer, subject to available net proceeds, during the affordability period.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds. See 24 CFR 92.254(a)(4) are as follows:

   Funding provided to developers of affordable rental housing will also be recaptured unless all of the following circumstances are demonstrated to exist: (i) more than 15 to 20 years have elapsed since the substantial completion of the project, or the City approves transfer of the Project and waives acceleration of the indebtedness, which transfer may be approved or disapproved in the sole discretion of the City, (ii) the primary lender also consents to assumption of the mortgage or obligation to which the deed of trust securing the agreement is subordinate, (iii) the sale of the Property is to a subsequent purchaser who agrees in writing to comply with the affordability requirements set forth at 24 CFR, §92.252, (iv).

   All subrecipient, developers, owner and sponsor HOME agreements contain clauses stating project lease-up requirements. The City has amended the written guidelines to address changes promulgated by the 2013 New HOME Rule. All new for-sale single-family projects will have provisions within the written agreement calling out the HOME Investment Partnership Act requirement that all units not sold within 9 months of completion will be converted to rental.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

   The Consortium does not permit the use of HOME funds to refinance existing debt secured by multifamily or single-family housing that is being rehabilitated with HOME funds.

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city of PUEBLO colorado

DEPARTMENT OF HOUSING AND CITIZEN SERVICES
2631 E 4th Street, Pueblo, CO 81001

CERTIFICATE OF CORRECTNESS

To: Mr. Nicholas A. Gradisar, Mayor

I hereby certify that I have reviewed and am familiar with the following documents and that said documents are true and correct and do not contain any false or untrue statement, condition, certification or assurance:

- Application for Federal Assistance (CDBG) – SF-424 & SF-424D; Non-State Certifications
- Application for Federal Assistance (HOME) – SF-424 & SF-424D; Non-State Certifications
- Certification of Consistency with the Consolidated Plan

Bryan Gallagher
Director

June 10, 2022
Date

City Clerk's Office Item # N-5

Background Paper for Proposed ORDINANCE

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Bryan Gallagher, Director of Housing and Citizen Services

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

SUMMARY:

This Ordinance will allow the City of Pueblo to assign to the Colorado Housing and Finance Authority (CHFA) $6,185,143.00 in Private Activity Bonds, previously awarded to the City pursuant to the Colorado Private Activity Bond Ceiling Allocation Act, C.R.S. 24-32-1701 et seq. These funds will be used to finance multi-family or single-family mortgage loans for low- and moderate-income persons and families within Pueblo County and throughout the state.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Ordinance assigns to the Colorado Housing Finance Authority (CHFA) the City's Private Activity Bond (PAB) allocation for use in multi-family and single-family Mortgage Revenue Bonds (MRB). The allocation is to be reserved for multi-family projects in the city for the next 12-months. If no project is identified within that that timeframe, the allocation will revert to single-family mortgage capital for use in the city. Last year CHFA provided capital for 166 First Step loans in the city for a total of $34,871,036.00. The household median income of the loans was $55,838.00, or approximately 85% of area median income.

FINANCIAL IMPLICATIONS:

The Private Activity Bond is "private" in nature and not for governmental use, so there is no cost associated with assigning the bond to CHFA. Financial benefits come to the City through sales tax derived from material sales on PAB construction projects, by increased economic activity in the real estate employment sector, and in retail sales from furnishings and other end user activity associated with a new home purchase.

BOARD/COMMISSION RECOMMENDATION:

Not applicable for this Ordinance.

STAKEHOLDER PROCESS:

Not applicable for this Ordinance.

ALTERNATIVES:

If the Ordinance is not approved, the funds will not be assigned to CHFA and the allocation will revert to the State of Colorado on September 15, 2022.

RECOMMENDATION:

The Department of Housing and Citizen Services recommends approval of the Ordinance.

ATTACHMENTS:
Proposed Ordinance
2022 Assignment of Allocation
2022 Private Activity Bond Attorney Certification
2022 Private Activity Bond Allocation notification from the State of Colorado

ORDINANCE NO. _____

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

WHEREAS, the City of Pueblo is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the City of Pueblo is authorized and empowered under the laws of the State to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City of Pueblo has an allocation of the 2022 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2022 (the "2022 Allocation"); and

WHEREAS, the City of Pueblo has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City of Pueblo and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2022 Allocation; and

WHEREAS, the City of Pueblo has determined that the 2022 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low- and moderate-income persons and families, or for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

WHEREAS, the City Council of the City of Pueblo has determined to assign $6,185,143.00 of its 2022 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City of Pueblo and the Authority (the "Assignment of Allocation"); Now, Therefore,

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

SECTION 1

The Assignment of Allocation, a copy of which is attached hereto and made a part hereof by reference, by and between the City of Pueblo, a Municipal Corporation, and the Colorado Housing and Finance Authority, after having been approved as to form by the City Attorney, is hereby accepted and approved; provided, however, that the Mayor is hereby authorized to make such technical variations, additions or deletions in or to such Assignment of Allocation as he shall deem necessary or appropriate and not inconsistent with the approval thereof by this Ordinance.

SECTION 2

The Mayor of the City of Pueblo is hereby authorized to execute and deliver the Assignment of Allocation on behalf of the City of Pueblo and to take such other steps or actions as may be necessary, useful, or convenient to affect the aforesaid assignment in accordance with the intent of this Ordinance, and any execution by electronic signature is hereby attributable to the Mayor and the City of Pueblo.

SECTION 3

The assignment to the Authority of $6,185,143.00 of the City of Pueblo's 2022 Allocation be and hereby is approved.

SECTION 4

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 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 Assignment of Allocation to implement the transactions described therein, including but not limited to the City Attorney’s signature of the 2022 Private Activity Bond Attorney Certification.

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

assignment of allocation - city

Multifamily Housing Facility Bonds/Single Family Mortgage Revenue Bonds

This Assignment of Allocation (the "Assignment"), dated this 13th day of July, 2022, is between the City of Pueblo, Colorado (the "Assignor" or the "Jurisdiction") and Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single- family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to finance such projects and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2022 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2022, (the "2022 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the Jurisdiction, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2022 Allocation; and

WHEREAS, the Assignor has determined that the 2022 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2022 Allocation assigned herein; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee all or a portion of its 2022 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee $ 6,185,143 of its 2022 Allocation (the "Assigned Allocation"), subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of the Assigned Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than the Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of one (1) year from the date of this Assignment to finance multi-family rental housing projects located in the Jurisdiction, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the Jurisdiction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the Assigned Allocation as an allocation for a project with a carryforward purpose or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multi-family rental housing project located in the Jurisdiction or elsewhere or to finance single-family mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans or mortgage credit certificates to finance single-family housing facilities in the Jurisdiction, provided that any Revenue Bond proceeds attributable to the Assigned Allocation shall be subject to paragraph 2 above.

6. This Assignment is effective upon execution and is irrevocable.

7. Counterparts. This Assignment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Assignment by electronic image scan transmission will be effective as delivery of a manually executed counterpart of the Assignment.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

City of Pueblo, Colorado

By: _____

Name: Nicholas A. Gradisar

Title: Mayor

COLORADO HOUSING AND FINANCE AUTHORITY

By: _____

Name: _____

Title: _____

CERTIFICATE OF THE CITY OF PUEBLO, COLORADO
CONCERNING ASSIGNMENT OF
PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION

I, the undersigned, hereby certify that I am a duly chosen, qualified and City Attorney of the City of Pueblo, Colorado (the "City"), and that:

1. The City is a public body politic and corporate, duly organized and existing under the constitution and laws of the State of Colorado.

2. The City has been previously notified that, pursuant to Section 24-32-1706 of the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), it has an allocation of the State ceiling (as defined in the Allocation Act) for 2022 in the amount of $6,185,143.00 (the "2022 Allocation").

3. Attached hereto as Exhibit A is a true and correct copy of an ordinance and the related minutes thereto (the "Ordinance") authorizing the assignment to the Colorado Housing and Finance Authority (the "Authority") of all or a portion of the 2022 Allocation in an amount equal to $6,185,143.00 (the "Assigned Allocation"), and authorizing the execution and delivery of an Assignment of Allocation dated as of July 13, 2022 (the "Assignment of Allocation") between the City and the Authority in connection therewith, which Ordinance was duly adopted by the City Council of the City (the "City Council") at a meeting thereof held on July 11, 2022, at which meeting a quorum was present and acting throughout and which Ordinance has not been revoked, rescinded, repealed, amended or modified and is in full force and effect on the date hereof.

4. The meeting of the City Council at which action has been taken with respect to the Assignment of Allocation was a regular meeting properly called and open to the public at all times.

5. With respect to the Assigned Allocation, the City has not heretofore: (a) issued private activity bonds; (b) assigned the Assigned Allocation to another "issuing authority," as defined in the Allocation Act; (c) made a mortgage credit certificate election; or (d) treated the Assigned Allocation as an allocation for a project with a carryforward purpose, as defined in the Allocation Act.

6. The Assignment of Allocation, attached hereto as Exhibit B, is in the form presented to and approved by the City Council at the meeting thereof held on July 11, 2022.

7. On or before the date hereof, counterparts of the Assignment of Allocation were officially executed by the Mayor and the City Clerk of the City. On the date of such signing, such persons were the duly sworn, qualified and acting officers of the City authorized to execute the Assignment of Allocation and holding the offices of the Mayor and City Clerk, respectively.

8. The City has authorized the execution, delivery and due performance of the Assignment of Allocation, and the execution and delivery of the Assignment of Allocation and the compliance by the City with the provisions thereof, will not, to the best of my knowledge, conflict with or constitute on the part of the City a breach of or a default under any existing Colorado law, City ordinance, court or administrative regulation, decree or order or any agreement or other instrument to which the City is subject or by which it is bound.

9. To the best of my knowledge, there does not exist any action, suit, proceeding or investigation pending, or threatened against the City, contesting (a) the corporate existence of the City, (b) the title of its present officers or any of them to their respective offices, including, without limitation, the members of the City Council, (c) the validity of the Assignment of Allocation or (d) the power of the City to execute, deliver or perform the Assignment of Allocation.

10. No referendum petition has been filed concerning the Ordinance; and to the best of my knowledge none is being circulated or planned for circulation.

WITNESS my hand and the seal of the City this July 13, 2022.

_____

City Attorney

(SEAL)

EXHIBIT A

ORDINANCE

EXHIBIT B

ASSIGNMENT OF ALLOCATION

COLORADO
Department of Local Affairs
Division of Housing

January 12, 2022

Bryan Gallagher
Director of Housing & Citizens Services
City of Pueblo
2631 East 4th Street
Pueblo, CO 81001

Re: Private Activity Bond Allocation of $6,185,143

Dear Mr. Gallagher:

I hereby certify that the above amount will be allocated to the respective local government for the purpose of issuing Private Activity Bonds (PAB) in 2022 under the state ceiling imposed by the Internal Revenue Code of 1986, as amended.

In accordance with the provisions of C.R.S. 24-32-1709.5, a fee on bonds issued is due to DOLA for the portion of each issuance that originated from a direct allocation. The amount of this fee is subject to revision, but is currently 0.027% of bonds issued. This fee is also due within five working days of the bond closing. In the event that the full allocation amount is not issued, or the fee rate changes, the fee will be recalculated to reflect the actual amount issued and the rate in effect at the time of closing.

If you have any questions, please contact Wayne McClary at (303) 864-7819 or wayne.mcclary@state.co.us.

Sincerely,

Rick M. Garcia
Executive Director

City Clerk's Office Item # N-6

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marissa Stoller, City Clerk

FROM: Bryan Gallagher, Director, Housing and Citizen Services

SUBJECT: AN ORDINANCE APPROVING AN AFFORDABLE HOUSING DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN CRAWFORD TOWNHOMES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP, THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A PUBLIC BODY CORPORATE AND POLITIC, AND THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves the City of Pueblo's Affordable Housing Development Agreement with Crawford Townhomes, LLLP, and the Housing Authority of the City of Pueblo for the development of a forty-nine (49) unit affordable housing rental project known as Crawford Townhomes.

PREVIOUS COUNCIL ACTION:

The City Council has not taken any previous action on this matter.

BACKGROUND:

In October of 2021, the Department of Housing and Citizen Services issued a Notice of Funding Availability (NOFA) for the HOME Program. The Housing Authority (dba Crawford MM, LLC) applied for HOME funds for the development of a 49-unit rental project to be known as Crawford Townhomes. HOME funds will assist five (5) of the units. This Project is part of multiple phased project to replace the Sangre de Cristo public housing complex. The Project will serve households at 30-60% of the area median income (AMI). Fifty-one percent (51%) of the units are designated for residents with incomes at 30% of AMI. This is a HUD Rental Assistance Demonstration Grant (RAD) sponsored project, and as such, existing residents at Sangre de Cristo will have preference in the unit rentals. The RAD contract will provide a project base rental subsidy to the units within the development for those households whose monthly income is not sufficient to pay market rate rent. As a rule and per HUD guidelines, a household paying more than 30% of their monthly income on rent is considered rent burdened.

Project costs are approximately $23.3 million, and are being funded through multiple sources:

1.	JP Morgan Construction Loan	$ 13,630,000
2.	RBC LIHTC Equity Funding	$ 12,351,265
3.	Colorado Division of Housing Grant	$ 3,430,000
4.	CHFA SIMPLE Permanent Loan	$ 3,000,000
5.	CHFA Capital Magnet Fund Permanent Financing	$ 400,000
6.	CHFA Capital Magnet Fund Grant	$ 350,000
7.	HACP HUD Capital Funds Loan	$ 1,800,000
8.	HACP Other Funds Loan	$ 1,584,452
9.	HACP Deferred Developer Fee	$ 250,000
10.	HACP Property Loan	$ 140,000
11.	City of Pueblo HOME Loan and HOME Match	$ 500,000
12.	Pueblo County HOME Grant	$ 304,260

RBC Community Investments, LLC will provide $12,351,265 in capital contributions to Crawford Townhomes, LLLP as an equity partner throughout the project. This is the low-income housing tax credit limited partner contribution. In return for the contribution, the limited partner is eligible to receive a $1,350,000 tax credit, annually, for ten years. Issuance of the credit by CHFA is contingent upon the developer operating the project within federal program requirements.

FINANCIAL IMPLICATIONS:

The City HOME contribution is available in the 251 Fund, and is comprised of HOME grant funds, program income, and City match contributions.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this HOME Loan is not made, the Affordable Housing Project will have to procure additional funding or fail.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

Attachment 1: City of Pueblo Affordable Housing Development Agreement
Attachment 2: Deed of Trust
Attachment 3: Promissory Note
Attachment 4: JP Morgan Subordination Agreement
Attachment 5. CHFA Subordination(s)
Attachment 6: CHFA Land Use Restrictive Agreement

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AFFORDABLE HOUSING DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS BETWEEN CRAWFORD TOWNHOMES, LLLP, A COLORADO LIMITED LIABILITY LIMITED PARTNERSHIP, THE HOUSING AUTHORITY OF THE CITY OF PUEBLO, A PUBLIC BODY CORPORATE AND POLITIC, AND THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, there exists a need for affordable housing in the City of Pueblo; and

WHEREAS, there exists a need to update the existing public housing known as the Sangre de Cristo Apartments, located at 2601 Sitter Place, and construct new affordable housing; and

WHEREAS, the City of Pueblo receives HOME Investment Partnership Grant funds from the U.S. Department of Housing and Urban Development for the creation and retention of affordable housing; NOW, THEREFORE,

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

SECTION 1

The City of Pueblo Affordable Housing Development Agreement between Crawford Townhomes, LLLP, a Colorado limited liability limited partnership, the Housing Authority of the City of Pueblo, a public body corporate and politic, and the City of Pueblo, a Municipal Corporation, (the “Agreement”) for the development of affordable housing, and the associated documents, specifically the promissory note, deed of trust, and subordination agreements, (the “Documents”) copies of which are attached hereto and incorporated herein, having been approved as to form by the City Attorney, are hereby approved.

SECTION 2

The $500,000.00 in loan funds are available in Fund 251 and will be dedicated to this Agreement and the associated project.

SECTION 3

The Mayor is hereby authorized to execute the Agreement and the associated Documents as needed and upon closing of the transaction in the name and on behalf of the City of Pueblo, where the Mayor may execute the Agreement and Documents by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 4

The Mayor is hereby authorized to execute the construction and permanent financing subordinations to JP Morgan Chase and CHFA, respectively, included within the Documents, when requested and in the name and on behalf of the City of Pueblo, where the Mayor may execute the subordinations by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 5

The Mayor is hereby authorized to execute the CHFA Land Use Restriction Agreement ("LURA") included within the Documents upon close out of the construction project and in the name and on behalf of the City of Pueblo, where the Mayor may execute the LURA by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 6

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 and Documents to effectuate the transactions described therein.

SECTION 7

If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 8.

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

Action by City Council:

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

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

CITY OF PUEBLO
AFFORDABLE HOUSING DEVELOPMENT AGREEMENT
(RENTAL DEVELOPMENT)

This Agreement is made and entered into this ___ day of July 2022 ("Effective Date") by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City"), the Housing Authority of the City of Pueblo, Colorado, a public body corporate and politic (hereinafter referred to as "Developer"), and Crawford Townhomes, LLLP, a Colorado limited liability limited partnership (hereinafter referred to as "Owner").

WITNESSETH, that:

WHEREAS, the City has entered into agreements with the U.S. Department of Housing and Urban Development ("HUD"), whereby federal financial assistance may be made available to City on behalf of the Pueblo Consortium ("Consortium"), established under Agreements between City and Pueblo County, Colorado ("County"), as a Participating Jurisdiction for the purpose of expanding the availability of affordable housing pursuant to the HOME Investment Partnerships Act (the "Act") (42 U.S.C. 12701 et seq.), the Cranston-Gonzales National Affordable Housing Act and implementing regulations, including but not limited to those at 24 CFR Part 92; and

WHEREAS, in accordance with the provisions of the Act and 24 CFR Sections 92.200 and 92.205, a portion of such financial assistance, subject to de-obligation (and subject to appropriation with respect to any assistance payable out of future fiscal year allotments), may be made available to qualifying non-profit entities for the purpose of carrying out specific elements of the participating jurisdiction's housing strategy, including new construction of affordable rental housing; and

WHEREAS, Developer has submitted a project proposal for new construction of rental housing to create affordable housing in fulfillment of a portion of the City's and Consortium's housing strategy and has been selected to receive a loan for such project; and

WHEREAS, Developer has represented to City and the Consortium that it is a duly qualified public housing authority which is eligible and willing to undertake its proposed affordable housing project, as set forth in its application, as further amended by this Agreement and the attachments hereto; and

WHEREAS, Developer, through its non-profit affiliate, El Centro Pueblo Development Corporation, Inc., has formed Owner to assemble the financing, acquire the Property (defined in Section 4(b) below) on which the Project will be constructed, and implement the development plan with Developer's assistance; and

WHEREAS, based upon Developer's representations, the Consortium and the City believe Developer and Owner are capable or can reasonably be expected to become capable of carrying

out said project, and City is willing to allocate federal funds as a loan to Owner for investment in housing to be developed, sponsored, or assisted by Developer which will comply with and fulfill said approved elements of City's housing strategy; and

WHEREAS, Developer has applied for and received from the Colorado Housing and Financing Authority a preliminary reservation of Federal Low-Income Housing Tax Credits in the amount of $13,500,000.00 for allocation to Developer's project upon placement of the housing in service; and

WHEREAS, Developer warrants and guarantees that as of the date of execution of this Agreement, all necessary financing has been secured, a budget and schedule has been established, underwriting has been completed, and construction is scheduled to start within twelve months of the agreement date in accordance with the definition of "commit to a specific local project," 24 C.F.R. § 92.2; and

WHEREAS, the City is duly authorized to enter into this Agreement for and on behalf of the Consortium and to undertake all actions required by this instrument.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, terms and conditions set forth herein, the parties agree as follows:

1. DEVELOPER SERVICES.

(a) Developer shall, directly or indirectly, in accordance with all applicable federal, state, and local laws and regulations, undertake the construction of a new forty-nine (49) unit affordable housing project for low to moderate income households, with five (5) of the housing units being assisted hereunder (the "HOME Units"), in furtherance of the Consortium's housing strategy and as approved by the City. The affordable housing project, as described herein, may be referred to as the "Crawford Townhomes Project" or the "Project." Developer may undertake same as the Project sponsor with ownership of the Project to be held by either the Developer or by a limited liability partnership or limited liability limited partnership in which Developer or its affiliate acts as the sole member of the general partner, or by a limited liability company in which Developer is the sole member of the managing member. Developer shall satisfactorily perform and complete, or cause to be performed and completed, all services and items of work, and the furnishing of all labor and materials encompassed within or reasonably necessary to construct all of the improvements for the Project, and 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 of the provisions of this Agreement. Before proceeding with the Project, Developer shall furnish City with all reasonable information which City may request concerning the Project, execute all certifications, security instruments required by this Agreement and applicable laws and regulations, demonstrate eligibility of the Project for assistance under this Agreement and the Act, and obtain the written approval of City's authorized representatives as to the Project, which approval will not be unreasonably withheld. Upon project completion, the HOME Units must meet or exceed the minimum property standards required by 24 CFR 92.251. Owner must continue to maintain the HOME Units in compliance with 24 CFR 92.251 during the period of affordability.

(b) Developer warrants and represents that (i) it has the requisite authority and capacity to perform all terms and conditions on Developer's part to be performed hereunder; (ii) that it is duly organized as a public housing authority under the laws of the State of Colorado, including but not limited to the Colorado Housing Authority Law, as amended, C.R.S. § 29-4-201 et seq. (Vol. 9, 2000); (iii) that it is aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 24 CFR Part 92 and those identified in the exhibits hereto; and (iv) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.

(c) Time is of the essence hereof. Developer agrees that it shall meet the following deadlines with respect to the Project:

(i) Developer shall obtain satisfactory evidence that the Owner has the financial ability to undertake and construct the Project, including proof that it has secured approval for tax credits, obtained loan commitments for a construction loan and the primary loan permanent financing for the Project, and furnish such evidence to City, on or before July 21, 2022.

(ii) Developer shall obtain commitments for all required loans on or before July 21, 2022;

(iii) Developer shall commence construction of the Project not later than August 15, 2022;

(iv) Developer shall substantially complete construction of the Project not later than January 15, 2024; and

(v) Lease-up of the Project shall be accomplished by not later than July 15, 2024.

2. ROLE AND RESPONSIBILITIES OF THE CITY.

Under this Agreement, the City is acting on behalf of the Consortium. Notwithstanding the foregoing, all obligations of Developer under this Agreement shall run directly to City and be fully enforceable by City and in the name 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, approval of the Project to be undertaken by Developer hereunder and the disbursement of funds in connection therewith. In the absence of such a designation, the Mayor shall be deemed as City's authorized representative.

3. FINANCIAL ASSISTANCE AND METHOD OF PAYMENT.

(a) Upon execution of all documents required by City, the City will loan to Owner an amount up to that specified in subparagraph (c) of this section as the public investment in the Project assisted under this Agreement. Disbursement of funds to Owner is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Owner has

expended funds after July 21, 2022 for eligible approved expenditures with respect to the Project, (ii) that neither Developer nor Owner are in default of any material provision of this Agreement nor applicable law or regulation, (iii) that either Developer or Owner has timely submitted requests for disbursement detailing the eligible draw-down items in a format approved by City, (iv) that either Developer or Owner has certified with each payment or loan draw-down request compliance with the requirements identified in Exhibits "C" and "D" and that all expenditures for which draw-down is sought were made for and in furtherance of the Project and are an eligible use of federal assistance under the Act, and (v) that City has timely received from HUD sufficient federal assistance under the Act to pay the disbursement hereunder. Neither Developer nor Owner may request disbursement of funds under the Agreement until the funds are needed for payment of eligible costs, and the amount of each request must be limited to the amount needed.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with HUD regulations including but not limited to those at 24 CFR Part 92, as presently promulgated and as same may be revised from time to time in the future. All payments received by Owner hereunder are subject to repayment by Owner, where Owner shall repay all funds that City as a participating jurisdiction would be required to repay as provided in 24 CFR Part 92. If the HOME Units do not meet the affordability requirements or have not been rented to eligible tenants in accordance with Exhibit "A", such failures shall be a default of this Agreement, any related loan agreement, and the deed of trust (hereinafter referred to as the "Deed of Trust"), and all HOME funds must be returned to City. In case of such default, City may pursue remedies through this Agreement, loan agreements, including any promissory note (hereinafter referred to as the "Promissory Note" or "Note"), and/or the Deed of Trust. Funds provided hereunder for Project may only be used for development costs, as provided in 24 CFR 92.205(d) and 92.206(a), (c) and (d), where such costs can be separated, and funds are only applied to the HOME Units designated for the affordable housing project. Funds committed hereunder meet the requirements of "commit to a specific local project" under 24 CFR 92.504 and 24 CFR 92.2.

(c) The aggregate of all payments made hereunder shall not exceed Five Hundred-Thousand and No/100 Dollars (U.S. $500,000.00).

(d) Upon expiration of the term of this Agreement or upon any prior termination, Developer shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination together with any accounts receivable attributable to the use of funds provided hereunder.

4. TERM OF AGREEMENT; SECURITY.

(a) Unless sooner terminated, the term of this Agreement, for purposes of making the loan and undertaking the construction and completion of the Project, shall be the Effective Date through the period of affordability, which is estimated to end January 15, 2044; provided however, that with the respect to the Project for which Developer and Owner have received financial assistance under and during the term of this Agreement, Developer and Owner shall have continuing responsibility to comply with the performance, certifications, repayment, nondiscrimination, affirmative marketing, displacement, relocation, acquisition, labor, conflict of interest, housing affordability compliance, recordkeeping, and other requirements of this

Agreement, and 24 CFR Part 92 (including, without limitation 24 CFR Sections 92.251, 92.252, 92.350, 92.351, 92.353, 92.354, 92.356, 92.359, and 92.508) which shall survive expiration or termination and remain in effect throughout the required full period of affordability, notwithstanding any prior termination or expiration of this Agreement. As used herein, "period of affordability" shall mean 20 years from the completion of the Project, except that if the assistance provided hereunder is used in connection with other financing insured by HUD under Chapter II of Title 24, Code of Federal Regulations, the period of affordability shall be the full original term of said mortgage or 20 years, whichever is longer.

(b) (i) The full amount of loan assistance provided to Developer and Owner for the Project pursuant to this Agreement shall constitute an indebtedness of the Owner to City which shall be evidenced by the Promissory Note which shall be due and payable with interest as provided therein and which shall be secured by the described real property, also the legal description of the property where Project will be constructed, situate in the County of Pueblo, State of Colorado, (the "Property"), attached hereto as Exhibit "H" – Legal Description and incorporated herein by reference, as evidenced by a Deed of Trust to be executed contemporaneously with said Promissory Note (together the "loan instruments"). The addresses of the Project are:

- _____

The loan instruments shall require the Owner to pay to City or holder the indebtedness as and to the extent same becomes due under the provisions of the Promissory Note and this Agreement. Owner shall include terms in said Promissory Note and Deed of Trust stating that the amount of the assistance shall continue as an indebtedness until paid in full, and notwithstanding such payment in full, the affordability restrictions described in this Agreement shall continue in effect and be enforceable for the full period of affordability without regard to the term specified in the Note or Deed of Trust for repayment.

(ii) In order to secure the affordability provisions and other requirements of this Agreement, City may, at any time, require an assignment and transfer of said Note and Deed of Trust.

(c) During the full Term of this Agreement and for the period of affordability, (i) any failure by the Owner to perform any obligation, covenant or provision of the Note or this Agreement required to be performed by the Owner, or (ii) any breach of any warranty made by Developer in this Agreement, or (iii) any other violation of any material term of this Agreement or the Deed of Trust given to secure the Note, shall constitute a default under this Agreement. Upon any such default, the City may demand that Owner repay to City the full amount of assistance provided hereunder, plus interest at the rate of four percent (4%) per annum from and after the date of such default. Owner further agrees that no release of any security for the indebtedness or extension of time for payment of same, or any installment thereof, and no alteration, amendment, or waiver of any provision of the Note or the Deed of Trust securing same shall in any manner, release, discharge, modify or affect the obligations of Developer or Owner under this Agreement.

(d) City will provide the Owner, through notice to Crawford MM, LLC (the Owner's general partner), a copy of any written notice, at 201 South Victoria Avenue, Pueblo, CO 81003.

City will allow the Owner thirty (30) days after receipt of such notice to cure or cause the cure of any default under this Agreement or the Loan Documents (as hereinafter defined), or such longer period as is reasonably necessary for the Owner to cure non-monetary defaults provided that Owner commences to cure and continues with due diligence. Copies of any and all notices required to be given by the Owner pursuant to this Agreement shall also be sent, in the same manner as such notice is given to the Owner, to the Owner's limited partner (the "Equity Investor") at the following address: RBC Community Investments, LLC, Attention: President and General Counsel, 600 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, and Applegate & Thorne-Thomsen, P.C., Attention: Bennett P. Applegate, Esq., 425 S. Financial Place, Suite 1900, Chicago, Illinois 60605. The Equity Investor may change its address for receipt of copies of notices by giving notice in writing stating its new address to the City. Commencing on the tenth (10th) day after the giving of such notice, the newly designated address shall be effective for purposes of all such copies of notices required to be sent by the City to the Equity Investor.

(e) Notwithstanding anything to the contrary contained in this Agreement, Equity Investor shall have the right, but not the obligation, to cure defaults of Owner.

5. TERMINATION OF AGREEMENT.

(a) For Cause. Subject to the notice and cure rights set forth in Paragraph 4 above, this Agreement may be terminated by City for cause, including any nonperformance by Developer or Owner, upon ten (10) days' written notice to Developer or Owner, as applicable, including a statement of the reasons therefor, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Director of Housing and Citizen Services whose decision as to both the grounds for termination and the appropriateness thereof shall be final and binding upon both City and Developer. In accordance with 2 CFR 200.338, cause for termination shall include any material failure by Developer or Owner to comply with any term of this Agreement.

(b) For Convenience. This Agreement may be terminated for convenience in accordance with the provisions of 2 CFR 200.339. This Agreement shall terminate immediately upon any non-appropriation of funds, or upon any suspension or non-receipt of federal assistance provided to City under the Act, regardless of cause.

(c) Post Termination Procedures. In the event of termination, Developer and Owner shall continue to be responsible for those matters which survive termination identified in Paragraph 4 above, unless City takes over the Project and, in connection therewith, prospectively releases Developer and Owner from one or more specific responsibilities in writing. Additionally, at City's sole option, all property acquired by Developer and Owner with loan funds, all loan funds, program income, and mortgage loans originated with loan funds or by payments therefrom and payments received under such mortgage loans, held, owned or retained by Developer or Owner shall immediately become the sole and separate property of the City, and Developer and Owner shall perform all acts and execute all instruments necessary to transfer and assign such property, funds, income, and mortgage loans to City. All finished or unfinished documents, data, studies, reports and work product prepared by Developer, Owner, or their agents and assigns under this Agreement or with loan funds shall, at the option of the City, become its property, and Developer or Owner,

as applicable, shall be entitled to receive just and equitable compensation only for satisfactory work completed and eligible costs for which compensation has not previously been paid nor reimbursement made.

6. ASSIGNABILITY.

This Agreement shall not be assigned or transferred by Developer or Owner without the prior written consent of the City; provided however, that this limitation shall not be construed to prohibit Developer from undertaking activities under this Agreement with the Owner meeting the requirements of Section 1(a) of this Agreement. The City understands that at some time within 24-months of closing of the project, RBC Community Investments, LLC intends to transfer its interests to RBC Community Investments Fund-X14 LP, 600 Superior Avenue, Suite 2300, Cleveland, OH 44114, and such an assignment or transfer is acceptable by City. Said assignment shall not impact the obligations of Developer or Owner under the terms of this Agreement and the period of affordability. Developer will provide City with written notice at least fourteen (14) days prior to said assignment. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

7. CONFLICT OF INTEREST.

HOME Regulation 24 CFR Part 92.356 is incorporated herein by reference, and sets forth applicable laws and regulations that apply to Conflict of Interest. Developer shall avoid all conflicts prohibited by applicable regulations, including but not limited to those set forth in 24 CFR Part 92 as presently promulgated and as same may be revised from time to time in the future.

8. DEVELOPER RECORDKEEPING.

Developer shall maintain records as to the Project work and activities undertaken with assistance hereunder, services provided, reimbursable expenses incurred in connection with the Project and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. Developer agrees to comply with all applicable uniform administrative requirements described or referenced in 24 CFR Part 92. The compliance provisions attached as Exhibit "B" hereto are made a part of this Agreement, and Developer agrees to perform and comply with same. The City, HUD, the Comptroller General of the United States, the Inspector General of HUD, 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 Developer and the Owner which relate to this Agreement for the purpose of making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may, at any time during the period of affordability or within five (5) years thereafter, require all of Developer's and the Owner's financial records relating to this Agreement to be turned over to the City.

9. MONITORING AND EVALUATION.

The City shall have the right to monitor and evaluate the progress and performance of Developer and Owner to assure that the terms of this Agreement are being satisfactorily fulfilled

in accordance with HUD's, City's, and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review Developer's performance using on-site visits, progress reports required to be submitted by Developer, audit findings, disbursement transactions and contact with Developer as necessary. Developer and Owner shall furnish to the City monthly or quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Developer and Owner shall fully cooperate with City relating to such monitoring and evaluation.

10. DEVELOPER FILES AND INFORMATION REPORTS.

Developer 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, activity reports, and program income. These records shall be retained by Developer for a period of five (5) years, except that with respect to the Project undertaken with assistance provided hereunder, such records shall be maintained for the full required period of affordability and for the five (5) years thereafter. Activity reports shall be submitted monthly or quarterly no later than the ninth (9^{th}) day of the month following the end of month or quarter for which the report is submitted.

11. INDEPENDENCE OF DEVELOPER.

Nothing herein contained nor the relationship of Developer and Owner to the City, which relationships are expressly declared to be that of an independent contractor, shall make or be construed to make Developer or the Owner, or any of Developer's or Owner's agents or employees, the agents or employees of the City. Both Developer and Owner shall be solely and entirely responsible for their acts and the acts of their agents, employees, and subcontractors.

12. LIABILITY & INSURANCE.

(a) As to the City, Developer and Owner 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 Developer and Owner or by the conditions created thereby. Developer and Owner further agree to indemnify and save harmless the City, its officers, agents, and employees, from and against any and 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, nonperformance, or breach of this Agreement by Developer or Owner, or out of any violation by Developer or Owner of any statute, ordinance, rule or regulation.

(b) Developer and Owner agree that each shall procure and will maintain during the term of this Agreement, such insurance as will protect the respective parties 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 (c).

(c) The minimum insurance coverage which Developer and Owner shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado.

(ii) Comprehensive General and Automobile Liability Insurance with limits not less than One Million and No/100 Dollars ($1,000,000.00) per person and occurrence for personal injury, including but not limited to death and bodily injury, and One Million and No/100 Dollars ($1,000,000.00) per occurrence for property damage.

(d) Owner further agrees that it shall procure and maintain, at Owner's expense, hazard and fire insurance upon the property described in the Deed of Trust on an "all risk" form in such amounts as City's Department of Housing and Citizen Services may require, but in any event, for not less than the amount of all liens against the Property and the amount of funds provided to Owner by City pursuant to this Agreement. Owner shall furnish a certificate of insurance certifying such coverage to City's Director of Finance prior to disbursement of any funds to Owner. Both said certificate of insurance and the policy procured by the Owner shall name the City as an additional loss payee.

13. CERTIFICATIONS.

Developer agrees to execute and abide by the certifications contained in Exhibit "D" hereto, which are hereby expressly made a part of this Agreement.

14. PROGRAM INCOME; REVERSION OF ASSETS

(a) Unless otherwise authorized by City in writing in a separate instrument executed after date of this Agreement, all program income shall be returned to City within thirty (30) days of receipt by Developer. In the event City authorizes Developer to retain any portion of program income, it shall only be used to accomplish the work set forth in the Scope of Services, and the amount of loan funds payable by City to Developer shall be adjusted as provided by 24 CFR 92.503.

(b) Upon expiration of the term of this Agreement, or upon any prior termination, Developer shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination together with any accounts receivable attributable to the use of funds provided hereunder.

(c) The HOME Units within the Project and the Property, and any other real property acquired, constructed, or improved in whole or in part with funds provided pursuant to this Agreement shall be used as affordable rental housing within the meaning of 24 CFR 92.252 for the full period of affordability as defined in Paragraph 4 hereof. In the event the Project, the Property or such other property ceases to be so used, Owner shall be in default under the Deed of

Trust and Note, and Owner shall immediately pay to City the greater of (i) an amount equal to the current market value of the Project and Property less any portion of the value attributable to expenditures of funds not provided under this Agreement for the construction of the Project or acquisition of, or improvement to, the Property (that is, the calculation of the portion of value attributable to expenditures not provided by City under this agreement shall be the market value multiplied by a fraction whose numerator is the total Project cost or costs of acquisition determined as of the date of Project completion less the amount of assistance provided by City and whose denominator is the total Project cost or cost of acquisition determined as of the date of Project completion) or, (ii) the remaining principal balance and accrued interest owing under the Note. The affordability requirements apply without regard to the term of any loan or mortgage, repayment of the HOME investment, or transfer of ownership. The use restriction and repayment obligation set forth in this subparagraph shall survive termination or expiration of this Agreement and shall be fully enforceable and subject to collection by City or HUD in accordance with applicable laws. Owner and any transferee shall comply with the requirements of this paragraph and execute a Deed of Trust which shall be and constitute a lien upon the Property and all other real property acquired or improved with funds provided hereunder, and which shall secure the affordability requirements hereunder. City shall have the right of first refusal to purchase the housing before foreclosure or deed in lieu of foreclosure in order to preserve affordability. City will have the authority to and may require specific performance to enforce the terms of this Agreement and any affordability requirements.

(d) In the event City incurs any cost or expense in enforcing the requirements of this Agreement, including but not limited to the requirements of this Paragraph 14, or in bringing any action to recover the amount of any repayment obligation, or, upon assignment of the Note and the Deed of Trust, to foreclose or obtain sale under the Deed of Trust or mortgage instrument, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

(e) To further ensure that the funds provided hereunder do not constitute an investment of more HOME funds than are necessary to provide affordable housing (as required by 24 CFR 92.250(b)), Owner shall retain ownership of the Project for a period of not less than 20 years from and after the completion of the Project. Consequently, in the event the Owner should sell or transfer title to the Project, the Property, or other real property or improvements constructed or improved with funds provided pursuant to this Agreement, within 20 years after substantial completion of the Project or said improvements, any loan agreement, Note and Deed of Trust shall provide that the entire indebtedness under the Note shall immediately become due and payable and shall be collected and repaid to City, together with interest thereon at the rate of four percent (4%) per annum from the time of substantial completion until said repayment is made; provided, however, such repayment shall not be required to the extent permitted by federal law, if the City has granted prior written approval of the sale or transfer, and the acquirer of the Property becomes subject to this Agreement, all HOME affordability restrictions, and the obligations of the Owner under this Agreement, the Note, and Deed of Trust have been assigned to and assumed by the purchaser, then Owner shall no longer be indebted to City and the City shall look to the purchaser for performance of any remaining obligations hereunder. If Owner is a limited partnership, nothing in this subparagraph (e), nor in subparagraph (f) of this Paragraph 14, is intended to prohibit a transfer of ownership from Owner to any general partner or limited partner in Owner as long as the transferee remains subject to this Agreement, all HOME affordability restrictions, and the obligations of the

Owner under this Agreement, the Note, and Deed of Trust.

(f) It is the intent of the parties that C.R.S. § 38-30-165 and any similar statute hereafter enacted, be preempted under federal law and regulations in order to maintain affordability of the HOME Units within the Property. Consequently, any loan agreement between City and the Owner and the Note and Deed of Trust executed by the Owner (collectively, the "Loan Documents") shall not be assumable, and the indebtedness shall be due and payable upon sale, transfer, or assignment, or any attempted sale, transfer, or assignment of the Property by the Owner, unless all of the following circumstances are demonstrated to exist: (i) more than 20 years have elapsed since the substantial completion of the Project, (ii) the senior lien holders also consent to assumption of the mortgage or obligation to which the Deed of Trust is subordinate, (iii) the sale of the Property is to a subsequent purchaser who agrees in writing to comply with the affordability requirements of this Agreement and applicable requirements, including those set forth at 24 CFR, 92.252, (iv) the sale price and payment of principal, interest, property taxes and insurance by the subsequent purchaser must permit the HOME Units to remain affordable for the remaining period of affordability specified in this Agreement, with affordability determined by applicable regulations and requirements, and (v) both the City and the holder of the Note expressly consent to assumption of the Owner's obligations under any loan agreement and the Note by the subsequent purchaser prior to sale or transfer, which consent shall be granted only upon the Owner's showing circumstances (i) through (iv) have or will be satisfied.

(g) Notwithstanding anything to the contrary in this Agreement or the Loan Documents, the Owner may transfer its interest in the Project and the Property to Developer without prior consent from the City.

15. SPECIAL REQUIREMENTS APPLICABLE TO IMPROVEMENTS TO PROPERTY.

(a) In addition to all procurement requirements otherwise applicable to the Project pursuant to any other provision of this Agreement or pursuant to any requirement of law or regulation incorporated in this Agreement by reference, Developer and Owner shall comply with all requirements of this Paragraph 15.

(b) No improvements shall be undertaken to the Property or other real property with funds (or reimbursement) provided hereunder unless and until: (i) plans and specifications therefor have been prepared by either a registered Professional Engineer in good standing and duly licensed to practice in the State of Colorado or an Architect duly licensed and authorized to conduct a practice of architecture in the state of Colorado; (ii) such plans and specifications have been filed with the City and approved by both the City's designated representative and the City's Director of Public Works; and (iii) all construction contracts for improvements for which funds are provided from City shall have been awarded only after an open, competitive bidding process which has been approved by City's Director of Purchasing and which allows qualified contractors to reasonably participate in the competitive bidding procedures; provided, however, that the open competitive bidding process required herein need not follow the City's procurement requirements for City improvements. Developer or Owner may submit its proposed bidding process to the City for review and approval or disapproval prior to receipt of any funds hereunder.

(c) No disbursement of funds to Owner shall be made by City hereunder unless and until all conditions precedent to payment specified elsewhere in this Agreement have been satisfied and Owner files with City's Director of Housing and Citizen Services a written request for payment signed by an officer of the General Partner of Owner that certifies (i) that the amounts included in the request for payment have not been included in any prior request for payment, (ii) that the improvements listed therein for which payment is sought have been completed in accordance with the approved plans and specifications therefor, and (iii) that the improvements for which payment is sought have been constructed so as to comply with City of Pueblo building codes and Section 8 Housing Quality Standards.

(d) [Reserved]

(e) Every contract for construction of improvements, and all lower tier covered transactions, shall include a requirement that the contractor, subcontractor, or vendor certify that neither it nor its principal is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any federally funded project.

(f) Owner shall, at Owner's sole expense, provide for relocation assistance to persons displaced as a result of the Project, if any, in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and applicable implementing regulations, and in accordance with 24 CFR 92.353.

16. RECOGNITION OF HUD, CITY.

In all printed materials, Project descriptions, and other activities undertaken with funds provided under this Agreement, Developer and Owner shall provide recognition that funds have been provided by the U.S. Department of Housing and Urban Development and the City of Pueblo. Recognition shall be accomplished by prominent disclosure of the role of HUD and the City in all such printed materials and Project signage, if any.

17. AFFIRMATIVE FAIR HOUSING MARKETING PLAN.

For all programs assisting five or more households, Developer has established procedures and will take steps necessary to affirmatively further Fair Housing in accordance with City policies, attached hereto in Exhibit "G", and federal regulations codified at 24 CFR 570.487(b) and 24 CFR 92.351, respective of CDBG/HOME funding. Developer has submitted to the City HUD Form 92243, Affirmative Fair Housing Marketing Plan, outlining its strategy to encourage those who are least likely to apply for the services funded by this Agreement.

18. ENTIRE AGREEMENT; AMENDMENTS; COUNTERPARTS.

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 with respect to the Project 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 provision

of this Agreement, shall be binding unless made in writing and executed by the duly authorized officers of the Developer, Owner, and City. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

19. GOVERNING LAW AND VENUE.

This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

20. SIGNATURES.

The persons signing this Agreement on behalf of Developer and Owner respectively represent and warrant that such persons and Developer and Owner have the requisite power and authority to enter into, execute, and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Developer and Owner enforceable against Developer and Owner, as applicable, in accordance with its terms. This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, Developer, Owner, 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 Municipal Corporation

_____
City Clerk

By: _____
Nicholas A. Gradisar, Mayor

[S E A L]

Date: _____

DEVELOPER:

HOUSING AUTHORITY OF THE CITY OF PUEBLO, COLORADO, a body corporate and politic organized under the laws of Colorado

By: _____
Steven L. Trujillo, Executive Director

Date: _____

OWNER:

CRAWFORD TOWNHOMES, LLLP,
a Colorado limited liability limited partnership

By: Crawford MM, LLC, a Colorado limited liability company, its general partner

By: El Centro Pueblo Development Corporation, Inc., a Colorado non-profit corporation, its sole member

By: _____
Steven L. Trujillo, Secretary/Treasurer

Date: _____

SCHEDULE OF EXHIBITS

Exhibit A	Statement of Project/Scope of Work
Exhibit B	Accounting System Compliance Provisions
Exhibit C	Federal Debarment Certification
Exhibit D	Certifications
Exhibit E	Annual Rent Reporting Form for Monitoring
Exhibit F	Section 3
Exhibit G	Affirmative Fair Housing Marketing Procedures
Exhibit H	Legal Description

Also, available on request:

- Technical Guide for Determining Income and Allowances for the HOME Program
- HOME Monitoring Forms

EXHIBIT A
STATEMENT OF PROJECT/SCOPE OF WORK

STATEMENT OF PROJECT AND SCOPE OF WORK:

General Description

The Project will consist of the construction of 49 townhome rental units of which 49 units will be subsidized rental housing for low to moderate income households. The HOME funds will be used for the costs associated with the construction of five (5) HOME Units. These HOME Units will be **floating** units for the purposes of accounting for the HOME per unit subsidies and affordability requirements. **Floating** HOME Units will be maintained during the period of affordability, meet the requirements of 24 CFR Part 92, and each substituted HOME Unit will be comparable in terms of size, features, and number of bedrooms to the originally designated HOME Unit.

The Developer agrees to perform the work described under the Project/Work Description of the City HOME application for funding in compliance with all the provisions of this Agreement. The Developer warrants and represents that it has the requisite authority and capacity to perform all terms and conditions on the Developer's part to be performed hereunder.

HOME Units

Based on preliminary budget figures of $21,000,000.00 provided in the Application for HOME funds, and $500,000.00 of available HOME funds, five (5) units must be HOME Units for the affordability period. The actual per unit HOME subsidy amount is $100,000.00 per HOME Unit.

Rent Limits – 24 CFR 92.252

Rent Limitation. HUD provides the following maximum HOME rent limits. The rent limits apply to the rent, inclusive of utilities or the utility allowance. The maximum HOME rents ("High HOME Rents") are the lesser of:

(1) The fair market rent for existing housing for comparable units in the area as established by HUD under 24 CFR 888.111; or

(2) A rent that does not exceed 30 percent of the adjusted income of a family whose annual income equals 65 percent of the median income for the area, as determined by HUD, with adjustments for number of bedrooms in the unit. The HOME rent limits provided by HUD will include average occupancy per unit and adjusted income assumptions.

Additional rent limitations ("Low HOME Rents"). The participating jurisdiction may designate (in its written agreement with the project owner) more than the minimum HOME units in a rental housing project, regardless of project size, to have Low HOME Rents that meet the requirements of this paragraph (b). In rental projects with five or more HOME-assisted rental units, at least 20 percent of the HOME-assisted units must be occupied by very low-income families and meet one of the following rent requirements:

(1) The rent does not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD provides the HOME rent limits which

include average occupancy per unit and adjusted income assumptions. However, if the rent determined under this paragraph is higher than the applicable rent under paragraph (a) of this section, then the maximum rent for units under this paragraph is that calculated under paragraph (a) of this section.

(2) The rent does not exceed 30 percent of the family's adjusted income. If the unit receives Federal or State project-based rental subsidy and the very low-income family pays as a contribution toward rent not more than 30 percent of the family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the Federal or State project-based rental subsidy program.

The unit composition and initial rent for each HOME Unit per month shall be established according to TABLE 1 (inclusive of the utility allowance; set according to the Section 8 RAD Housing Assistance Payments contract). The HOME units are targeted to serve families below 50% area median income. At a minimum, HOME requires all units designated as HOME Units be occupied by families with incomes below 60% of the Area Median Income (AMI). And, 20% of the designated HOME Units must be occupied by families whose income is below 50% AMI. Income averaging of HOME Units is NOT allowed.

Table 1	HOME Unit Composition and Initial Rent inclusive of Utilities			
Unit Type	Total Monthly Rent RAD Contract Limit (inclusive of utility allowances)	Number of HOME Units Reserved for Families Below 50% AMI	Total Monthly Rent High HOME Limit (inclusive of utility allowances)	Number of HOME Units Reserved for Families Between 50% & 60% AMI
One-Bedroom	$721	1	$634	0
Two-Bedroom	$927	2	$836	0
Three-Bedroom	$1,205	1	$1,118	0
Four Bedroom	$1,410	1	$1,320	0

The procedures for rent increases are as follows: As required by the RAD Use Agreement and RAD program.

The total 49 units to be built are as follows:

8 - One-Bedroom units at approximately 636 sq. ft.;
27 – Two-Bedroom units at approximately 1083 sq. ft.;
12 – Three-Bedroom units at approximately 1,223 sq. ft.
2 – Four-Bedroom units at approximately 1,292 sq. ft.

Initial distribution of HOME Units are as follows:

1 - One-Bedroom Unit
2 - Two-Bedroom Units
1 - Three-Bedroom Unit
1 - Four-Bedroom Unit

Owner is prohibited from charging fees that are not customarily charged in rental housing, except for extra services voluntarily provided by Owner, such as bus transportation or meals.

The Owner shall provide the address (e.g., street address and apartment number) of each HOME Unit no later than the time of initial occupancy.

Violence Against Women Act (VAWA)

VAWA requirements set forth in 24 C.F.R. § 92.359 and 24 CFR part 5, subpart L, apply to rental housing assisted with HOME funds, and therefore apply to this Project. The Developer will comply with these requirements by providing the notification requirements, bifurcation lease requirements, the VAWA lease term/addendum, and will develop and submit to the City a copy of the Emergency Transfer Plan.

Change Orders

Once final development plans have been approved by the City, it is the Developer's responsibility to notify the City of any problems the contractor has in conforming to the accepted plans for any element of the proposed Project prior to construction.

It is the responsibility of the Developer during construction activities to resolve construction problems due to changed conditions or design errors encountered by the contractor during the progress of any portion of the Project. If, in the opinion of the City, the modifications to the accepted plans proposed by the Developer involve significant changes to the character of the work, or to the future contiguous public or private improvements, the Developer shall be responsible for resubmitting the revised plans to the City for acceptance prior to any further construction related to that portion of the Project. Any improvements not constructed in accordance with the accepted plans, or the accepted revised plans, shall be removed and reconstructed according to the approved plans. The City shall be notified of any changes to the originally accepted plans and/or any accepted revised plans.

The Developer shall be in compliance with any "General Notes" found on the accepted plans.

Davis Bacon

Based on the number of HOME Units assisted, compliance with the Davis-Bacon Act **is NOT triggered**.

Section 3 Economic Opportunity

Because this agreement is for an amount greater than $200,000.00, the City's Section 3 Plan must be implemented by the Developer. The Section 3 Compliance Plan is made a part of this Agreement as Exhibit "F." The Compliance Plan must be a part of all bid documents for the Project (contracts and subcontracts), and the Section 3 Clause must be a part of all bid processes and contracts.

The Policies and Procedures for Section 3, which include the Compliance Plan, are available for the Developer's review upon request.

Debarred Contractors

The Developer must ensure compliance with 2 CFR 180 and 2 CFR 200.2424 regarding Debarred Contractors through use of the Federal Debarment Certification, attached as Exhibit "C." Additionally, the Developer shall provide verification of contractor/subcontractor eligibility by providing active, non-excluded, eligibility documentation from the www.sam.gov entity database.

Procurement

Developer will ensure that all procurement transactions are conducted in a manner providing full and open competition consistent with the standards of Title 24 of the Code of Federal Regulations. The bid process must allow for preference to a certified Section 3 business concern.

Environmental Assessment

[Reserved]

Native American Tribal Issues

In the event of an inadvertent discovery (cultural resources and/or human remains), a Stop Work Order on construction activities must be issued and immediate notification provided to the Authority so that notification can be provided to Native American Tribes with an interest in the area. Construction shall cease until proper treatment of cultural resources and/or human remains is achieved and such notification has been provided by the affected tribe to the Authority.

Tenant Selection, Income, and Lease

Owner shall be responsible for tenant selection and for verifying the income of all tenants at the time of application, as well as during the required annual recertification, and providing copies of all pertinent documentation to the City upon request.

1) Timing: The HOME Units must be occupied by households that are eligible as low- income families and must meet the requirements of 24 C.F.R. § 92.252 to qualify as affordable housing. If the housing is not occupied by eligible tenants within six (6) months following the date of Project completion, Owner will submit marketing information and, if appropriate, submit a marketing plan. Owner will repay HOME funds invested in any housing unit that has not been rented to eligible tenants within eighteen (18) months after the date of Project completion in accordance with the terms of this Agreement.
2) Income Verification at Occupancy: Owner shall determine tenant income eligibility at the time of initial tenancy by using 24 C.F.R. § 92.203 and Part Five of HUD's income determination schedule. Source documentation must be obtained and verified in accordance with the Part Five income definition. Under this income verification method, income from certain assets must also be included. Guidance on calculating incomes under the Part Five definition shall be provided by the Housing Authority upon request.

Total income is based on the income of the entire household (not just the primary tenant), as further defined under Part Five income definitions. Further, income is based on anticipated income and shall take into account any expected changes in income to the extent possible.

3) Income Re-certification: Owner shall re-certify annually the income of all current tenants on the anniversary date of each lease. Re-certification at this time can consist of a written statement and certification from the household with regards to current income and household size. The certification must state that the information is complete and accurate and must indicate that source documentation will be provided upon request. An owner of a multifamily project with an affordability period of 10 years or more who re-examines tenant's annual income through a statement and certification in accordance with § 92.203(a)(1)(ii), must examine the income of each tenant, in accordance with § 92.203(a)(1)(i), every sixth year of the affordability period. Otherwise, an owner who accepts the tenant's statement and certification in accordance with § 92.203(a)(1)(ii) is not required to examine the income of tenants in multifamily or single-family projects unless there is evidence that the tenant's written statement failed to completely and accurately state information about the family's size or income.

4) Tenant Lease: Owner must execute a written lease and Rules of Occupancy statement with every Project tenant covered under this agreement. The lease between a tenant and the Owner shall be for not less than twelve (12) months, unless by mutual written agreement. At no time will a lease be for less than thirty (30) days. The written agreement between the Owner and the tenant for a lease term of less than one (1) year, along with any lease amendments, must be retained in the tenant file. Termination of tenancy may be for cause only. All leases must be written and comply with the terms of 24 C.F.R. § 92.253.

5) Prohibited Lease Terms: The lease between a tenant and the Owner **may not** contain any of the following provisions:

   i. Agreement to be sued or indemnify: Agreement by tenant to be sued, admit guilt, indemnify owner, or consent to a judgment in favor of the Owner in a lawsuit brought in connection with the lease.

   ii. Treatment of property: Agreement by tenant that the owner may seize or sell personal property of household members without notice to the tenant and a court decision on the rights of the parties. (This provision does not apply to disposition of personal property left by a tenant who has vacated a property.)

   iii. Excusing Owner from responsibility: Agreement by the tenant not to hold the Owner or the Owner's agents legally responsible for actions or failure to act, whether intentional or negligent.

   iv. Waiver of notice: Agreement by the tenant that the Owner may institute a lawsuit without notice to the tenant.

   v. Waiver of legal proceedings: Agreement by tenant that the Owner may evict the tenant or household members without instituting a civil court proceeding in which the tenant has the opportunity to present a defense or before a court decision on the rights of the parties

   vi. Waiver of a jury trial: Agreement by the tenant to waive any right to a jury trial.

vii. Waiver of right to appeal court decision: Agreement by tenant to waive the tenant's right to appeal or otherwise challenge in court a decision in connection with the lease.

viii. Tenant chargeable with cost of legal actions regardless of outcome: Agreement by the tenant to pay attorney fees or other legal costs even if the tenant wins the court proceeding by the Owner against the tenant. The tenant, however, may be obligated to pay costs if the tenant loses.

Tenant Selection

Prior to any tenancies, the Owner shall adopt written tenant selection policies and criteria and comply with 24 C.F.R. § 92.253.

Monitoring Schedule

The City monitors for compliance with HOME requirements annually. The Owner will be responsible for reporting beneficiary and rent data on each HOME Unit on HOME Monitoring Checklist 6-D (attached as Exhibit "E") throughout each year. Additionally, on-site monitoring to inspect individual HOME Units (a minimum of 20%), review of rent and occupancy requirements, review of the lease in effect and tenant selection policies, and other items noted in this Agreement will be conducted in the first year of this Agreement, and every subsequent year for the duration of the period of affordability.

EXHIBIT B
ACCOUNTING SYSTEM COMPLIANCE PROVISIONS

1. As used in this Exhibit, the term "Owner" shall mean the entity or entities entering into the Agreement with the City of Pueblo, a Municipal Corporation, to which this Exhibit is attached.

2. Owner is subject to and shall comply with the requirements of 2 CFR Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

3. Owner agrees to maintain Project and accounting records in accordance with generally accepted accounting principles which accurately reflect all costs chargeable to the Project, utilize adequate internal controls, and maintain source documentation for all costs incurred. The City shall have the right to review and approve Owner's account system and internal controls prior to the release of any funds under the Agreement.

4. During the preconstruction and construction phases of the Project, the Owner shall not materially deviate from any approved Project budget unless any proposed major revision thereto has been submitted to City and approved in writing. Change orders of less than $75,000.00 each or $300,000.00 in the aggregate shall not be deemed to be material deviations or major revisions to the Project budget.

5. Nothing in the Agreement or the Exhibits thereto shall obligate City to any third parties nor to any contractors, subcontractors, consultants, suppliers or workmen who have contracted with Owner or provided any materials or services to Owner.

6. The City has the right to periodically perform interim audits and a final audit of the Project and funds provided under the Agreement. Owner shall fully cooperate with City in undertaking any such audit and shall provide a suitable work area for City's audit personnel to inspect and copy records.

EXHIBIT C

FEDERAL DEBARMENT CERTIFICATION

CERTIFICATION REGARDING DEBARMENT, SUSPENSION

INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTIONS

This certification is required by the regulations implementing *Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants responsibilities*. The regulations were published as ***Part IV of the January 30, 1989, Federal Register (pages 4722-4733).***

****** BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE ******

(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 participation in this transaction 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.

_____

Organization Name PR/Award Number or Project Name

_____

Name(s) and Title(s) of Authorized Representative(s)

_____ _____

Signature(s) Date

Federal Debarment Certification – continued on following page

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.

2. 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.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form 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.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-Procurement List.

8. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 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.

Form AD-1048 (1/92)

EXHIBIT D
CERTIFICATIONS

The entity entering into this Agreement with the City hereby certifies that the Project will be conducted and administered in compliance with all of the following requirements:

(1) Title VI 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 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 Subpart J of 24 CFR 570 and 2 CFR Part 200, 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) HUD environmental criteria and standards [24 CFR Part 51, Environmental Criteria and Standards];

(15) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303(e));

(16) 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;

(17) The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1272 et seq.) as amended; particularly section 7 (b) and (c) [16 U.S.C. 1278 (b) and (c)];

(18) 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;

(19) 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)];

(20) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et seq.); particularly sections 2 and 5;

(21) It will comply with the 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.);

(22) 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

(23) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(24) 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 provisions 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.

(25) No CDBG funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed, in accordance with 24 CFR Parts 87 and 91.

(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.

(26) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. CPD-90-44 EPA/OSHA.

(27) When HOME Investment Partnership Act funds are used, the Subrecipient will comply with implementing regulations and requirements under 24 CFR 92.

CRAWFORD TOWNHOMES, LLLP
A Colorado Limited Liability Limited Partnership

By: Crawford MM, LLC, a Colorado limited liability company, its general partner

By: El Centro Pueblo Development Corporation, Inc., a Colorado non-profit corporation, its sole member

By: _____
Steven L. Trujillo, Secretary

Date: _____

EXHIBIT E

Project Name: _____ Owner Name: _____

Project ID: _____ Reporting Period: from _____ to _____

A	B	C	D	E	F	G	H	I	J	K	
Unit #	Low or High HOME Rent Unit?	Tenant Name	No. Pers.	No. BR's	Date of Last Income Cert.	Max Rent	Utility Allowance	Monthly Unit Rent	Tenant's Annual Gross Income	Compliance Y/N?	Unit Status (PJ Only)

Reviewer: _____ Date: _____

§

EXHIBIT F
CITY OF PUEBLO, SECTION 3 PROGRAM

Developer's HOME Funding Application
Exhibit XII – Section 3 Project Plan

CITY OF PUEBLO/PUEBLO CONSORTIUM

HOME INVESMENT PARTNERSHIP FUND
SECTION 3 CERTIFICATION

PURPOSE, AUTHORITYAND RESPONSIBILITY

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of HUD funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers; and (b) 5% of total labor hours worked by Targeted Section 3 workers.

Housing Authority of the City of Pueblo (hereinafter called the Recipient/Contractor) hereby **CERTIFIES** that upon being awarded a contract to participate in the following HUD-funded project:

Crawford Townhomes (the "Project")

located at: 2601 Crawford Street Pueblo, CO 81004,

that the Recipient/Contractor:

(a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and

(b) will comply with HUD's regulations in 24 CFR Part 75; and

(c) will submit to the Pueblo Consortium appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 workers, and confirmation of Section 3 business concerns and YouthBuild participants; and

(d) will include the Section 3 Clause and this Section 3 Certification of Compliance in every subcontract and further agrees to take the appropriate action pursuant to those regulations in the event the contractor/subcontractor is found to be in violation of 24 CFR Part 75; and

(e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

By: Steven L. Trujillo
Authorized Representative's Signature

Name and Title: Steven L. Trujillo, Executive Director

Date: 11/22/2021

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

C. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

D. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Exhibit XII B – Commitment to Additional Outreach

	Outreach Effort	Man Hours Invested	Developer's Cost Allocated to Task
☒	Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.	80	$2,690
☒	Provide training or apprenticeship opportunities.	80	$2,690
☐	Provide technical assistance to help Section 3 workerscompete for jobs (*e.g.,* resume assistance, coaching).		
☒	Provide or connected Section 3 workers with assistance in seeking employment including: draftingresumes, preparing for interviews, and finding job opportunities connecting residents to job placement services	20	$673
☒	Held one or more job fairs.	40	$1,346

☒	Provide or referred Section 3 workers to services supporting work readiness and retention (*e.g.*, work readiness activities, interview clothing, test fees, transportation, childcare).	20	$673
☒	Provide assistance to apply for/or attend communitycollege, a four-year educational institution, or vocational/technical training.	10	$336
☒	Assisted Section 3 workers to obtain financial literacy training and/or coaching.	10	$336
☒	Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.	100	$3,365
☐	Provide technical assistance to help Section 3 business concerns understand and bid on contracts.		
☐	Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.		
☐	Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 businessconcerns.		
☒	Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.	100	$3,365
☒	Outreach, engagement, or referrals with the state one-stop system as defined in Section121(e)(2) of the Workforce Innovation and Opportunity Act.	100	$3,365
☐	Other:		

Policies & Procedures
Implementing Section 3
of the Housing & Urban Development Act



An

Orientation Guide
for Contractors, Developers, and Sub-Grantees
doing business with the City of Pueblo

Introduction

This guidebook has been prepared to provide information and guidance to firms and entities receiving housing or community development assistance covered under Section 3 of the Housing and Urban Development Act of 1968. This guidance should outline for recipients how the City of Pueblo through the Department of Housing and Citizen Services shall administer the Section 3 Regulations. This guide should not be treated as a comprehensive recitation of the Section 3 Act and Section 3 Regulations. It is a summary of the pertinent provisions of the Act and Regulations and focuses on the requirements imposed on the Sub-Recipient, Developer, General Contractor, and Subcontractor receiving the requisite amount of Section 3 Funds.

The City of Pueblo reminds each Sub-Recipient, Developer, General Contractor and Subcontractor that it bears the responsibility to familiarize itself with the Section 3 Act and Section 3 Regulations prior to accepting projects covered by Section 3 from the City of Pueblo.

City of Pueblo's Policy Statement

The City of Pueblo, through the Department of Housing & Citizen Services (DHCS) will require recipients of HUD sourced funds to provide employment and contracting opportunities to low- and very low-income persons (as defined in 24 CFR Part 75.5) residing in the City of Pueblo and the greater Pueblo Metropolitan Statistical Area (MSA) and to area businesses meeting the definition of a "Section 3 Business Concern" (as defined by 24 CFR Part 75.5) on all Section 3 Covered Projects. Accordingly, DHCS has implemented policies and procedures to ensure that Section 3 regulations, when required, are followed and shall develop programs and procedures as necessary to implement this policy covering all procurement contracts where labor and/or professional services are provided on a Section 3 covered project, in order to achieve the goals outlined within the City of Pueblo's Consolidated Plan for Housing and Community Development. This policy shall not apply to contractors who only furnish materials or supplies through Section 3 covered assistance. It will apply to contractors who install materials or provide equipment on a Section 3 covered project. There is nothing in the policy that should be construed to require the employment or contracting of a Section 3 resident or business who does not meet the qualifications of the position to be filled or who cannot fulfill the contract requirements.

What is Section 3?

Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u) and its implementing federal regulations in 24 C.F.R. 75. The purpose of Section 3 is to ensure that employment and economic opportunities generated by certain financing provided by the U.S. Department of Housing and Urban Development (HUD) is, to greatest extent feasible, directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns that provide economic opportunities to low- and very-low income persons.

The City of Pueblo has set forth policies and procedures to ensure that employment and economic opportunities generated by Section 3 covered projects, to the greatest extent feasible, are directed to low- and very low-income persons and business concerns.

What Projects are Section 3 Covered Projects?

Section 3 policies are applicable to all **HUD sourced construction projects or HUD sourced construction financing** when the total amount of assistance to the project exceeds a threshold of **$200,000** related to:

- Housing rehabilitation and housing construction; and
- Other public construction funded by HUD programs to provide community development financial assistance.

Section 3 policies also apply to HUD sourced **lead hazard reduction projects** or financing when the total amount of assistance to the project exceeds a threshold of **$100,000**.

Who are Section 3 Workers?

Section 3 worker means any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- Participants in YouthBuild Programs; or,
- The worker is employed by a Section 3 business concern; or
- The worker's income for the previous or annualized calendar year is below the annual income limit established by HUD, currently:

Pueblo County	1
Section 3 Worker 2022 Annual Income	$46,050

Targeted Section 3 worker means:

- A Section 3 worker employed by a Section 3 business concern; or
- A Section 3 worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years (effective date 11/30/2020):
  - (i) Living within the service area or the neighborhood of the project (within one mile of the project or an area sufficient to encompass a population of 5000 people; or
  - (ii) A YouthBuild participant.

What is a Section 3 Business Concern?

A business meeting at least one of the following criteria, documented within the last six-month period:

- Is a business that is 51% or more owned and controlled by low- or very low-income persons; or
- Is a business that is 51% or more owned and controlled by current public housing residents or residents who currently live in Section 8-assissted housing; or
- Over 75% of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers.

Section 3 Employment and Contracting Goals

The City of Pueblo / Pueblo Consortium provides HOME funds from the U.S. Department of Housing and Urban Development (Federal funds) which must comply with Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that economic opportunities that are generated by the use of Federal funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.

Section 3 establishes employment benchmark goals of:

- **25% of total labor hours worked by Section 3 workers, and**
- **5% of total labor hours worked by Targeted Section 3 workers.**

These procedures summarize the requirements of Section 3 and describe how the City of Pueblo and the Pueblo Consortium implement the requirements. The procedures outline what the City/Consortium and its housing partners must do to comply with Section 3 and identify the record-keeping and reporting requirements that funded entities must collect and maintain.

The Section 3 implementing regulations, 24 CFR part 75, can be found at www.ecfr.gov.

Section 3 applies to Section 3 projects funded by the City of Pueblo and the Pueblo Consortium as follows [24 CFR 75.3(a)(2)(i)]:

A Section 3 project means housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. A lower assistance threshold of $100,000, applies when assistance from the Lead Hazard Control and Healthy Homes programs, as authorized by Sections 501 or 502 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z- 1 or 1701z-2), the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4801 *et seq.*); and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851 *et seq.*). The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing.

For projects with HOME assistance exceeding the threshold limits, Section 3 applies to the entire project, whether the project is fully or partially assisted with HOME funds [24 CFR 75.3(a)(2)(iii)].

Section 3 requirements do not apply to material supply contracts [24 CFR 75.3(b)].

Section 3 Employment and Training

Recipient is defined as the entity receiving HOME funds and/or a HOME commitment in excess of the threshold amount. $200,000 for most HUD programs and $100,000 for activities funded through the Office of Lead Hazard Control and Healthy Homes.

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, ensure employment and training opportunities arising in connection with the Section 3 project is provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located [24 CFR 75.19(a)(1)].

Where feasible, priority for opportunities and training should be given to [24 CFR 75.19(a)(2)(i-ii)]:

- Section 3 workers residing within the service area or the neighborhood of the project, and
- Participants in YouthBuild programs.

Section 3 Contracting

To comply with Section 3 regulations, the Recipient must, to the greatest extent feasible, ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located [24 CFR 75.19(b)(1)].

Where feasible, priority for contracting opportunities should be given to [24 CFR 75.19(b)(2)(i-ii)]:

- Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
- YouthBuild programs.

Section 3 Reporting requirements

To comply with Section 3 regulations, the Recipient must report [24 CFR 75.25(a)]:

- The total number of labor hours worked;
- The total number of labor hours worked by Section 3 workers; and
- The total number of labor hours worked by Targeted Section 3 workers.

The labor hours reported must include the total number of labor hours worked on a Section 3 project, including labor hours worked by any subrecipients, contractors and subcontractors [24 CFR 75.25(a)(3)].

In order to meet Section 3 reporting requirements, Recipients may report labor hours by Section 3 workers and Targeted Section 3 workers from professional services without including labor hours from professional services in the total number of labor hours worked for the project [24 CFR 75.25(a)(4)].

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient's reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks (see Form S3c).

Section 3 Contract Provisions

Recipients must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project [24 CFR 75.27(a)] (see Form "Additional Reporting").

Section 3 business concern means (24 CFR 75.5):

(1) A business concern meeting at least one of the following criteria, documented within the last six- month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 worker means (24 CFR 75.5):

(1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or

(ii) A YouthBuild participant.

Penalties

In the event the developer fails to meet its commitments and cannot demonstrate to the City of Pueblo or the Pueblo Consortium's satisfaction that good faith efforts have been made to fulfil their commitments, it shall be subject to penalties for non-compliance as enumerated in the construction documents or the Affordable Housing Development Agreement between the Consortium member and the developer. A penalty for non-compliance up to 5% of loan/grant amount may be assessed per the Affordable Housing Development Agreement. A penalty of debarment may additionally be imposed by the City of Pueblo or Consortium member.

Exhibits to Section 3 Policies and Procedures

Form	Description	
S3a	Certificate of Section 3 Compliance and Section 3 Clause S3b	Parties Involved Form
S3c	Weekly Hours Worked Certification	
S3d	Section 3 Worker Certification	
S3e	Section 3 Business Certification	

CITY OF PUEBLO / PUEBLO CONSORTIUM
CDBG / HOME INVESMENT PARTNERSHIP FUND

SECTION 3 CERTIFICATION

PURPOSE, AUTHORITYAND RESPONSIBILITY

Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that promotes local economic development and individual self-sufficiency.

Section 3 requires that, to the greatest extent possible, economic opportunities that are generated by the use of HUD funds be made available to low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended. Section 3 established benchmark goals for (a) 25% of total labor hours worked by Section 3 workers; and (b) 5% of total labor hours worked by Targeted Section 3 workers.

_____ (hereinafter called the Recipient/Contractor) hereby **CERTIFIES** that upon being awarded a contract to participate in the following HUD-funded project:

_____ (the "Project")

located at:_____,

that the Recipient/Contractor:

(a) is under no contractual or other impediment that would prevent it from complying with requirements of Section 3 as set forth in 24 CFR part 75; and

(b) will comply with HUD's regulations in 24 CFR Part 75; and

(c) will submit to the City of Pueblo or Pueblo Consortium Member, appropriate Section 3 documentation of total labor hours performed per contractor/subcontractor, certifications of Section 3 workers, and confirmation of Section 3 business concerns and YouthBuild participants; and

(d) will include the Section 3 Clause and this Section 3 Certification of Compliance in every subcontract and further agrees to take the appropriate action pursuant to those regulations in the event the contractor/subcontractor is found to be in violation of 24 CFR Part 75; and

(e) will not contract/subcontract with any contractor/subcontractor where the Recipient/Contractor has notice or knowledge that the contractor/subcontractor has been found in violation of any provision of 24 CFR Part 75.

By: _____ Authorized Representative's Signature

Name and Title: _____

Date: _____

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3), contributes to the establishment of stronger, more sustainable communities by ensuring that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible, directed toward low- and very low-income persons, particularly those who receive Federal financial assistance for housing and those residing in communities where the financial assistance is expended.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

C. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

D. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Form S3b

Recipient must complete this form and submit to Consortium.

Parties Involved Form

Project Name

_____

Owner Name	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Developer	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

GC	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	

Subcontractor	
Contact Name	
Email Address	
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Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	
Phone	

Subcontractor	
Contact Name	
Email Address	
Address	
City, State, Zip	
Phone	
Phone	

city of PUEBLO colorado

Section 3 Weekly Hours Worked Report

Date:		**Contractor:**	
Pay Period:		**Address:**	
Project:		**City:**	
Address:		**State:**	
City:		**Zip Code:**	

Employee	Emp. No.	Section 3 Worker (Yes/No)	Targeted Section 3 Worker (Yes/No)	Total Hours Worked on the Project during Pay Period	Section 3 Hours Worked	Targeted Section 3 Hours Worked	Sec 3 %	Targeted Sec. 3 %
Totals								

Signature:		Date:	

Definitions

Section 3 worker means (24 CFR 75.5):

(1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.

(ii) The worker is employed by a Section 3 business concern.

(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Targeted Section 3 worker means [24 CFR 75.21(a)]:

A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented within the past five years:

(i) Living within the service area or the neighborhood of the project, as defined in § 75.5; or

(ii) A YouthBuild participant.

Section 3 business concern means (24 CFR 75.5):

(1) A business concern meeting at least one of the following criteria, documented within the last six- month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)]

If the Recipient's reporting indicates the Section 3 benchmarks have not been met, the Recipient must report on the nature of activities pursued in the absence of not meeting Section 3 benchmarks. In the absence of not meeting Section 3 benchmarks, the Recipient made efforts including (check all that apply and provide documentation of effort(s)):

__ Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

__ Provided training or apprenticeship opportunities.

__ Provided technical assistance to help Section 3 workers compete for jobs (*e.g.,* resume assistance, coaching).

__ Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.

__ Held one or more job fairs.

__ Provided or referred Section 3 workers to services supporting work readiness and retention (*e.g.,* work readiness activities, interview clothing, test fees, transportation, child care).

__ Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.

__ Assisted Section 3 workers to obtain financial literacy training and/or coaching.

__ Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.

Provided technical assistance to help Section 3 business concerns understand and bid on contracts.

Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.

__ Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.

Additional Reporting if Section 3 Benchmarks are not met [24 CFR 75.25(b)] (Cont.)

__ Promoted use of business registries designed to create opportunities for disadvantaged and small
businesses.

__ Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2)
of the Workforce Innovation and Opportunity Act.

__ Other, please describe:_____

By signing this document, as an authorized employee of the Recipient, I certify the above efforts are true and accurate to the best of my knowledge and belief.

_____

Recipient Signature Date

Section 3 Worker Certification

Employee Name _____ Project Name _____

Employee's Address _____ City _____ State _____ Zip _____

Section 3 worker means (24 CFR 75.5):

(1) Any worker who currently fits or when hired within the past five years (time period only goes back to the 24 CFR 75 effective date of 11-30-2020) fit at least one of the following categories, as documented:

(i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD (see the following income limits).
(ii) The worker is employed by a Section 3 business concern.
(iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Pueblo County 2022 Income Limit	
Section 3 Worker's Annual Income	$46,050

By signing this document, I certify that I am a Section 3 worker because I fit into one or more categories listed above.

Signature _____ Date _____

Section 3 Business Certification

If your business meets at least one of the categories listed below, please complete this form.

Business Name			
Business Address	City	State	Zip
Contact Name	Email		Phone

Section 3 business concern means (24 CFR 75.5):

(1) A business concern meeting at least one of the following criteria, documented within the last six- month period:

(i) It is at least 51 percent owned and controlled by low- or very low-income persons;

(ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or

(iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

By signing this document, I certify

_____

is a Section 3 business concern because it fits into one or more categories listed above.

_____

Signature Title

Date

EXHIBIT G

City of Pueblo
Department of Housing and Citizen Services

Affirmative Fair Housing Marketing Procedures

It is the policy of the Department of Housing and Citizen Services to administer its housing programs affirmatively, as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, sex, sexual orientation, handicap, familial status or national origin. Each applicant for participation in the Department's housing programs shall pursue affirmative fair housing marketing policies in soliciting buyers and tenants, in determining their eligibility, and in concluding sales and rental transactions.

METHODS AND PRACTICES FOR INFORMING THE PUBLIC

In order to inform the public, owners, and prospective tenants about federal fair housing laws and the City's affirmative marketing policies, the developer will include the Equal Housing Opportunity logotype and/or slogan, and a logotype and/or slogan indicating equality, non-discrimination, and equal access, in all press releases, solicitations, and program information materials.

The City shall develop an outreach plan each year, which will include, singularly or in combination, advertisements in local newspapers, public service announcements, distribution of fair housing brochures at relevant events, community presentations, or other outreach activities to inform the community about fair housing rights and responsibilities.

REQUIREMENTS AND PRACTICES FOR OWNERS

All developers who receive funds from the City are required to enter into loan and regulatory agreements with the City prior to receiving any funds. These agreements are designed to bind the recipients to all of the program requirements, including the affirmative fair marketing procedures. Developers receiving federal funds are required to create units that are accessible to people with disabilities. At least five percent of the new units must be accessible to people with mobility impairments and at least two percent must be accessible to people with hearing or vision impairments.

In addition to Federal laws requiring units for people with physical disabilities, Fair Housing laws require owners to make reasonable accommodations or modifications for people with all types of disabilities. In doing so, recipients are required to make and pay for structural modifications to dwelling units and common areas when needed as a reasonable accommodation for tenants or applicants with disabilities. In such cases where providing a requested accommodation would result in an undue financial and administrative burden, developers are required to take any other action that would not result in an undue burden.

Recipients must submit proposed marketing and management plans on the form HUD-935.2(a) for multifamily projects or 935.2(b) for single-family projects, along with supporting documentation to the City for review and approval. Prior to commencing marketing activities, owners will be required to meet with City staff to review the proposed marketing strategy to ensure that

affirmative marketing efforts will be employed.

Management plans must include policies for ensuring reasonable accommodation for persons with disabilities. Management plans must also contain policies and provisions for recordkeeping and monitoring.

Marketing plans must include information on strategies for reaching persons and groups not likely to apply including, but not limited to, households with a disabled member. Marketing plans must also include procedures for ensuring that accessible units are occupied by people with disabilities who require accessible features, as described below.

Marketing plans must include the use of the fair housing logotype and/or slogan, and use of a logotype and/or slogan and fair housing posters must be displayed at the project rental or sales office. Owners are required to advertise in newspapers of general circulation, and to provide notice to community groups when units become available.

Marketing strategies must include use of a welcoming statement to encourage people with disabilities to apply for units, as well as a description of available units, accessible features, eligibility criteria, and the application process.
Marketing plans must indicate that qualified applicants with disabilities who request accommodations shall receive priority for the accessible units. Open houses and marketing offices must be accessible to allow disabled persons to visit the site and retrieve information about accessible units.

PROCEDURES FOR OUTREACH TO PERSONS LEAST LIKELY TO APPLY

Owners are required to engage in special outreach to persons and groups in the housing market area who, in the absence of such outreach are not likely to apply for the housing. In determining what special outreach is needed, Owners should take into account past patterns of discrimination, the racial and ethnic makeup of the neighborhood, language barriers, location, or other factors that might make it less likely that some persons and groups (a) would be aware of the availability of the housing or (b) would be likely to apply for the housing.

In particular, owners are required to advertise in media, which are reasonably likely to reach such targeted groups, and to provide notice to community organizations, fair housing agencies, and other similar organizations. A list of local disability organizations and community development boards will be provided by DHCS upon request. Multilingual advertising is encouraged where such efforts would result in reaching persons and groups not likely to apply.

SPECIFIC PROCEDURES FOR ENSURING THAT ACCESSIBLE UNITS ARE OCCUPIED BY PEOPLE WITH DISABILITIES WHO REQUIRE ACCESSIBLE FEATURES

Outreach by owners to the community shall include the distribution of notices describing:

- the availability of all units;
- specific information regarding the availability and features of accessible units;
- eligibility criteria; and
- application procedures.

All application forms shall include information indicating that people with disabilities requiring accessible features shall receive priority for accessible units. The application must include a section to be filled out by any applicant requesting an accommodation with details on

the applicant's special needs for accessible features or other accommodations. Under no circumstance should an applicant be required to disclose a disability unless requesting an accommodation. This will allow developers to provide, upfront, any necessary accessible features and/or accommodations for those people requesting accommodations.

Owners shall take reasonable nondiscriminatory steps to maximize the utilization of accessible units by eligible individuals whose disability requires the accessibility features of the particular unit. To this end, any vacant, accessible unit should first be offered to a current, disabled tenant of the same project or comparable project under the owner's control.
The disabled occupant must require the features in the vacant unit and must be occupying a unit not having such features. If no such occupant exists, the developer shall then offer the unit to a qualified applicant on the waiting list who has a disability requiring the accessibility features of the unit.

Furthermore, when offering an accessible unit to applicants without disabilities, the owner may require such applicants to agree to move to a non-accessible unit when one becomes available or when the accessible unit is needed by a disabled household. Such an agreement may be incorporated into the lease.

***Note*:** An owner may not prohibit an eligible family with a member who has a disability from accepting a non-accessible unit, which may become available before an accessible unit. Owners are required to modify such a non-accessible unit as needed or move a disabled household into a unit that can be altered, unless the modifications would result in an undue financial and administrative burden or alteration in the nature of a program. All applicants should be provided information about how to request a reasonable accommodation at the time they apply for admission and at every recertification.

RECORDKEEPING AND MONITORING

Owners must maintain records for at least five years regarding marketing and tenant selection practices. Upon request, Owners are required to submit to the City copies of all advertisements indicating the date the advertisements were placed and the media outlets which were used.
Owners must also provide copies of notices sent to community groups and a listing of those groups to which notices were sent. Owners must maintain records regarding the characteristics of persons applying for vacant units, and the characteristics (including race and familial status) of persons actually selected for the units. Owners' records must also include the number, location, and description of accessible units, and success in filling such units with people who need accessible features or other accommodations. In addition, Owners should document any reasonable accommodations made to, or requested by, tenants during the reporting year.

As part of the City's monitoring of assisted housing developments, the City will review the Owners' records to verify that each qualified household living in an accessible unit has at least one household member who needs the accessible features of the unit.

The duration of monitoring of Affirmative Fair Housing Marketing (AFHM) Requirements varies with each housing program. For homeownership programs, AFHM requirements apply through the completion of initial sales transactions on units covered by the approved AFHM plan. For assisted rental housing, AFHM requirements apply throughout the term of the loan and regulatory agreements, including those periods when the project does not maintain sustaining occupancy.

ANNUAL SURVEY AND CERTIFICATION

Housing providers should complete an annual survey and certification regarding its AFHMP and submit it to the City. The Annual Survey and Certification must respond to all of the following:

1. A current Affirmative Fair Housing Marketing Plan (AFHMP) (Form HUD-935.2A) is required of all City-assisted housing projects.
    a. What is the date of the current AFHMP on file?
2. Does your site office / web site have the Equal Opportunity logo and statement posted?
3. How many units are currently vacant or have given notice to vacate?
4. How are vacant units advertised?
5. In the last year, have any applicants for units been rejected?
    a. If yes, please provide reasons for rejection.
    b. Did any rejected applicants have Housing Choice Vouchers (Section 8) or other rental subsidy sources of income?
6. In the last year, have any residents been evicted?
    a. If yes, provide list of evicted households including building and unit number and reasons for eviction.

Project Name:
Project Address:

Owner Name:
Owner Address:

Signature of Owner or its Agent / Representative: Date:
Printed name and Title:

ASSESSMENT OF SUCCESS AND CORRECTIVE ACTIONS

The City will review records maintained by owners to ensure that Affirmative Fair Housing Marketing requirements are being met. Where the characteristics of applicants are significantly different from the make-up of the City's population (i.e., in cases where specific groups are over-represented or under-represented), the City will examine in more detail the owner's actions to determine if a violation of the requirements has occurred.

The City employs a variety of corrective actions. Initially, owners who have not fully complied with the requirements are directed to engage in targeted marketing efforts to reach groups not initially reached. In cases where owners refuse to comply with the affirmative fair marketing procedures, the City may take additional actions to secure performance under the loan agreement, including declaring the loan in default and recapturing the funds.

EXHIBIT H
LEGAL DESCRIPTION

LEGAL DESCRIPTION

(2) TWO PARCELS OF LAND BEING A PORTION OF *HOUSING SUBDIVISION* RECORDED ON MAY 24, 1952 IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF PUEBLO UNDER RECEPTION NUMBER 913457 (BOOK 16, PAGE 3), A PORTION OF LOT 13, BLOCK 23 OF *UPLANDS PARK* RECORDED ON FEBRUARY 19, 1886 IN SAID RECORDS IN BOOK 2B AT PAGES 33-34 AND A PORTION OF *UPLANDS TOWNHOMES FILING NO. 2* RECORDED ON DECEMBER 6, 2019 IN SAID RECORDS UNDER RECEPTION NUMBER 2161535; LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH LINE OF SAID *HOUSING SUBDIVISION*, MONUMENTED ON THE WEST END BY A FOUND 1-1/2" ALUMINUM TAG STAMPED "MANGINI REEVES INC, PLS 22101" AND ON THE EAST END BY A FOUND 1" YELLOW PLASTIC CAP STAMPED "CARDINAL, PLS 22101" (A 1-FOOT WITNESS CORNER), AND IS ASSUMED TO BEAR NORTH 88°54'18" EAST 1253.48 FEET.

PARCEL 1

COMMENCING AT THE WEST END OF SAID NORTH LINE; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE; THENCE NORTH 88°54'18" EAST, ON SAID NORTH LINE OF *HOUSING SUBDIVISION*, A DISTANCE OF 381.43 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUE NORTH 88°54'18" EAST ON SAID NORTH LINE, A DISTANCE OF 230.44 FEET TO THE NORTHWESTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2* THE FOLLOWING (4) FOUR COURSES:

1. THENCE SOUTH 01°05'42" EAST, A DISTANCE OF 178.95 FEET;
2. THENCE SOUTH 89°26'28" WEST, A DISTANCE OF 32.02 FEET;
3. THENCE SOUTH 01°06'56" EAST, A DISTANCE OF 60.09 FEET;
4. THENCE SOUTH 44°14'08" WEST, A DISTANCE OF 41.63 FEET TO A 184.06 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 13°35'26" WEST, BEING ALSO THE NORTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON SAID EXTERIOR THE FOLLOWING (4) FOUR COURSES:

1. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°56'58", AN ARC DISTANCE OF 19.11 FEET TO A 28.73 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 07°32'42" WEST;
2. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 51°19'09", AN ARC DISTANCE OF 25.74 FEET;
3. THENCE NORTH 46°13'38" WEST, A DISTANCE OF 64.92 FEET;
4. THENCE SOUTH 43°46'26" WEST, A DISTANCE OF 2.99 FEET TO THE NORTHEASTERLY CORNER OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *HOUSING SUBDIVISION*;

THENCE NORTH 46°05'32" WEST ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SITTER PLACE, A DISTANCE OF 22.57 FEET;

THENCE NORTH 48°21'35" EAST, A DISTANCE OF 17.11 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 47.47 FEET;

THENCE SOUTH 88°53'56" WEST, A DISTANCE OF 76.58 FEET;

THENCE NORTH 00°38'19" WEST, A DISTANCE OF 144.77 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 47,937 SQUARE FEET OR (1.10048 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

PARCEL 2

COMMENCING AT THE WEST END OF SAID NORTH LINE OF *HOUSING SUBDIVISION*; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE SOUTH 01°05'45" EAST ON SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 477.95 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 88°53'56" EAST, A DISTANCE OF 260.82 FEET;

THENCE NORTH 01°06'02" WEST, A DISTANCE OF 83.87 FEET;

THENCE NORTH 88°54'36" EAST, A DISTANCE OF 178.06 FEET;

THENCE NORTH 00°50'50" WEST, A DISTANCE OF 49.79 FEET;

THENCE NORTH 89°45'13" EAST, A DISTANCE OF 22.78 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 46.64 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE SOUTHERLY RIGHT-OF-WAY LINE OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2;*

THENCE ON SAID EXTERIOR, SAID SOUTHERLY RIGHT-OF-WAY LINE, AND THE SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, THE FOLLOWING (2) TWO COURSES:

1. THENCE SOUTH 46°13'38" EAST, A DISTANCE OF 15.21 FEET TO A 72.76 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 43°46'21" EAST;
2. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°53'10", AN ARC DISTANCE OF 20.17 FEET TO A 75.64 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 27°59'04" EAST;

THENCE CONTINUE ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE THE FOLLOWING (7) SEVEN COURSES:

1. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°09'13", AN ARC DISTANCE OF 30.57 FEET TO A 300.00 FOOT RADIUS REVERSE CURVE;
2. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 10°01'39", AN ARC DISTANCE OF 52.50 FEET TO A 39.00 FOOT RADIUS COMPOUND CURVE;
3. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°37'02", AN ARC DISTANCE OF 17.44 FEET TO A 63.17 FOOT RADIUS REVERSE CURVE;
4. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 83°11'16", AN ARC DISTANCE OF 91.72 FEET TO A 38.83 FOOT RADIUS REVERSE CURVE;
5. THENCE NORTHEASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 25°31'58", AN ARC DISTANCE OF 17.30 FEET TO A 301.18 FOOT RADIUS COMPOUND CURVE;
6. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°14'17", AN ARC DISTANCE OF 43.30 FEET;
7. THENCE NORTH 88°54'27" EAST, A DISTANCE OF 527.92 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF ACERO AVENUE;

THENCE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 31.69 FEET TO THE SOUTHEASTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE NORTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*;

THENCE CONTINUE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 297.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*, BEING ALSO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SPRAGUE AVENUE;

THENCE SOUTH 88°54'57" WEST ON SAID EXTERIOR AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.63 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK* AND THE SOUTHEAST CORNER

OF BLOCK 3 OF SAID *HOUSING SUBDIVISION*;

THENCE CONTINUE SOUTH 88°54'57" WEST ON THE EXTERIOR OF SAID *HOUSING SUBDIVISION* AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.81 FEET THE SOUTHWEST CORNER OF SAID *HOUSING SUBDIVISION*, BEING ALSO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE WITH SAID EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE NORTH 01°05'45" WEST ON SAID EXTERIOR AND SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 181.65 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 359,855 SQUARE FEET OR (8.26114 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

THE OVERALL PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 407,792 SQUARE FEET OR (9.36162 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

DEED OF TRUST

THIS DEED OF TRUST, made this ____ day of July 2022, between Crawford Townhomes, LLLP, a Colorado limited liability limited partnership, with an address of c/o El Centro Pueblo Development Corporation, Inc., 201 South Victoria Avenue, Pueblo, Colorado 81003, hereinafter referred to as "Grantor," and the Public Trustee of the County of Pueblo, in the State of Colorado, hereinafter referred to as "Trustee," WITNESSETH:

WHEREAS, Grantor has entered into the City of Pueblo Affordable Housing Development Agreement dated the _____ day of July 2022 with the City of Pueblo, a Municipal Corporation, hereinafter referred to as the "Agreement;" and

WHEREAS, the Grantor has executed a Promissory Note, hereinafter referred to as the "Note," dated the _____ day of July 2022 for the principal sum of **Five Hundred Thousand and No/100 Dollars (U.S. $500,000.00**), payable to the order of the City of Pueblo, a Municipal Corporation, located at 1 City Hall Place, Pueblo, Colorado 81003, which amount is an indebtedness of Grantor payable with interest in accordance with the terms of said Note; and,

WHEREAS, the Grantor is desirous of securing performance of all obligations of Grantor under said Agreement and Note and payment of the indebtedness as specified therein.

NOW, THEREFORE, the Grantor, in consideration of the premises and for the purposes aforesaid, does hereby grant, bargain, sell and convey unto Trustee in trust forever, for the use and benefit of the City of Pueblo, a Municipal Corporation (the "Beneficiary"), the following described property, situated in the County of Pueblo, State of Colorado to wit:

See Exhibit A

Also known as Crawford Townhomes, Phase 2A

TO HAVE AND TO HOLD the same, together with all and singular the privileges and appurtenances thereunto belonging: In Trust Nevertheless, That in case of default in the Note or any part thereof or payment as specified therein, according to the tenor and effect of said Note, or in the payment of any prior encumbrances, principal or interest, if any, or in case of a breach of any term of the Agreement, or in case default shall be made in or in case of violation or breach of any of the terms, conditions, covenants or agreements herein contained, the Beneficiary hereunder may declare a violation of any of the covenants herein contained and elect to advertise said property for sale and demand such sale, then, upon filing notice of such election and demand for sale with the Trustee, who shall upon receipt of such notice of election and demand for sale cause a copy of the same to be recorded in the recorder's office of the county in which said real estate is situated, it shall and may be lawful for said Trustee to sell and dispose of the same (en masse or in separate parcels, as the said Trustee may think best), and all the right, title and interest of Grantor, its successors or assigns therein, at public auction at the south front door of the Court House, in the County of Pueblo, State of Colorado, or on said premises, or any part thereof as may be specified in the notice of said sale, for the highest and best price the same will bring in cash, four weeks' public notice having been previously given of the time and place of such sale, by advertisement, weekly, in some newspaper of general circulation at that time published in said County of Pueblo, a copy of which notice shall be mailed within ten days from the date of the first publication thereof to the Grantor at the address herein given and to such person or persons appearing to have acquired a subsequent record interest in said real estate at the address given in the recorded instrument; where only the county and state is given as the address then such notice shall be mailed to the county seat, and to make and give to the purchaser or purchasers of such property at such sale, a certificate or certificates in writing describing such property purchased, and the sum or sums paid therefor, and the time when the purchaser or purchasers (or other person entitled thereto) shall be entitled to a deed or deeds therefor, unless the same shall be redeemed as is provided by law; and said Trustee shall, upon demand by the person or persons holding the same certificate of purchase, when said demand is made, or upon demand by the person entitled to a deed to and for the property purchased, at the time such demand is made, the time for redemption having expired, make and execute to such person or persons a deed or deeds to the said property purchased, which said deed or deeds shall be in the ordinary form of a conveyance, and shall be signed,

acknowledged and delivered by the said Trustee, as grantor, and shall convey and quit-claim to such person or persons entitled to such deed, as grantee, the said property purchased as aforesaid and all the right, title, interest, benefit and equity of redemption of the Grantor, its successors and assigns therein, and shall recite the sum or sums for which the said property was sold and shall refer to the power of sale therein contained, and to the sale or sales made by virtue thereof; and in case of an assignment of such certificate or certificates of purchase, or in case of the redemption of such property, by a subsequent encumbrancer, such assignment or redemption shall also be referred to in such deed or deeds; but the notice of sale need not be set out in such deed or deeds and the said Public Trustee shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges and costs of making said sale, pay to the Beneficiary hereunder or the legal holder of the indebtedness, all moneys and amounts due, according to the tenor and effect thereof, and all moneys advanced by such Beneficiary or legal holder of said indebtedness for insurance, taxes and assessments, with interest thereon at twelve percent per annum, rendering the overplus, if any, unto the said Grantor, his legal representatives or assigns; which sale or sales and said deed or deeds so made shall be a perpetual bar, both in law and equity, against the Grantor, its successors and assigns, and all other persons claiming the said property, or any part thereof, by, from, through or under said Grantor, or any of them. The Beneficiary or holders of the indebtedness may purchase said property or any part thereof; and it shall not be obligatory upon the purchaser or purchasers at such sale to see to the application of the purchase money. If a release deed be required, it is agreed that Grantor, its successors, and assigns, will pay the expense thereof.

And the Grantor, for itself and for its successors and assigns covenants and agrees to and with the Trustee, that at the time of the ensealing of and delivery of these presents he is well seized of the said land and tenements in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in the manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims he may have in or to said lands, tenements and property as a Homestead Exemption, or other exemption, now existing or which may hereafter be enacted in relation thereto and that, subject to the stated title exceptions attached hereto in Exhibit B, the same are free and clear of all liens and encumbrances whatsoever, and the above bargained property shall be in the quiet and peaceable possession of the said Trustee, his successors and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said Grantor shall and will Warrant and Forever Defend.

And that during the continuance of said Note or the indebtedness arising thereunder, the said Grantor will in due season pay all taxes and assessments levied on said property; all amounts due on account of principal and interest on prior encumbrances, if any; and will keep all buildings that may at any time be on said lands, insured against loss by fire with extended coverage endorsements in a company authorized to issue such insurance in the State of Colorado, for such sum or sums as such company or companies will insure for, not to exceed the amount of said indebtedness and any prior encumbrances, except at the option of said Grantor, with loss, if any, payable to the Beneficiary hereunder, as its interest may appear, and will deliver the policy or policies of insurance to the Beneficiary hereunder, as further security for the indebtedness aforesaid. And in case of the failure of Grantor to thus insure and deliver the policies of insurance, or to pay such taxes or assessments or amounts due or to become due on any prior encumbrances, if any, then the Beneficiary or Note Holder (as such term is defined in the Note) may procure such insurance, or pay such taxes or assessments or amount due upon prior encumbrances, if any, and all moneys thus paid, with interest thereon at twelve percent per annum, shall become so much additional indebtedness, secured by this Deed of Trust, and shall be paid out of the proceeds of the sale of the property aforesaid, if not otherwise paid by Grantor, and Beneficiary or Note Holder may for such failure declare a violation of this covenant and agreement.

If all or any part of the property or an interest therein is sold or transferred by Grantor without Beneficiary's prior written consent, excluding the creation of a lien or encumbrance subordinate to this Deed of Trust, Beneficiary may, at Beneficiary's option, declare all the sums secured by this Deed of Trust to be immediately due and payable, together with interest thereon at the rate of four percent (4%) per annum from the time of substantial completion of the Project until said repayment is made. Neither the substitution nor addition of the limited partner or special limited partner of the Grantor, or partners of such limited partner or special limited partner, pursuant to the terms of the Grantor's partnership agreement, nor the transfer of interests in the Grantor's limited partner or special limited partner pursuant to the terms of the Grantor's partnership agreement, shall constitute a default under this Deed of Trust unless such a change results in the Grantor breaching federal affordability requirements pursuant to the Agreement or such a change results in a loss of substantial equity from the property. Beneficiary's consent shall be required for any new mortgage debt, where such consent shall not be unreasonably withheld, provided however that Beneficiary consents to the refinancing of the Colorado Housing Finance Agency's Capital Magnet Fund loan in the amount of $400,000.00.

AND THAT IN CASE OF ANY DEFAULT, Including but not limited to any breach of the affordability requirements detailed in the Agreement, Note, or as otherwise may be required pursuant to 24 C.F.R. Part 92, whereby the right of foreclosure occurs hereunder, the Trustee or the Beneficiary or holder of certificate of purchase, shall at once become entitled to the possession, use and enjoyment of the property aforesaid, and to the rents, issues and profits thereof, from the accruing of such right and during the pendency of foreclosure proceedings and through the period of redemption, if any there be; and such possession shall at once be delivered to the Trustee or the Beneficiary or the holder of the certificate of purchase on request, and on refusal, the delivery of such possession may be enforced by the Trustee or the Beneficiary or holder of the certificate of purchase by any appropriate civil suit or proceeding, and the Trustee or Beneficiary or the holder of the certificate of purchase, or any thereof, shall be entitled to a Receiver for said property, and of the rents, issues and profits thereof, after such default, including the time covered by foreclosure proceedings and the period of redemption, if any there be, and shall be entitled thereto as a matter of right without regard to the solvency or insolvency of the Grantor or of the then owner of said property and without regard to the value thereof, and such Receiver may be appointed by any court of competent jurisdiction upon ex parte application and without notice--notice being hereby expressly waived--and all rents, issues and profits, income and revenue therefrom shall be applied by such Receiver to the payment of the indebtedness hereby secured, according to the law and the orders and directions of the Court.

AND, That in case of default in any of said payments of principal or interest, according to the tenor and effect of said Note aforesaid, or any part thereof, or a breach of any term of the Agreement, or of a breach or violation of any of the covenants or agreements herein, by the Grantor, its successors or assigns, then and in that case the whole of the indebtedness hereby secured, and the interest thereon to the time of the sale, may at once, at the option of the Beneficiary or the legal holder of the indebtedness, become due and payable, and the said property be sold in the manner and with the same effect as if said indebtedness had matured, and that if foreclosure be made by the Public Trustee, a reasonable attorney's fee for services in the supervision of said foreclosure proceedings shall be allowed by the Public Trustee as part of the cost of foreclosure, and if foreclosure be made through the courts a reasonable attorney's fee shall be taxed by the court as a part of the costs of such foreclosure proceedings.

The final payment of the Note and performance of the Agreement and other obligations secured by this Deed of Trust are due on January 15, 2044.

Notwithstanding anything to the contrary contained in this Deed of Trust or the Note being secured hereby, Equity Investor (as defined below) shall have the right, but not the obligation, to cure defaults of Grantor.

Any notice from the Beneficiary to the Grantor under this Deed of Trust shall be deemed to have been received by the Grantor three (3) days after being mailed by certified mail, return receipt requested, to the Grantor at 201 South Victoria Avenue, Pueblo, CO 81003, or at such other address as Grantor may designate in writing to Beneficiary. Copies of any and all notices given by Beneficiary to the Grantor shall be sent, in the same manner as such notice is given to the Grantor, to the Grantor's limited partner (the "Equity Investor") at the following address: RBC Community Investments, LLC, Attention: President and General Counsel, 600 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, and Applegate & Thorne-Thomsen, P.C., Attention: Bennett P. Applegate, Esq., 425 S. Financial Place, Suite 1900, Chicago, Illinois 60605. Equity Investor may change its address for receipt of copies of notices by giving notice in writing stating its new address to the Beneficiary. Commencing on the tenth (10th) day after the giving of such notice, such newly designated address shall be effective for purposes of all such copies of notices required to be sent by the Beneficiary to the Equity Investor.

Nothing in this Deed of Trust is intended, nor shall it be construed, to grant any rights whatsoever to Grantor or create any condition precedent to the exercise of any right or remedy by the Beneficiary; nor shall any noncompliance with the requirements of this Deed of Trust constitute any defense against enforcement of the Note or this Deed of Trust, including without limitation, Beneficiary's right to accelerate maturity of the entire indebtedness and demand sale of the said property.

The person signing this Deed of Trust on behalf of the Grantor represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this Deed of Trust on behalf of the Grantor and that this Deed of Trust is a valid and legally binding obligation of Grantor enforceable against it in accordance with its terms.

Should any provisions of this Deed of Trust be found to violate the statutes or court decisions of the State of Colorado, or of the United States, such provision shall be deemed to be amended to comply with and conform to such statutes and decisions.

RAD Rider. The RAD Rider attached to this Deed of Trust as Exhibit C is, by this reference, incorporated into and deemed a part of this Deed of Trust. In the event of a conflict between any provisions of this Deed of Trust and any provisions of the RAD Rider, the provisions of the RAD Rider shall control.

IN WITNESS, WHEREOF, the Grantor has hereunto set its hand and seal the day and year first above written.

GRANTOR:

CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership

By: Crawford MM, LLC,
a Colorado limited liability company, its general partner

By: El Centro Pueblo Development Corporation, Inc.,
a Colorado non-profit corporation, its sole member

By: _____
Steven L. Trujillo, Secretary/Treasurer

STATE OF COLORADO)
ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me in _____ County, Colorado, this _____ day of _____, 20__ by _____, as _____, on behalf of Crawford Townhomes, LLLP, A Colorado Limited Liability Limited Partnership.

Witness my hand and official seal.

My commission expires: _____.

[S E A L]

_____
Notary Public

Exhibit A
To
Deed of Trust

LEGAL DESCRIPTION

(2) TWO PARCELS OF LAND BEING A PORTION OF *HOUSING SUBDIVISION* RECORDED ON MAY 24, 1952 IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF PUEBLO UNDER RECEPTION NUMBER 913457 (BOOK 16, PAGE 3), A PORTION OF LOT 13, BLOCK 23 OF *UPLANDS PARK* RECORDED ON FEBRUARY 19, 1886 IN SAID RECORDS IN BOOK 2B AT PAGES 33-34 AND A PORTION OF *UPLANDS TOWNHOMES FILING NO. 2* RECORDED ON DECEMBER 6, 2019 IN SAID RECORDS UNDER RECEPTION NUMBER 2161535; LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH LINE OF SAID *HOUSING SUBDIVISION*, MONUMENTED ON THE WEST END BY A FOUND 1-1/2" ALUMINUM TAG STAMPED "MANGINI REEVES INC, PLS 22101" AND ON THE EAST END BY A FOUND 1" YELLOW PLASTIC CAP STAMPED "CARDINAL, PLS 22101" (A 1-FOOT WITNESS CORNER), AND IS ASSUMED TO BEAR NORTH 88°54'18" EAST 1253.48 FEET.

PARCEL 1

COMMENCING AT THE WEST END OF SAID NORTH LINE; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE; THENCE NORTH 88°54'18" EAST, ON SAID NORTH LINE OF *HOUSING SUBDIVISION*, A DISTANCE OF 381.43 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUE NORTH 88°54'18" EAST ON SAID NORTH LINE, A DISTANCE OF 230.44 FEET TO THE NORTHWESTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2* THE FOLLOWING (4) FOUR COURSES:

1. THENCE SOUTH 01°05'42" EAST, A DISTANCE OF 178.95 FEET;
2. THENCE SOUTH 89°26'28" WEST, A DISTANCE OF 32.02 FEET;
3. THENCE SOUTH 01°06'56" EAST, A DISTANCE OF 60.09 FEET;
4. THENCE SOUTH 44°14'08" WEST, A DISTANCE OF 41.63 FEET TO A 184.06 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 13°35'26" WEST, BEING ALSO THE NORTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON SAID EXTERIOR THE FOLLOWING (4) FOUR COURSES:

1. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°56'58", AN ARC DISTANCE OF 19.11 FEET TO A 28.73 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 07°32'42" WEST;
2. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 51°19'09", AN ARC DISTANCE OF 25.74 FEET;
3. THENCE NORTH 46°13'38" WEST, A DISTANCE OF 64.92 FEET;
4. THENCE SOUTH 43°46'26" WEST, A DISTANCE OF 2.99 FEET TO THE NORTHEASTERLY CORNER OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *HOUSING SUBDIVISION*;

THENCE NORTH 46°05'32" WEST ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SITTER PLACE, A DISTANCE OF 22.57 FEET;

THENCE NORTH 48°21'35" EAST, A DISTANCE OF 17.11 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 47.47 FEET;

THENCE SOUTH 88°53'56" WEST, A DISTANCE OF 76.58 FEET;

THENCE NORTH 00°38'19" WEST, A DISTANCE OF 144.77 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 47,937 SQUARE FEET OR (1.10048 ACRES),

MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

PARCEL 2

COMMENCING AT THE WEST END OF SAID NORTH LINE OF *HOUSING SUBDIVISION*; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE SOUTH 01°05'45" EAST ON SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 477.95 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 88°53'56" EAST, A DISTANCE OF 260.82 FEET;

THENCE NORTH 01°06'02" WEST, A DISTANCE OF 83.87 FEET;

THENCE NORTH 88°54'36" EAST, A DISTANCE OF 178.06 FEET;

THENCE NORTH 00°50'50" WEST, A DISTANCE OF 49.79 FEET;

THENCE NORTH 89°45'13" EAST, A DISTANCE OF 22.78 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 46.64 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE SOUTHERLY RIGHT-OF-WAY LINE OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2;*

THENCE ON SAID EXTERIOR, SAID SOUTHERLY RIGHT-OF-WAY LINE, AND THE SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, THE FOLLOWING (2) TWO COURSES:

1. THENCE SOUTH 46°13'38" EAST, A DISTANCE OF 15.21 FEET TO A 72.76 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 43°46'21" EAST;
2. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°53'10", AN ARC DISTANCE OF 20.17 FEET TO A 75.64 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 27°59'04" EAST;

THENCE CONTINUE ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE THE FOLLOWING (7) SEVEN COURSES:

1. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°09'13", AN ARC DISTANCE OF 30.57 FEET TO A 300.00 FOOT RADIUS REVERSE CURVE;
2. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 10°01'39", AN ARC DISTANCE OF 52.50 FEET TO A 39.00 FOOT RADIUS COMPOUND CURVE;
3. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°37'02", AN ARC DISTANCE OF 17.44 FEET TO A 63.17 FOOT RADIUS REVERSE CURVE;
4. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 83°11'16", AN ARC DISTANCE OF 91.72 FEET TO A 38.83 FOOT RADIUS REVERSE CURVE;
5. THENCE NORTHEASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 25°31'58", AN ARC DISTANCE OF 17.30 FEET TO A 301.18 FOOT RADIUS COMPOUND CURVE;
6. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°14'17", AN ARC DISTANCE OF 43.30 FEET;
7. THENCE NORTH 88°54'27" EAST, A DISTANCE OF 527.92 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF ACERO AVENUE;

THENCE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 31.69 FEET TO THE SOUTHEASTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE NORTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*;

THENCE CONTINUE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 297.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*, BEING

ALSO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SPRAGUE AVENUE;

THENCE SOUTH 88°54'57" WEST ON SAID EXTERIOR AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.63 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK* AND THE SOUTHEAST CORNER OF BLOCK 3 OF SAID *HOUSING SUBDIVISION*;

THENCE CONTINUE SOUTH 88°54'57" WEST ON THE EXTERIOR OF SAID *HOUSING SUBDIVISION* AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.81 FEET THE SOUTHWEST CORNER OF SAID *HOUSING SUBDIVISION*, BEING ALSO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE WITH SAID EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE NORTH 01°05'45" WEST ON SAID EXTERIOR AND SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 181.65 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 359,855 SQUARE FEET OR (8.26114 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

THE OVERALL PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 407,792 SQUARE FEET OR (9.36162 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

EXHIBIT B
TO
DEED OF TRUST

TITLE EXCEPTIONS

EXHIBIT C
TO
DEED OF TRUST

RAD RIDER

This RAD Rider to Loan Documents (the "**Rider**") modifies the Deed of Trust (HOME) (the "**Deed of Trust**") and any documents executed in connection therewith entered into between the City of Pueblo, a municipal corporation ("**Lender**") and Crawford Townhomes, LLLP, a Colorado limited liability limited partnership ("**Borrower**"), in connection with a loan by Lender to Borrower (the "**Loan**") to be used in financing five (5) units of affordable housing in a 49-unit affordable housing rental development of which 49 of the units are RAD (defined below) units known as Crawford Townhomes (the "**Project**") on the property described in Exhibit A to the Deed of Trust (the "**Property**").

WHEREAS, the Loan is evidenced and/or secured by the following documents and agreements (collectively with all other agreements, instruments and documents now or hereafter executed in connection with the Loan, all as may be amended, supplemented or replaced from time to time in accordance with the terms thereof, the "**Subordinate Documents**"):

A. This Deed of Trust by and between Borrower and the Public Trustee of the County of Pueblo, Colorado for the benefit of Lender;
B. City Promissory Note securing this Deed of Trust; and,
C. City of Pueblo Affordable Housing Development Agreement by and between the City of Pueblo, a Municipal Corporation, and Crawford Townhomes, LLLP, a Colorado limited liability limited partnership; and

WHEREAS, the U.S. Department of Housing and Urban Development ("**HUD**") has authorized, as part of the Project, the conversion of public housing to Section 8 assistance under the Rental Assistance Demonstration ("**RAD**") program, pursuant to Public Law 112-55, as amended; and

WHEREAS, the Project will be assisted by funding provided pursuant to the RAD program, thereby subjecting the Project to requirements contained in that certain RAD Conversion Commitment (Form HUD-52624) ("**RCC**"), executed by HUD, Borrower and Lender with respect to conversion of public housing units to RAD units; and

WHEREAS, as a condition of the RAD conversion, Borrower executed a Rental Assistance Demonstration Use Agreement dated and recorded as of substantially even date herewith (the "**RAD Use Agreement**") for the benefit of HUD; and

WHEREAS, HUD requires as a condition of the RAD conversion that Lender and Borrower agree to subordinate the Subordinate Documents to the RAD Use Agreement.

NOW THEREFORE, let it be known to all interested parties, that for good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned do hereby agree:

1. So long as the RAD Use Agreement, and all extensions thereto, is in effect, the Subordinate Documents shall unconditionally be and remain at all times subject in all respects to the Program Requirements (as defined in Section 1 of that certain RCC) and subordinate to the RAD Use Agreement.

2. Subordination to the RAD Use Agreement shall extend to and continue in effect with respect to any future amendment, extension, renewal, or any other modification of the RAD Use Agreement or the Subordinate Documents.

3. In the event of a conflict between a Subordinate Document and the RAD Use Agreement, the RAD Use Agreement shall control.

4. The following amendments to the Subordinate Documents require the prior written consent of HUD: (i) any amendment to any HUD-required provisions in the Subordinate Documents, (ii) an increase in the interest rate of the Loan, (iii) an increase of the total indebtedness of the Loan, (iv) an acceleration of the amortization or payment schedule of the Loan, and (v) any changes that would preclude or impair a reasonable opportunity to cure any defaults by Borrower under the Subordinate Documents.

5. Subordination to the RAD Use Agreement is intended to survive any bankruptcy and foreclosure filed by Borrower.

6. This Rider may be signed in counterparts.

7. The invalidity, in whole or in part, of any of the provisions set forth in this Rider, shall not affect or invalidate any remaining provisions.

8. This Rider and every covenant hereof shall be binding upon Lender and Borrower and their respective successors and assigns. This Rider shall not be modified or amended except by a written instrument executed by all parties hereto and approved in writing by HUD.

IN WITNESS WHEREOF, the Borrower and Lender have duly executed and delivered this Rider contemporaneous with the Loan Documents.

BORROWER:

CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership

By: Crawford MM, LLC,
a Colorado limited liability company, its general partner

By: El Centro Pueblo Development Corporation, Inc.,
a Colorado non-profit corporation, its sole member

By: _____
Steven L. Trujillo, Secretary/Treasurer

Date: _____

LENDER:

CITY OF PUEBLO, a municipal corporation

By: _____
Nicholas A. Gradisar, Mayor

Date: _____

PROMISSORY NOTE

Principal Amount: U.S. $500,000.00 Date of Note: July __, 2022

FOR VALUE RECEIVED, the undersigned Crawford Townhomes, LLLP, a Colorado limited liability limited partnership, hereinafter referred to as "Borrower", and its successors in interest, promises to pay to the City of Pueblo, a Municipal Corporation, or order, hereinafter referred to as the "Note Holder," the sum of Five Hundred Thousand and No/100ths ($500,000.00) U.S. Dollars and interest on the principal balance outstanding from the date hereof until paid, at the rate of zero percent (0%) per annum, provided payment is made in accordance herewith, and payable at the Note Holder's office at 1 City Hall Place, Pueblo, Colorado, 81003, or such other place as Note Holder may designate. A minimum annual payment of Five Hundred U.S. Dollars ($500.00) per year shall be due and payable by January 15, 2024 and each year thereafter for (20) years. Additional payments made during the term are encouraged (but not required) and shall be credited to the outstanding balance of the loan. However, such additional payments are subject to a limitation equal to one hundred percent (100%) of the net cash flow from the Project, with any payments or portion of payments that cannot be paid due to such limitation to be made at the time of the next available net cash flow. As used herein, "net cash flow from the Project" means, with respect to any fiscal year or applicable period, (a) all cash receipts of Crawford Townhomes, LLLP, its successors and assigns (collectively the "Partnership") from operations (excluding proceeds from Capital Transactions, Capital Contributions and the proceeds of any loan), subsidy payments, or rental interruption insurance recoveries received by the Partnership during such period, plus (b) any interest or like earnings of the Partnership and any amounts which the General Partners release upon approval of the Investor Limited Partner as being no longer necessary to hold as part of such reserve, less: (i) cash funds used to pay Project Expenses of the Partnership during the period, including any fees and expenses paid to the Partners, (ii) all cash payments during such period to discharge Partnership indebtedness, and (iii) any amounts added to Partnership reserves (other than the Operating Reserves) during such period. If not sooner paid or accelerated as herein provided, the entire principal amount of Five Hundred Thousand and No/100ths ($500,000.00) U.S. Dollars outstanding, less payments, and accrued interest thereon, shall be due upon the end of the twenty (20) year period of affordability pursuant to the Agreement (as defined below). The period of affordability is estimated to conclude on January 15, 2044. Any such payments of net cash flow shall be made in accordance with, at the times set forth in, and the priority set forth in the Amended and Restated Agreement of Limited Partnership of Borrower dated as of July 1, 2022, attached hereto as Exhibit B, where said priority may not be amended without Note Holder's prior written consent.

The Loan evidenced by this Note is being made to finance a residential housing project (hereinafter referred to as the "Project") in accordance with the Affordable Housing Development Loan Agreement between Borrower and Note Holder dated of even date herewith (hereinafter referred to as the "Agreement"). This Note and all principal and interest payable hereunder are secured by a Deed of Trust of even date herewith upon real property, upon which the Project is located or to be located, and all improvements thereon, situated in the County of Pueblo, State of Colorado (hereinafter referred to as the "Property") and described more particularly as:

See Exhibit A

The terms, conditions, covenants, provisions, stipulations, and agreements of said Deed of Trust and said Agreement are hereby made a part of this Note by reference in the same manner and with the same effect as if they were fully set forth herein, and the Borrower hereby covenants and promises to abide by and comply with each and every covenant and condition set forth in this Note, the Deed of Trust, and the Agreement.

The Borrower reserves the right to prepay all or any part of the principal owing on this Note at any time or times prior to maturity without notice and payment of any premium or penalty.

Upon the occurrence of any of the following events, the entire principal amount of Five Hundred Thousand and No/100ths ($500,000.00) U.S. Dollars, or the unpaid principal thereof, together with all accrued interest thereon, shall, at the option of the Note Holder, upon 20 days written notice to Borrower by certified mail or commercial express courier, unless cured within said 20 days, where Note Holder may require specific performance, become at once due and payable and shall accrue interest at the default rate of four percent (4%) per annum thereafter until paid in full, and no failure by the Note Holder to exercise such option shall be deemed or construed as a waiver of the right or as a waiver of the right to exercise the same in the event of any subsequent default or breach:

1. Any default in the payment when due, or any part of the principal or interest hereunder.

2. Any breach or failure of the Borrower to perform within the allotted time any term or condition of the Agreement, the Deed of Trust, or any other instrument securing to the Note Holder payment or performance of any obligation of the Borrower.

3. If the Borrower shall be involved in financial difficulties as evidenced: (i) by an admission in writing of the Borrower's inability to pay its debts generally as they become due; (ii) by filing a petition in bankruptcy or for the adoption of an arrangement under the federal Bankruptcy Code (as now or in the future amended) or an admission seeking the relief therein provided; (iii) by making an assignment for the benefit of creditors; (iv) by consenting to the appointment of a receiver or trustee for all or a substantial part of the Borrower's assets or to the filing of a petition against the Borrower under said Bankruptcy Code; (v) by being adjudicated as bankrupt; (vi) by the entry of a court order appointing a receiver or trustee for all or a substantial part of the assets of the Borrower or approving as filed in good faith a petition filed against the Borrower under said Bankruptcy Code; (vii) by the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of the assets of the Borrower; (viii) by an attachment for an amount in excess of $25,000 on any substantial part of the assets of the Borrower which shall not be discharged within thirty (30) days from the making thereof; or (ix) by a judgment or decree for the payment of money in excess of $25,000 being entered against the Borrower, or if an attachment, execution or levy is made upon

any of the Borrower's assets and the judgment, execution or levy, as the case may be, is not discharged or stayed within thirty (30) days from the date of the judgment, attachment, execution or levy as the case may be.

4. If the Borrower shall have made any misrepresentation of a material nature in its application for the Loan, or in any document furnished by it to the Note Holder relative to the Project.

5. If there is pending or threatened litigation with respect to the Loan or the performance by the Borrower of any of its duties or obligations hereunder.

6. If the Project cannot proceed because of inability to continue land option or secure zoning or due to any action by any branch of government which impairs use of the Property herein described for proposed Project purposes.

7. If the Note Holder determines that the Borrower has abandoned or discontinued the initiation, construction, rehabilitation or completion of the Project.

8. Any breach of the affordability requirements detailed in the Agreement, Deed of Trust, or as otherwise may be required pursuant to 24 C.F.R. Part 92. In the event the Borrower should sell or voluntarily transfer title to the Project, the Property, or other real property or improvements constructed or improved with funds provided pursuant to the Agreement, within 20 years after substantial completion of the Project or said improvements, the entire indebtedness under this Note shall immediately become due and payable and shall be collected and repaid to Note Holder.

RIGHT TO CURE: Note Holder shall use best efforts to provide a courtesy copy of all notices sent to Borrower hereunder to RBC Community Investments, LLC, Attention: President and General Counsel, 600 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, and Applegate & Thorne-Thomsen, P.C., Attention: Bennett P. Applegate, Esq., 425 S. Financial Place, Suite 1900, Chicago, Illinois 60605. Any failure to deliver such courtesy copy shall not be deemed a failure to provide notice to the Borrower. Notwithstanding anything to the contrary contained in this Note, Borrower’s Investor Partner and/or Special Limited Partner shall have the right, but not the obligation, to cure defaults of Borrower.

The Borrower, and any and all endorsers, sureties, guarantors and assumers hereof, hereby jointly and severally waive presentment, protest, notices of dishonor and of protest, and all defenses whatsoever on the ground of any extension(s) of the time of payment or of the due dates of this Note, in whole or in part, before or after maturity, with or without notice, it being further agreed by the Borrower and all such parties that they will pay all collection expense, court costs, and reasonable attorneys' fees which may be incurred in the collection or enforcement of this Note or any part hereof.

The loan evidenced by this Note is a recourse obligation of Borrower.

This instrument shall be governed by the laws of the State of Colorado and any dispute regarding its terms and conditions shall be resolved in the District Courts of the State of Colorado.

Executed and delivered this _____ day of _____, 2022.

BORROWER:

CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership

By: Crawford MM, LLC,
a Colorado limited liability company, its general partner

By: El Centro Pueblo Development Corporation, Inc., a Colorado non-profit corporation, its sole member

By: _____
Steven L. Trujillo, Secretary/Treasurer

Exhibit A
To
Promissory Note

LEGAL DESCRIPTION

(2) TWO PARCELS OF LAND BEING A PORTION OF *HOUSING SUBDIVISION* RECORDED ON MAY 24, 1952 IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF PUEBLO UNDER RECEPTION NUMBER 913457 (BOOK 16, PAGE 3), A PORTION OF LOT 13, BLOCK 23 OF *UPLANDS PARK* RECORDED ON FEBRUARY 19, 1886 IN SAID RECORDS IN BOOK 2B AT PAGES 33-34 AND A PORTION OF *UPLANDS TOWNHOMES FILING NO. 2* RECORDED ON DECEMBER 6, 2019 IN SAID RECORDS UNDER RECEPTION NUMBER 2161535; LOCATED IN THE NORTHWEST ONE-QUARTER OF SECTION 11, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN; MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH LINE OF SAID *HOUSING SUBDIVISION*, MONUMENTED ON THE WEST END BY A FOUND 1-1/2" ALUMINUM TAG STAMPED "MANGINI REEVES INC, PLS 22101" AND ON THE EAST END BY A FOUND 1" YELLOW PLASTIC CAP STAMPED "CARDINAL, PLS 22101" (A 1-FOOT WITNESS CORNER), AND IS ASSUMED TO BEAR NORTH 88°54'18" EAST 1253.48 FEET.

PARCEL 1

COMMENCING AT THE WEST END OF SAID NORTH LINE; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE; THENCE NORTH 88°54'18" EAST, ON SAID NORTH LINE OF *HOUSING SUBDIVISION*, A DISTANCE OF 381.43 FEET TO THE **POINT OF BEGINNING**;

THENCE CONTINUE NORTH 88°54'18" EAST ON SAID NORTH LINE, A DISTANCE OF 230.44 FEET TO THE NORTHWESTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2* THE FOLLOWING (4) FOUR COURSES:

1. THENCE SOUTH 01°05'42" EAST, A DISTANCE OF 178.95 FEET;
2. THENCE SOUTH 89°26'28" WEST, A DISTANCE OF 32.02 FEET;
3. THENCE SOUTH 01°06'56" EAST, A DISTANCE OF 60.09 FEET;
4. THENCE SOUTH 44°14'08" WEST, A DISTANCE OF 41.63 FEET TO A 184.06 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 13°35'26" WEST, BEING ALSO THE NORTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*;

THENCE ON SAID EXTERIOR THE FOLLOWING (4) FOUR COURSES:

1. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 05°56'58", AN ARC DISTANCE OF 19.11 FEET TO A 28.73 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 07°32'42" WEST;
2. THENCE WESTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 51°19'09", AN ARC DISTANCE OF 25.74 FEET;
3. THENCE NORTH 46°13'38" WEST, A DISTANCE OF 64.92 FEET;
4. THENCE SOUTH 43°46'26" WEST, A DISTANCE OF 2.99 FEET TO THE NORTHEASTERLY CORNER OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *HOUSING SUBDIVISION*;

THENCE NORTH 46°05'32" WEST ON THE NORTHERLY RIGHT-OF-WAY LINE OF SAID SITTER PLACE, A DISTANCE OF 22.57 FEET;

THENCE NORTH 48°21'35" EAST, A DISTANCE OF 17.11 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 47.47 FEET;

THENCE SOUTH 88°53'56" WEST, A DISTANCE OF 76.58 FEET;

THENCE NORTH 00°38'19" WEST, A DISTANCE OF 144.77 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 47,937 SQUARE FEET OR (1.10048 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

PARCEL 2

COMMENCING AT THE WEST END OF SAID NORTH LINE OF *HOUSING SUBDIVISION*; SAID POINT BEING ALSO THE NORTHWEST CORNER OF SAID *HOUSING SUBDIVISION* AND A POINT ON THE EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE SOUTH 01°05'45" EAST ON SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 477.95 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 88°53'56" EAST, A DISTANCE OF 260.82 FEET;

THENCE NORTH 01°06'02" WEST, A DISTANCE OF 83.87 FEET;

THENCE NORTH 88°54'36" EAST, A DISTANCE OF 178.06 FEET;

THENCE NORTH 00°50'50" WEST, A DISTANCE OF 49.79 FEET;

THENCE NORTH 89°45'13" EAST, A DISTANCE OF 22.78 FEET;

THENCE NORTH 01°06'04" WEST, A DISTANCE OF 46.64 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE SOUTHERLY RIGHT-OF-WAY LINE OF SITTER PLACE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2;*

THENCE ON SAID EXTERIOR, SAID SOUTHERLY RIGHT-OF-WAY LINE, AND THE SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE, AS SHOWN ON THE PLAT OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, THE FOLLOWING (2) TWO COURSES:

1. THENCE SOUTH 46°13'38" EAST, A DISTANCE OF 15.21 FEET TO A 72.76 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 43°46'21" EAST;
2. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 15°53'10", AN ARC DISTANCE OF 20.17 FEET TO A 75.64 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 27°59'04" EAST;

THENCE CONTINUE ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF TRIBAL NATIONS AVENUE THE FOLLOWING (7) SEVEN COURSES:

1. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 23°09'13", AN ARC DISTANCE OF 30.57 FEET TO A 300.00 FOOT RADIUS REVERSE CURVE;
2. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 10°01'39", AN ARC DISTANCE OF 52.50 FEET TO A 39.00 FOOT RADIUS COMPOUND CURVE;
3. THENCE SOUTHEASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 25°37'02", AN ARC DISTANCE OF 17.44 FEET TO A 63.17 FOOT RADIUS REVERSE CURVE;
4. THENCE EASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 83°11'16", AN ARC DISTANCE OF 91.72 FEET TO A 38.83 FOOT RADIUS REVERSE CURVE;
5. THENCE NORTHEASTERLY ON SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF 25°31'58", AN ARC DISTANCE OF 17.30 FEET TO A 301.18 FOOT RADIUS COMPOUND CURVE;
6. THENCE EASTERLY ON SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°14'17", AN ARC DISTANCE OF 43.30 FEET;
7. THENCE NORTH 88°54'27" EAST, A DISTANCE OF 527.92 FEET TO THE EXTERIOR OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE WESTERLY RIGHT-OF-WAY LINE OF ACERO AVENUE;

THENCE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 31.69 FEET TO THE SOUTHEASTERLY CORNER OF SAID *UPLANDS TOWNHOMES FILING NO. 2*, BEING ALSO THE NORTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*;

THENCE CONTINUE SOUTH 01°05'33" EAST ON SAID EXTERIOR AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 297.23 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK*, BEING ALSO THE INTERSECTION OF SAID WESTERLY RIGHT-OF-WAY LINE WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SPRAGUE AVENUE;

THENCE SOUTH 88°54'57" WEST ON SAID EXTERIOR AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.63 FEET TO THE SOUTHWEST CORNER OF SAID LOT 13, BLOCK 23 OF *UPLANDS PARK* AND THE SOUTHEAST CORNER OF BLOCK 3 OF SAID *HOUSING SUBDIVISION*;

THENCE CONTINUE SOUTH 88°54'57" WEST ON THE EXTERIOR OF SAID *HOUSING SUBDIVISION* AND SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 626.81 FEET THE SOUTHWEST CORNER OF SAID *HOUSING SUBDIVISION*, BEING ALSO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE WITH SAID EAST RIGHT-OF-WAY LINE OF SOUTH PRAIRIE AVENUE;

THENCE NORTH 01°05'45" WEST ON SAID EXTERIOR AND SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 181.65 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 359,855 SQUARE FEET OR (8.26114 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

THE OVERALL PARCEL DESCRIPTION CONTAINS A CALCULATED AREA OF 407,792 SQUARE FEET OR (9.36162 ACRES), MORE OR LESS, AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

Exhibit B
To
Promissory Note
Amended and Restated Agreement of Limited Partnership of Borrower

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT (this "**Agreement**") dated July ___, 2022, is by the City of Pueblo, whose address is 1 City Hall Place, Pueblo, Colorado 81003, Attention: Mayor, (the "**Junior Lender**") to and for the benefit of JPMORGAN CHASE BANK, N.A., a national banking association, whose address is 2200 Ross Avenue, Floor 9, Mail Code: TX1-2951, Dallas, Texas 75201, Attention of Olivio C. Ochoa (the "**Senior Lender**").

PRELIMINARY STATEMENTS

A. Pursuant to the City of Pueblo Affordable Housing Development Agreement, the Junior Lender has made or will make a loan (the "**Junior Loan"**) to CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership (the "**Borrower**") in the principal amount of $500,000.00, evidenced by that certain subordinate Promissory Note (the "**Junior Note**") in the principal sum of $500,000.00, made by the Borrower and payable to the Junior Lender and secured by that certain subordinate Deed of Trust (the "**Junior Deed of Trust**") to the Pueblo County Public Trustee (the "**Trustee**") to be recorded in the Official Records of Pueblo County, Colorado (the "**Records**"), and covering the real property described in Exhibit "A" attached hereto (collectively with all improvements located thereon, the **"Property")**.

B. Pursuant to a Construction Loan Agreement dated on or about even date herewith (the "**Senior Loan Agreement**"), Senior Lender has made or will make a loan to Borrower to provide for a loan (the "**Senior Loan**") in the amount of $13,850,000.00 to be evidenced by a Promissory Note (the "**Senior Note**") made by the Borrower, payable to the Senior Lender in the maximum principal sum of $13,850,000.00, and shall be secured by a Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated on or about even date herewith, by the Borrower to the Trustee for the benefit of the Senior Lender (the "**Senior Deed of Trust**", together with all other loan documents pertaining to the Senior Loan, collectively, the "**Senior Loan Documents**"), to be recorded in the Records and covering the Property.

C. It is a condition precedent to the Senior Lender's agreement to enter into the Senior Loan Agreement that the Junior Lender enter into this Agreement.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the Senior Lender to enter into the Senior Loan Agreement, the Junior Lender hereby agrees as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings given such terms in the Senior Deed of Trust. As used herein, the following terms shall have the meanings assigned to them:

"Junior Obligations" means any deed of trust or other mortgage, lien or encumbrance made by the Borrower to and for the benefit of the Junior Lender in connection with the Junior Loan, including, without limitation, the Junior Deed of Trust and any and all security interests, liens or other encumbrances granted in connection with the Junior Loan by the Borrower and in favor of the Junior Lender.

"Senior Obligations" means each and every debt, liability and obligation of every type and description that the Borrower may now or at any time hereafter owe to Senior Lender in connection with the Senior Loan Agreement, the Senior Note, the Senior Deed of Trust, and the Senior Loan Documents, whether such debt, liability or obligation now exists or is hereafter assumed, created or incurred and whether it is or may be direct or indirect, due or to become due, or absolute or contingent.

2. Subordination. All Junior Obligations are hereby expressly subordinated to the extent and in the manner hereinafter set forth to the payment in full of the Senior Obligations relating to the Senior Note and Senior Loan Agreement. The Junior Lender hereby agrees that any security interest that the Junior Lender might now hold in the Property, is fully subordinate to any security interest that the Senior Lender may hold in the Property as provided for in the Senior Loan Documents, subject to federal law and regulations applicable to the federal housing and other programs pursuant to which the loan proceeds were made available to the Junior Lender to make the Junior Loan, including but not limited to Junior Lender's responsibilities under the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.), the Cranston Gonzales National Affordable Housing Act, and implementing regulations, including but not limited to those at 24 CFR Part 92.

3. Collateral and Security Interest. Until all of the Senior Obligations have been paid in full, or unless expressly required by federal law with respect to the Property applicable to the federal housing and other programs pursuant to which the loan proceeds were made available to the Junior Lender to make the Junior Loan, the Junior Lender shall not demand, receive or accept (i) except for the Junior Deed of Trust and any Uniform Commercial Code Financing Statement, a pledge of any of the Property as security for the Junior Obligations, or (ii) except for the Junior Deed of Trust and any Uniform Commercial Code Financing Statement, a grant of any security interest in any of the Property.

4. (Reserved)

5. Waiver and Consent. The Senior Lender shall have no obligation to the Junior Lender with respect to the Property or the Junior Obligations. The Senior Lender, without the consent of the Junior Lender, may in accordance with the Senior Loan Agreement and the Senior Deed of Trust (a) exercise collection rights, (b) take possession of, sell or dispose of, and otherwise deal with, the Property, (c) in the Senior

Lender's name or in the Borrower's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, the Property; (d) prosecute, settle and receive proceeds on any insurance claims relating to the Property, and (e) exercise and enforce any right or remedy available to the Senior Lender with respect to the Property, whether available before or after the occurrence of any default; all without notice to or consent by anyone except as specifically required by law. The Senior Lender may apply the proceeds of the Property in any order the Senior Lender deems appropriate in its sole discretion. Except to the extent Junior Lender is required to enforce specific performance or other remedies to comply with applicable law relating to federal housing and other programs pursuant to which loan proceeds were made available to the Junior Lender for the Junior Loan, until the Senior Loan has been paid and performed in full, the Junior Lender hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by agreement.

6. No Action. Except to the extent required to comply with and enforce federal affordability requirements applicable to the federal housing and other programs pursuant to which the loan proceeds were made available to the Junior Lender to make the Junior Loan, or except where Junior Lender obtains Senior Lender's permission pursuant to the following sentence, the Junior Lender will not commence any action or proceeding with respect to the collection of the Junior Note or the Junior Deed of Trust or otherwise against the Borrower, and in no event will take possession of, sell or dispose of, or otherwise deal with, the Property, and will not exercise or enforce any other right or remedy that may be available to the Junior Lender against the Borrower or with respect to the Property upon Borrower's default with respect to the Junior Obligations, without the Senior Lender's prior written consent, which shall not be unreasonably withheld or delayed.

7. Notice of Default to Senior Lender. Any notice given to Borrower by the Junior Lender of any default under the Junior Deed of Trust with respect to the Junior Obligations shall also be given to Senior Lender simultaneously with the sending of the notice to the Borrower. Senior Lender may at its option (but not being obligated therefor) cure any such default.

8. Notice of Default to Junior Lender. Senior Lender shall deliver simultaneously to the Junior Lender a copy of the default notice in each case where Senior Lender has given a default notice ("**Senior Lender Notice of Default**") to the Borrower. The Junior Lender shall have the right, but not the obligation, to cure any default which is the subject of a Senior Lender Notice of Default within the same time, and the same manner, as the Borrower pursuant to the Senior Loan Documents or the Senior Loan Agreement. All amounts paid by the Junior Lender to Senior Lender to cure a default which is the subject of a Senior Lender Notice of Default shall be deemed to have been advanced by the Junior Lender pursuant to, and shall be secured by the lien of, the Junior Deed of Trust.

9. Condemnation or Casualty. In the event of: a taking or threatened taking of

eminent domain of all or a portion of the Property (collectively, a "**Taking**"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "**Casualty**"), at any time or times when the Senior Deed of Trust remains a lien on the Property, the following provisions shall apply:

(a) Junior Lender hereby agrees that its rights (under the Junior Deed of Trust or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking and/or a Casualty shall be and remain subordinate in all respects to the Senior Lender's (on behalf of Senior Lender or in its own right) rights under the Senior Loan Documents with respect thereto, and Junior Lender shall be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of Junior Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty;

(b) all proceeds received or to be received on account of a Taking and/or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the Senior Loan) in the manner determined by the Senior Lender in its sole discretion; provided, however, that if the Senior Lender (for and on behalf of Senior Lender or in its own right) elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the Senior Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under or with respect to the Senior Loan shall be paid to, and may be applied by, Junior Lender; and

(c) Notwithstanding the foregoing, the Senior Lender agrees to use commercially reasonable promptness under the particular circumstances in determining and applying all proceeds received pursuant to this Section 9 and to consult with Junior Lender in determining the application of Taking and/or Casualty proceeds.

10. No Representations or Warranties; No Duty to Preserve or Protect Collateral. Neither the Junior Lender nor the Senior Lender (i) makes any representation or warranty concerning the Property or the validity, perfection or (except as to the subordination effected hereby) priority of any security interest therein, or (ii) shall have any duty to preserve, protect, care for, insure, take possession of, collect, dispose of or otherwise realize upon any of the Property.

11. Binding Effect; Miscellaneous. This Agreement shall be binding upon the Junior Lender and its respective successors and assigns and shall inure to the benefit of the Senior Lender and its participants, successors and assigns, but neither the Borrower nor any other secured party shall be entitled to rely on or enforce this Agreement. The Junior Lender warrants that any purchaser or transferee of, or successor to, any security interest of the Junior Lender in any or all of the Property will be given written notice of the subordination effected hereby, before such purchase, transfer or succession, and that any such purchaser, transferee or successor will be in all respects subject to and bound by this Agreement. This Agreement cannot be waived or changed or ended, except by a writing signed by the party to be bound thereby. This Agreement shall be governed by and construed in accordance with the substantive laws (other than conflict laws) of the State of Colorado. Each party consents to the personal jurisdiction of the state and federal courts located in the State of Colorado in connection with any controversy related to this Agreement, waives any argument that venue in any such forum is not convenient, and agrees that any litigation initiated by either of them in connection with this Agreement shall be venued in either the District Court for the County of Pueblo, Colorado, or the United States District Court, District of Colorado. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument. The Junior Lender waives notice of the Senior Lender's acceptance hereof. **THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.**

12. Notice. Any notice required under this Agreement shall be deemed to have been given when mailed by certified mail, return receipt requested, or by overnight express mail or courier service, to the addresses of the Junior Lender or the Senior Lender, as the case may be, set out in the first paragraph of this Agreement.

13. Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all principal, interest, and other amounts payable under the Senior Obligations; or (ii) the acquisition by Senior Lender of title to the Property pursuant to a foreclosure, or a deed in lieu of foreclosure, or the exercise of a power of sale contained in the Senior Deed of Trust.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Junior Lender has executed this Agreement as of the date written above.

CITY OF PUEBLO, COLORADO

By:_____
Name: Nicholas A. Gradisar
Title: Mayor

STATE OF COLORADO §
§
COUNTY OF PUEBLO §

This instrument was acknowledged before me on the ___ day of _____, 2022, by Nicholas A. Gradisar, Mayor of the CITY OF PUEBLO, COLORADO, a Municipal Corporation, on behalf of said public body.

_____
NOTARY PUBLIC, State of _____

[Signature page to Subordination Agreement]

JPMORGAN CHASE BANK, N.A.

By:_____
Olivio C. Ochoa,
Authorized Officer

STATE OF _____ §
§
COUNTY OF _____§

This instrument was acknowledged before me on the ___ day of _____, 2022, by Olivio C. Ochoa, Authorized Officer of JPMORGAN CHASE BANK, N.A., a national banking association, on behalf of said banking association.

_____
NOTARY PUBLIC, State of _____

[Signature page to Subordination Agreement]

Acknowledged by Borrower:

CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership

By: Crawford MM, LLC, a Colorado limited liability company, its General Partner

By: El Centro Pueblo Development Corporation, Inc., a Colorado non-profit corporation, its sole member

By: _____
Name: _____
Title: _____

STATE OF COLORADO §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the _____ day of _____, 2022, by _____, _____ of El Centro Pueblo Development Corporation, a Colorado nonprofit corporation, on behalf of said nonprofit corporation, sole member of Crawford MM, LLC, a Colorado limited liability company, general partner of CRAWFORD TOWNHOMES, LLLP, a Colorado limited liability limited partnership.

_____
Notary Public, State of Colorado

[Signature page to Subordination Agreement]

EXHIBIT A

LAND

CHFA Loan No: _____

After Recording Return To:
Colorado Housing and Finance Authority
1981 Blake Street
Denver, Colorado 80202-1272
Attn: Jocelyn Bailey, Paralegal

SUBORDINATION OF DEED OF TRUST

THIS SUBORDINATION OF DEED OF TRUST (the "**Agreement**") is dated as of _____, 2022, by _____ ("**Borrower**"), the CITY OF PUEBLO, COLORADO, a Municipal Corporation (the "**Subordinate Lender**") and COLORADO HOUSING AND FINANCE AUTHORITY, a body corporate and political subdivision of the State of Colorado (the "**Senior Lender**").

RECITALS:

A. Subordinate Lender made a loan to Borrower in the original principal amount of _____ (the "**Subordinate Loan**"), in connection with the project commonly known as _____ located at _____ in Pueblo, Colorado, as more particularly described on Exhibit A, attached hereto and made a part hereof by this reference (the "**Property**"). The Subordinate Loan is evidenced by that certain Promissory Note dated _____, made by Borrower for the benefit of Subordinate Lender (the "**Subordinate Note**"). The Subordinate Note is secured by that certain Deed of Trust for the benefit of the Subordinate Lender dated _____, recorded on _____, under Reception No. _____(the "**Subordinate Deed of Trust**"), in the real estate records of the Clerk and Recorder of the County of Pueblo, Colorado (the "**Records**"). The Subordinate Note, Subordinate Deed of Trust and all other documents and agreements related to the Subordinate Loan are collectively referred to herein as the "**Subordinate Loan Documents**").

B. Borrower has executed, or is about to execute, a Promissory Note payable to the Senior Lender (the "**Senior Note**") in up to the original principal amount of _____ ($____) (the "**Senior Loan**"). The Senior Note is secured by a Deed of Trust, Security Agreement, Financing Statement, Fixture Filing and Assignment of Rents and Leases, executed by Borrower and recorded in the Records on _____, 2022 at Reception No. _____ (the "**Senior Deed of Trust**"), which encumbers Borrower's interest in the Property. The Senior Note, Senior Deed of Trust and that certain Regulatory Agreement dated _____, 2022 between Senior Lender and Borrower (the "**Senior Regulatory Agreement**"), and all other documents and agreements evidencing, securing and/or executed in connection with the Senior Loan are collectively referred to herein as the "**Senior Loan Documents**").

C. It is a condition precedent to obtaining the Senior Loan, that the Senior Deed of Trust and Senior Regulatory Agreement shall unconditionally be and remain at all times a lien or charge upon the Property prior and superior to the lien or charge of any other lien or encumbrance except the encumbrance of that certain Rental Demonstration Assistance Use Agreement between Borrower and United States Department of Housing and Urban Development dated _____ and recorded _____ at Reception _____ in the Records.

D. The Senior Lender is willing to make the Senior Loan to Borrower provided the Subordinate Lender will specifically and unconditionally subordinate the lien or charge of the Subordinate Deed of Trust to the lien or charge of the Senior Deed of Trust and Senior Regulatory Agreement.

E. It is to the mutual benefit of all parties to this Agreement that the Senior Lender make such loan to Borrower; and Subordinate Lender agrees that the Senior Deed of Trust and Senior Regulatory Agreement, when recorded, will constitute a lien or charge upon the Property, which is unconditionally prior and superior to the lien or charge of the Subordinate Deed of Trust.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Senior Lender to make the Senior Loan to Borrower, it is hereby declared, understood and agreed as follows:

1. **Subordination**. The Subordinate Lender hereby represents to Senior Lender that it is the current beneficiary of the Subordinate Deed of Trust and payee of the Subordinate Note, and the Subordinate Lender does hereby agree that the Subordinate Loan, Subordinate Deed of Trust and other Subordinate Loan Documents, and all of the Subordinate Lender's rights thereunder, shall be in all respects subordinate, secondary, inferior and junior to the liens, terms, covenants, conditions, operations, and effects of the Senior Deed of Trust, the Senior Regulatory Agreement, and the other Senior Loan Documents and all extensions, renewals or modifications thereof, all as executed and delivered by Borrower to the Senior Lender as security for the Senior Note. Further, any and all indebtedness under the Subordinate Loan Documents is and will at all times continue to be subject and subordinate in right of payment to the prior payment in full of the Senior Loan.

2. **Subordinate Lender Acknowledgement**. For the purposes of this Agreement, the Subordinate Lender acknowledges and agrees that all disbursement of loan proceeds and other advances made by the Senior Lender pursuant to the Senior Loan Documents shall be conclusively presumed to have been disbursed in accordance therewith and for the purposes therein provided.

3. **Senior Loan Documents Superior**. No amendment of the documents evidencing or relating to the Subordinate Loan shall directly or indirectly modify the provisions of this Agreement in any manner which might terminate or impair the subordination of the Subordinate Loan to the liens, terms, covenants, conditions, operations, and effects of the Senior Loan Documents. At any time and from time to time, without notice to Subordinate Lender, Senior Lender may take such actions with respect to the Senior Loan as Senior Lender, in its sole discretion, may deem appropriate, including, without limitation, terminating advances to Borrower, increasing the principal amount, extending the time of payment, increasing applicable interest rates, renewing, compromising or otherwise amending the terms of any documents affecting the Senior Loan and any Property securing the Senior Loan, and enforcing or failing to enforce any rights against Borrower or any other person. No such action or inaction shall impair or otherwise affect Senior Lender's rights hereunder.

4. **Subordinate Loan Default; Standstill**. The Subordinate Lender hereby agrees that upon the occurrence of a default by the Borrower under the terms of any of the Subordinate Loan Documents, the Subordinate Lender shall provide written notice to the Senior Lender thereof within ten (10) days of such default. Subordinate Lender may not exercise any of its remedies, including any foreclosure action under the Subordinate Loan Documents, until delivery by Senior Lender to Subordinate Lender of Senior Lender's written consent to such remedial action by Subordinate Lender. Subordinate Lender's exercise of any of its remedies will be subject to the provisions of this Agreement. Subordinate Lender acknowledges that the provisions of this Section 4 are fair and reasonable under the circumstances, that Subordinate Lender has received a substantial benefit from Senior Lender having granted its consent to the Subordinate Deed of Trust, and that Senior Lender would not have granted such consent without the inclusion of these provisions in this Agreement.

5. **Subordinate Lender Rights**. Subordinate Lender agrees that it will not: (a) collect, enforce or receive payment upon, by setoff or in any other manner, all or any portion of the Subordinate Loan now or hereafter existing; (b) enforce or foreclose upon the Subordinate Deed of Trust or enforce or apply any other security now or hereafter existing for the Subordinate Loan; (c) commence, prosecute, or participate in any administrative, legal or equitable action against Borrower with respect to the Subordinate Loan; (d) join in any petition for bankruptcy, assignment for the benefit of creditors or creditor's agreement involving the assets of Borrower, or incur any obligation to or receive any loans, advances or gifts from Borrower with respect to the Subordinate Loan. Notwithstanding the foregoing, Borrower may make payments under the Subordinate Loan to Subordinate Lender as long as all payments under the Senior Loan Documents are current and not delinquent or in arrears, and only so long as at the time of such payment: (x) no default under the Senior Loan Documents exists and no event exists which, with the lapse of time or the giving of notice or both, would be an event of default under the Senior Loan Documents of which Subordinate Lender has received notice; and (y) such payment would not result in a violation of any of Borrower's financial covenants set forth in any of the Senior Loan Documents.

6. **Senior Lender Rights**. The Senior Lender shall have no obligation to the Subordinate Lender with respect to the Property or the Senior Loan. The Senior Lender may in accordance with the Senior Deed of Trust (a) exercise collection rights, (b) take possession of, sell or dispose of, and otherwise deal with, the Property, (c) in the Senior Lender's name, the Subordinate Lender's name or in the Borrower's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, the Property; (d) prosecute, settle and receive proceeds on any insurance claims relating to the Property, and (e) exercise and enforce any right or remedy available to the Senior Lender with respect to the Property, whether available before or after the occurrence of any default; all without notice to or consent by anyone except as specifically required by law. The Senior Lender may apply the proceeds of the Property in any order the Senior Lender deems appropriate in its sole discretion, except as required by law.

7. **Subordination After Reinstatement of Senior Loan**. The subordination of the Subordinate Loan will continue if any payment under the Senior Loan Documents (whether by or on behalf of Borrower, as proceeds of security or enforcement of any right of set-off or otherwise) is for any reason repaid or returned to Borrower or its insolvent estate, or avoided, set aside or required to be paid to Borrower, a trustee, receiver or other similar party under any bankruptcy,

insolvency, receivership or similar law. In such event, any or all of the Senior Loan originally intended to be satisfied will be deemed to be reinstated and outstanding to the extent of any repayment, return, or other action, as if such payment on account of the Senior Loan had not been made.

8. **Subordinate Lender Representations**. All necessary action on the part of the Subordinate Lender, its officers, directors, partners, members and shareholders, as applicable, necessary for the authorization of this Agreement and the performance of all obligations of the Subordinate Lender hereunder has been taken. This Agreement constitutes the legal, valid and binding obligation of Subordinate Lender, enforceable against Subordinate Lender in accordance with its terms. The execution, delivery and performance of and compliance with this Agreement by Subordinate Lender will not (i) result in any material violation or default of any term of any of the Subordinate Lender's charter, formation or other organizational documents (such as Articles or Certificate of Incorporation, bylaws, partnership agreement, operating agreement, etc.) or (ii) violate any material applicable law, rule or regulation. Subordinate Lender further represents and warrants that each of the following is true as of the date of this Agreement: (i) the Subordinate Loan Documents are now in full force and effect; (ii) the Subordinate Loan Documents have not been modified or amended; (iii) no Subordinate Deed of Trust Default has occurred; (iv) Subordinate Lender is the beneficiary of the Subordinate Loan Documents; and (v) none of the rights of Subordinate Lender under any of the Subordinate Loan Documents are subject to the rights of any third parties, by way of subrogation, indemnification or otherwise.

9. **Confirmation of Subordinate Loan Terms**. Within 10 days after request by Senior Lender, Subordinate Lender will furnish Senior Lender with a statement, duly acknowledged and certified setting forth the then-current amount and terms of the Subordinate Loan, confirming that there exists no default under the Subordinate Loan Documents (or describing any default that does exist), and certifying to such other information with respect to the Subordinate Loan as Senior Lender may request.

10. **Notice**. Any notice which any party hereto may desire or may be required to give to any other party under this Agreement shall be in writing, and shall be deemed to have been given (i) one (1) business day after being delivered to a nationally recognized overnight delivery service, (ii) on the day sent by telecopier or other facsimile transmission, answerback requested, or (iii) on the day delivered personally, in each case, to the parties at the addresses set forth as follows: if to Senior Lender, at the address identified in the Senior Deed of Trust; if to Subordinate Lender, at the address identified in the Subordinate Deed of Trust, if to Borrower, at the address identified in the Senior Deed of Trust.

11. **Further Assurances**. Subordinate Lender hereby agrees to execute such documents and/or take such further action as Senior Lender may at any time or times reasonably request in order to carry out the provisions and intent of this Agreement, including, without limitation, ratifications and confirmations of this Agreement from time to time hereafter, as and when requested by Senior Lender.

12. **Attorney-In-Fact**. The Subordinate Lender hereby appoints the Senior Lender, or any person or entity acting upon the directions of the Senior Lender, as its attorney-in-fact for the

sole and limited purpose of inserting information in this Agreement regarding the date and recording of the Senior Deed of Trust.

13. **Payment of Costs**. Borrower shall pay all costs and expenses, including without limitation, court costs and reasonable attorneys' fees, incurred by Senior Lender in enforcing performance of the obligations of Borrower or in exercising the rights and remedies of Senior Lender hereunder. All such costs and expenses shall be secured by this Agreement and by the Senior Loan Documents. In the event of any court proceedings, court costs and attorneys' fees shall be set by the court and not by jury and shall be included in any judgment obtained by Senior Lender.

14. **Termination**. Upon payment in full of the principal, interest and all other indebtedness evidenced by the Senior Loan Documents, this Agreement shall cease, terminate and be of no further effect; provided, however, that the affidavit, certificate, letter or statement of Senior Lender or any officer, agent or attorney of Senior Lender showing any part of the principal, interest or other indebtedness on the Senior Note being unpaid shall constitute conclusive evidence of the validity, effectiveness, and continuing force of this Agreement and any person may, and is hereby authorized to, rely thereon.

15. **Severability**. If any provision of this Agreement shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16. **Entire Agreement; Amendment**. This Agreement contains the entire agreement between and among the parties hereto with respect to the subordination of the Subordinate Deed of Trust and the other Subordinate Loan Documents as to the Senior Deed of Trust, the Senior Regulatory Agreement and the Senior Loan Documents. Subordinate Lender is not relying on any representations by Senior Lender or Borrower in entering into this Agreement, and Subordinate Lender has kept and will continue to keep itself fully apprised of the financial and other condition of Borrower. This Agreement may be amended only by written instrument signed by Senior Lender and Subordinate Lender.

17. **Inurement; No Third-Party Beneficiaries**. This Agreement and each and every covenant, agreement and other provisions hereof shall be binding upon the parties hereto and their respective successors and assigns. This Agreement shall remain effective until terminated in writing by Senior Lender. This Agreement is solely for the benefit of Subordinate Lender and Senior Lender and not for the benefit of Borrower or any other party.

18. **Governing Law**. This Agreement is made and executed under and in all respects will be governed and construed by the laws of the State of Colorado.

19. **Remedies**. Each party to this Agreement acknowledges that if any party fails to comply with its obligations under this Agreement, the other parties will have all rights available at law and in equity, including the right to obtain specific performance of the obligations of such defaulting party and injunctive relief.

20. **Counterparts**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written.

SUBORDINATE LENDER:

CITY OF PUEBLO, COLORADO, a Municipal Corporation

By:_____
Name:_____
Title:_____

STATE OF COLORADO)
) ss.
_____ COUNTY)

The foregoing instrument was acknowledged before me on _____, 2022 by _____ as _____ of the City of Pueblo, Colorado, a Municipal Corporation.

Witness my hand and official seal.

(S E A L)

_____
Notary Public

My commission expires: _____

BORROWER:

_____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2022, by _____, as _____ of _____.

Witness my hand and official seal.

My Commission expires: _____

(SEAL)

_____
Notary Public

SENIOR LENDER:

COLORADO HOUSING AND FINANCE AUTHORITY, a body corporate and political subdivision of the State of Colorado

By: _____
Jaime G. Gomez, Deputy Executive Director and Chief Operating Officer

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of _____, 2022, by Jaime G. Gomez, as Deputy Executive Director and Chief Operating Officer of Colorado Housing and Finance Authority, a body corporate and political subdivision of the State of Colorado.

Witness my hand and official seal.

(S E A L)

_____
Notary Public

My commission expires: _____

EXHIBIT A

LEGAL DESCRIPTION

Record and Return to:

Colorado Housing and Finance Authority
1981 Blake Street
Denver, CO 80202
Attention: Legal Operations

LOW-INCOME HOUSING TAX CREDIT
LAND USE RESTRICTION AGREEMENT

THIS LAND USE RESTRICTION AGREEMENT (this "**Agreement**"), dated as of _____, 2022, is by and between _____, a Colorado _____, and its successors and assigns (the "**Owner**"), and the Colorado Housing and Finance Authority, a body corporate and political subdivision of the State of Colorado (the "**Authority**").

RECITALS:

A. The Authority was designated by the Governor of the State of Colorado (the "**State**") as the housing credit agency for the State for the allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended (the "**Code**"), and the Treasury Regulations thereunder (the "**Regulations**").

B. The Owner applied to the Authority for an allocation of [4%][9%] federal low-income housing tax credits to the Project (the "**Federal Credits**").

C. The Owner is the owner of a _____ (____) unit rental housing development located on lands in the City of _____**,** County of _____, State of Colorado, as legally described in Exhibit A hereto commonly known as _____ (the "**Project**").

D. In connection with its Application (defined below) the Owner made certain representations to the Authority about the Project, including representations as to the number of Tax Credit Units (defined below) and the term of occupancy restrictions, upon which representations the Authority relied on in considering the Application for a reservation and allocation of Federal Credits.

E. The Code requires the Owner to execute and deliver this Agreement and that it be recorded in the official land records of the county in which the Project is located to create covenants running with the land for the purpose of enforcing the Code and Regulations; and certain additional undertakings of the Owner in connection with its Application by regulating and restricting the use and occupancy of the Project as set forth herein.

F. The Authority is unwilling to allocate Federal Credits to the Project unless the Owner enters into this Agreement, and consents to being regulated by the Authority so that the Authority may enforce the occupancy restrictions and other covenants, and terms and conditions of this Agreement in accordance with the Code and the Regulations.

G. The Owner, under this Agreement, intends, declares and covenants that the regulatory and restrictive covenants set forth herein governing the use, occupancy and transfer of the Project shall be and are covenants running with the Project land for the Term (defined below) and binding upon all subsequent owners of the Project for such Term.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Owner and the Authority agree as follows:

1. Incorporation of Recitals. The recitals above are incorporated in and made a part of this Agreement.

2. Definitions. Unless otherwise expressly provided herein or unless the context clearly requires otherwise, the terms defined above shall have the meanings set forth above and the following terms shall have the respective meanings set forth below for the purposes hereof, and all words and phrases defined in Section 42 of the Code shall have the same meanings in this Agreement:

(a) "**AMI**" means Area Median Gross Income, as defined below.

(b) "**Applicable Fraction**" means the applicable fraction as defined in Section 42(c)(1)(B) of the Code.

(c) "**Application**" means the application submitted to the Authority by the Owner for a reservation, initial determination, or allocation of Federal Credits for the Project. The Application includes all materials provided to the Authority, as required by the applicable checklist, and any additional materials provided to the Authority that are reviewed as part of the application process.

(d) "**Area Median Gross Income**" means the median gross income of the area in which the Project is located as determined by the Secretary for purposes of Section 42 of the Code, including adjustments for family size.

(e) **"Compliance Manual**" means the Authority's Low Income Housing Tax Credit Program Compliance Manual, as amended from time to time.

(f) "**Compliance Period**" has the same meaning as defined in Section 42(i)(1) of the Code.

(g) "**Credit Period"** means, with respect to the Federal Credit, the "credit period" as defined in Section 42(f) of the Code

(h) **"Eligible Basis**" means the eligible basis as defined in Section 42(d) of the Code.

(i) "**Extended Use Period**" means for each building that is a part of the Project a period of [30/40] consecutive taxable years beginning on the first day in the Compliance Period on which the building is part of a qualified low-income housing project and ending on the date that is [15/25 years] after the close of the Compliance Period]; provided that in no event shall the Extended Use Period be shorter than the Extended Use Period as defined in Section 42(d) of the Code.

(j) **"IRS"** means the Internal Revenue Service.

(k) **"Materially Participate"** has the same meaning set forth in Section 469(h) of the Code.

(l) "**Qualified Low-Income Building**" means a "qualified low-income building" as defined in Section 42(c)(2) of the Code

(m) "**Qualified Low-Income Housing Project**" means a "qualified low-income housing project" as defined in Section 42(g)(1) of the Code.

(n) "**Qualified Nonprofit Organization**" means a qualified nonprofit organization as defined in Section 42(h)(5)(C) of the Code.

(o) "**Qualifying Tenant**" means a tenant that meets the income requirements of Paragraph 7(b).

(p) **"Rent Restricted**" a unit is "rent restricted" if the gross rent with respect to such unit does not exceed thirty percent (30%) of the imputed income limitation applicable to such unit as set forth in Paragraph 7(b), all as determined in accordance with Section 42(g)(2) of the Code.

(q) **"Secretary**" means the Secretary of the United States Department of the Treasury.

(r) "**Tax Credit Units**" means the rent-restricted units identified in Sections 7(a) and (b).

(s) "**Term**" means the Term of this Agreement, as defined in Section 5(a).

(t) "**Tenant Income Certification**" means the certification regarding resident eligibility to live in the Tax Credit Unit; and any successor certification, as required by the Authority from time to time.

3. Recording and Filing; Covenants to Run with the Land.

(a) This Agreement will be recorded in the real property records where the Project is located, and the covenants contained herein shall run with the land and shall bind, and the benefits shall inure to the Owner and its successors and assigns, the Authority and its successors and assigns, and all subsequent owners of the Project or any interest therein, for the Term.

(b) The Owner agrees that any and all requirements of the laws of the State that must be satisfied in order for the provisions of this Agreement to constitute restrictive covenants running with the land shall be deemed to be satisfied in full, and any requirements of privity of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the land.

(c) During the Term of this Agreement, each and every contract, deed or other instrument hereafter executed conveying the Project or portion thereof shall expressly provide that such conveyance is subject to this Agreement; provided, however, the covenants contained herein shall survive and be effective as to successors and/or assigns of all or any portion of the Project, regardless of whether such contract, deed or other instrument conveying the Project or portion thereof provides that such conveyance is subject to this Agreement.

4. Representations, Covenants and Warranties of the Owner. The Owner covenants, represents and warrants as follows:

(a) The Owner:

(i) is duly organized under the laws of the state of _____, and is qualified to transact business under the laws of the State;

(ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted;

(iii) has the full legal right, power and authority to execute and deliver this Agreement; and

(iv) has good and marketable title to the Project.

(b) Each building that is the subject of an allocation of Federal Credits is, or by not later than the last day of the first year of the Credit Period, will be a Qualified Low-Income Building and the Project constitutes or will constitute a Qualified Low-Income Housing Project.

(c) The Owner shall not discriminate on the basis of race, creed, color, sex, age, marital status, national origin, disability or familial status or any other applicable protected class, in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project, and shall not refuse to lease a unit in the Project to the holder of a voucher or certificate for federal housing assistance payments pursuant to Section 8 of the United States Housing Act of 1937, or a successor federal program, on account of the status of the prospective tenant as such holder.

(d) The Owner shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project; or permit the use of any residential rental unit for any purpose other than rental housing.

(e) The Owner has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other provisions in conflict herewith.

(f) If the Owner becomes aware of any situation, event or condition that would result in non-compliance of the Project or the Owner with Section 42 of the Code, the Owner shall promptly give written notice thereof to the Authority.

(g) The Owner shall ensure that the Tax Credit Units shall be of comparable quality to other units, if any, in the Project.

(h) If the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Owner will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement.

(i) The Owner has obtained or will obtain from any prior recorded lienholder on the Project its consent and partial subordination to this Agreement in a form satisfactory to the Authority.

(j) The Owner shall not evict or terminate the tenancy of an existing tenant of any Tax Credit Unit other than for good cause and shall not increase the gross rent above the maximum allowed under the Code with respect to such Tax Credit Unit.

(k) The Owner shall establish and maintain an operating reserve fund in an amount that is equal to, or greater than, four (4) months of projected annual operating expenses and four (4) months of debt service payments. The operating reserve fund must remain with the Project for a minimum of three (3) years from the time the Project is placed in service. These requirements, as well as provisions for reserve account reductions over time as Project benchmarks are achieved, must be contained in the entity partnership agreement. These requirements may not be modified without the prior written consent of the Authority

(l) **A Qualified Nonprofit Organization shall at all times own an interest in the Project (directly or through a partnership) and shall Materially Participate in the development and operation of the Project throughout the Compliance Period.**

5. Term of this Agreement

(a) Subject to the operation of Section 42(h)(6)(E)(i)(II), this Agreement shall be in effect for each building that is part of the Project until the end of the Extended Use Period.

(b) The Owner hereby waives any rights under Section 42(h)(6)(E)(i)(II) of the Code to terminate the Extended Use Period.

(c) Code Requirements that Survive Foreclosure:

(i) This Agreement shall not be terminated with respect to any portion of the Project that is acquired by foreclosure or deed in lieu of foreclosure if the Secretary determines that such acquisition is part of an arrangement with the Owner a purpose of which is such termination.

(ii) If this Agreement terminates due to foreclosure or deed in lieu of foreclosure, the Owner shall not evict or terminate the tenancy of an existing tenant of any Tax Credit Unit other than for good cause and shall not increase the gross rent above the maximum allowed under the Code with respect to such Tax Credit Unit for a period of three (3) years following the termination of this Agreement.

(iii) This subsection (c) and the rights granted to the Authority and past, present and future tenants of the Project to enforce this Agreement shall survive any such termination.

(iv) In the event foreclosure proceedings are initiated, the Authority shall receive notice of such foreclosure no less than 15 days prior to such foreclosure.

6. Qualified Low-Income Housing Project. From no later than the last day of the first year of the Credit Period through the end of the Extended Use Period, the Owner shall maintain

the Project as a Qualified Low-Income Housing Project at all times. To this end, and without limitation, the Owner shall assure that all of the residential units in the Project are available for use by the general public, suitable for occupancy and used on other than a transient basis unless the Project qualifies as a single room occupancy project or as transitional housing for the homeless pursuant to Section 42(i)(3) of the Code).

7. Occupancy Restrictions.

(a) For the purpose of Section 42(g)(1) of the Code, the Owner elects the following (select one):

___ At least twenty percent (20%) of the residential rental units in the Project shall be maintained as both rent-restricted and occupied by individuals or families whose income is fifty percent (50%) or less of AMI.

___ At least forty percent (40%) of the residential rental units in the Project shall be maintained as both rent-restricted and occupied by individuals or families whose income is sixty percent (60%) or less of AMI.

___ At least forty percent (40%) of the residential rental units in the Project shall be maintained as both rent-restricted and occupied by individuals or families whose average income does not exceed the imputed income limitation designated by the Owner with respect to the Tax Credit Units provided that: (i) the Owner shall designate the imputed income limitation of each Tax Credit Unit taking into account; (ii) the average of the imputed income limitations shall not exceed sixty percent (60%) of AMI, and (iii) the designated imputed income limitations shall be either twenty percent (20%), 30 percent (30%), 40 percent (40%), 50 percent (50%), 60 percent (60%), seventy percent (70%) or 80 percent (80%) of AMI. Any changes to these initial designations may be made only with the Authority's expressed written consent and in accordance with the Authority's [Income Averaging Policy] in place at the time of the request.

(b) Additionally, the Owner covenants and agrees that, during the Extended Use Period, the Tax Credit Units shall be maintained as both rent restricted and occupied by individuals or families whose income level does not exceed the applicable AMI as follows:

No. of Units	AMI Threshold
_____ (__) units	20% or less of AMI
_____ (__) units	30% or less of AMI
_____ (__) units	40% or less of AMI
_____ (__) units	50% or less of AMI
_____ (__) units	60% or less of AMI
_____ (__) units	70% or less of AMI
_____ (__) units	80% or less of AMI
_____ (__) units	manager

The Owner further agrees that additional residential units in the Project shall be maintained as both rent-restricted and occupied by low-income individuals or families whose incomes meet the requirements of this subsection (b) to the extent necessary to maintain the

Applicable Fraction, at not less than percentage(s) shown on Exhibit B hereto for each taxable year of the Extended Use Period.

(c) The determination of whether an individual or family is a Qualifying Tenant shall be made at least annually on the basis of the income of such Qualifying Tenant(s). Any Tax Credit Unit occupied by an individual or family who is a Qualifying Tenant at the commencement of occupancy shall continue to be treated as a Tax Credit Unit notwithstanding an increase in the income of such individual or family above the income limitation applicable under subsection (b) of this Section 7 provided that, if such Qualifying Tenant's income subsequently exceeds one hundred forty percent (140%) of the applicable income limit, such residential unit shall no longer be a Tax Credit Unit if after the determination of such increase, but prior to the next determination, any residential unit of comparable or smaller size is rented to a tenant who is not a Qualifying Tenant.

(d) As a condition to occupancy, each individual or family who is intended to be a Qualifying Tenant shall be required to sign a fully completed Tenant Income Certification prepared by the Owner, and the income and assets of such individual or family must be verified in the manner prescribed by the Authority.

(e) The form of lease to be utilized by the Owner in renting any residential unit in the Project to any person who is intended to be a Qualifying Tenant shall provide for termination of the lease and consent by such person to immediate eviction for failure to qualify as a Qualifying Tenant as a result of any material misrepresentation made by such person with respect to the Tenant Income Certification or the failure by such tenant to execute a certification annually.

8. Additional Agreements. The Owner agrees that the Authority's award and allocation of Federal Credits is based on the Owner's additional obligations and agreements, as set forth on Exhibit C, attached hereto and incorporated herein by this reference. [Intentionally deleted if N/A]

9. Compliance Monitoring; Fees.

(a) The Owner acknowledges that Section 42 of the Code requires the Authority to monitor the compliance of the Owner and the Project with the requirements of Section 42 of the Code. The Owner agrees to strictly comply, at all times, with the Compliance Manual, the terms and provisions of which are by this reference incorporated in this Agreement and made a part hereof; and to take all actions required by the Authority pursuant to the Compliance Manual to assist or cooperate with the Authority in monitoring such compliance.

(b) The Owner agrees to pay to the Authority: (i) any non-compliance fees as required in the Compliance Manual as of the date of such non-compliance, and (ii) any fees in the amounts and at the times as the Authority shall, in its sole discretion, reasonably require the Owner to pay in order to reimburse the Authority for the costs of such monitoring.

10. Owner Certifications and Reports.

(a) Within ninety (90) days of filing IRS Form 8609 with the IRS, the Owner shall provide to the Authority a copy of IRS Form 8609, for each building, as filed with the IRS for the first year of the Credit Period.

(b) The Owner shall provide to the Authority, on the dates required by the Compliance Manual, a Certification of Continuing Program Compliance and an Occupancy Report, each in the form provided by the Authority.

(c) The Owner shall maintain in its records and provide to the Authority copies of any and all notices and correspondence from or with the IRS concerning the Project or the Owner upon request.

(d) In addition to the information provided for in Section 9 and in this Section 10, the Owner shall provide any other information, documents or certifications requested, from time to time, by the Authority with respect to the Project's physical, operational and financial condition and residents which the Authority reasonably deems necessary to substantiate the Owner's continuing compliance with the provisions of this Agreement and Section 42 of the Code, including a copy of the IRS Form 8609 Schedule A.

11. Transfer Restrictions.

(a) The Owner shall not sell, assign, convey, transfer or otherwise dispose of the Project or any building in the Project without the prior written consent of the Authority. Such consent shall be given provided that: (i) the Owner is in compliance with the requirements of this Agreement and Section 42(j)(6) of the Code; (ii) the proposed transferee of the Project evidences, to the reasonable satisfaction of the Authority, by its performance with respect to other low-income housing tax credit or government-assisted housing projects and otherwise, its willingness and ability to comply with the terms of this Agreement; and (iii) the Authority shall be paid a transfer fee, as determined, from time to time, by the Authority. In no event shall the Owner dispose of any portion of any building in the Project to any person unless all of such building is disposed of to such person. For the purposes of this subsection, a transfer of any managing member or general partner of the Owner or a transfer of fifty percent (50%) or more of the ownership interests in Owner shall be deemed a transfer of the Project.

(b) The Owner shall include, verbatim or by incorporation by reference, all requirements and restrictions contained in this Agreement in any deed or other documents transferring any interest in the Project or in any building in the Project to any other person or entity to the end that such transferee has notice of and is bound by such restrictions, and shall obtain the express written assumption of this Agreement by any such transferee.

12. Physical Maintenance/Management/Books/Records/Inspections.

(a) The Owner shall maintain each building in the Project such that all residential units are suitable for occupancy, taking into account applicable health, safety and building codes, and otherwise in a manner reasonably satisfactory to the Authority.

(b) The Owner shall provide for the management of the Project in a manner reasonably determined by the Authority to assure compliance with this Agreement. Any management contract entered into by the Owner involving the Project shall provide that it shall be subject to termination, without penalty and with or without cause, upon written request by the Authority addressed to the Owner. Upon such request the Owner shall immediately terminate the contract within a period of not more than thirty (30) days and shall make

arrangements reasonably satisfactory to the Authority for continuing proper management of the Project.

(c) The books, contracts, records, computerized data, documents and other papers relating to compliance of the Owner and the Project with Section 42 of the Code and with this Agreement and to the eligibility of the Owner to claim the Federal Credits with respect to the Project shall at all times be maintained at the Project, or at the Owner's principal place of business in the State of Colorado, in reasonable condition for proper audit and shall be subject to examination and inspection and copying at any reasonable time by the Authority or its authorized agents. The Authority shall also have the right to enter and inspect the Project at any reasonable time.

(d) Owners are required to keep records for each Qualified Low-Income Building in the Project showing the following:

(i) the total number of residential rental units in the building (including the number of bedrooms and the size in square feet of each unit);

(ii) the percentage of residential rental units in the building that are Tax Credit Units;

(iii) the gross rent charged on each residential rental unit in the building (including any utility allowance and any non-optional fees);

(iv) the number of occupants in each Tax Credit Unit;

(v) the Tax Credit Unit vacancies in the building and information that shows when, and to whom, the next available units were rented;

(vi) the annual income certification of each Qualifying Tenant;

(vii) documentation to support each Qualifying Tenant's income certification;

(viii) the Eligible Basis and qualified basis of the building at the end of the first year of the Credit Period; and

(ix) the character and use of the nonresidential portion of the building included in the building's Eligible Basis under Section 42(d) of the Code (e.g., tenant facilities that are available on a comparable basis to all tenants and for which no separate fee is charged for use of the facilities, or facilities reasonably required by the Project).

Owners are required to keep all records for each building for a minimum of six (6) years after the due date (with extensions) for filing the Owner's federal income tax return for any year; provided, that the records for the first year of the Credit Period must be retained for at least six (6) years beyond the due date (with extensions) for filing the federal income tax return for the last year of the Compliance Period of the building.

(e) The Authority has the right to conduct physical inspections of the Project and to conduct a review of the Owner’s files relating to the Project throughout the Extended Use Period.

13. Enforcement.

(a) The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of Section 42 of the Code or of this Agreement. Moreover, the Owner covenants to take any lawful action (including amendment of this Agreement) as may be necessary, in the opinion of the Authority, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury or the IRS from time to time pertaining to the Owner's obligations under Section 42 of the Code and affecting the Project.

(b) The Owner shall promptly advise the Authority as to the date each building in the Project is a Qualified Low-Income Building.

(c) In the event of any failure of the Owner to comply with the provisions of Section 42 of the Code or this Agreement, consistent with the procedures set forth in the Compliance Manual, the Authority shall: (i) inform the Owner by written notice of such failure; and (ii) provide the Owner with a period of time to correct the failure. If any such failure is not corrected to the satisfaction of the Authority within the period of time specified by the Authority, without further notice the Authority may declare a default under this Agreement effective on the date of such declaration of default, and the Authority may (i) apply to any court, state or federal, for specific performance of this Agreement or an injunction against any violation of this Agreement; (ii) secure the appointment of a receiver to operate the Project in compliance with this Agreement; or (iii) exercise any other remedies at law or in equity or any such other action as shall be necessary or desirable to correct non-compliance with this Agreement.

(d) The Owner and the Authority each acknowledges that the primary purpose of requiring compliance by the Owner with the restrictions provided in this Agreement is to assure compliance of the Project and the Owner with Section 42 of the Code and the Regulations thereunder, **AND BY REASON THEREOF, THE OWNER IN CONSIDERATION OF RECEIVING AN ALLOCATION OF FEDERAL CREDITS FOR THE PROJECT HEREBY AGREES AND CONSENTS THAT THE AUTHORITY, ANY QUALIFYING TENANT AND ANY INDIVIDUAL WHO MEETS THE INCOME LIMITATION APPLICABLE TO THE BUILDING UNDER THE CODE (WHETHER PRESENT, PROSPECTIVE OR FORMER OCCUPANTS OF THE BUILDING) (ANY OR ALL OF THEM) SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREOF, AND IN ADDITION TO OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE SPECIFIC PERFORMANCE BY THE OWNER OF ITS OBLIGATIONS UNDER THIS AGREEMENT IN ANY COURT, STATE OR FEDERAL, OF COMPETENT JURISDICTION,** the Owner hereby further specifically acknowledging that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder.

(e) In the event of the Owner's or Project's failure to comply fully with the Code, the covenants and agreements contained herein or with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the United States Department of the Treasury or the IRS or the Authority from time to time pertaining to the

obligations of the Owner as set forth therein or herein, the Authority, in addition to all of the remedies provided by law or in equity, shall notify the IRS of such noncompliance.

14. Issuance of Form 8609. The Authority shall prepare and file with IRS Form 8609 with respect to each building in the Project, evidencing the Authority's allocation of Federal Credits with respect to the Project. The Authority shall issue Form 8609(s) to the Owner when the following conditions have been met:

(a) Each building in the Project for which a Form 8609 is issued is a Qualified Low-Income Building.

(b) The Owner and the Project are in compliance with the terms of this Agreement.

(c) The Owner shall have provided, on form(s) approved by the Authority, a certification of each building's Eligible Basis and the Authority shall have made its final determination of the Federal Credit amount and its final determination pursuant to Section 42(m)(2) of the Code.

(d) The Owner shall have provided a copy of the executed partnership or operating agreement.

(e) The Owner shall have provided to the Authority the partial subordination of any prior recorded lien on the Project to this Agreement.

(f) The Owner and its management agent and any management staff involved in the certification of residents shall have completed compliance training provided or approved by the Authority.

(g) The Owner shall have paid the compliance monitoring fee.

15. Return of Unused Federal Credit. Pursuant to Section 42(h)(3)(C) of the Code and Regulation §1.42-14(d), the Federal Credit amount allocated to the Owner with respect to the Project shall be canceled and returned to the Authority, in whole or in part, if (i) any building in the Project is not a Qualified Low-Income Building within the time period required by Section 42 of the Code, or (ii) the "Qualified Basis" of any building in the Project is less than the qualified basis on which the Federal Credit was allocated by the Authority.

16. Release and Indemnification. The Owner acknowledges that, in issuing IRS Form 8609(s) with respect to the Project, the Authority is relying or will rely upon information and representations given by or on behalf of the Owner and has made or will make no independent investigation and does not and will not have independent knowledge of the basis for such information and representations. Accordingly, to induce the Authority to issue IRS Form 8609(s), the Owner agrees as follows:

(a) The Owner agrees to release and forever discharge the Authority, its members, employees, agents, officers, successors and assigns of and from any and all claims, demands, causes of actions, judgments and executions which Owner has or may hereafter have against the Authority, whether in law or in equity, arising or resulting from, or on account of or pertaining to, whether directly or indirectly, the issuance of a Form 8609 with respect to the Project by the Authority.

(b) The Owner hereby agrees to indemnify, save harmless and defend the Authority, and its members officers, agents, employees, successors and assigns from any obligation, claim, loss, demand, cost, expense (including the costs of the investigation and settlement of any claim, and including reasonable attorney's fees) or judgment against the Authority arising or resulting from, or on account of or pertaining to, whether directly or indirectly, the Authority's issuance of a Form 8609 with respect to the Project. If any such claim is asserted, any indemnified party hereunder will give prompt notice to the Owner and will cooperate in the investigation and defense of any such claim. The Owner will assume the defense of any such asserted claim by engaging counsel approved by the indemnified party (which approval shall not be unreasonably withheld), it being understood that the indemnified party shall have the right to employ its own separate counsel and participate in such proceedings at its own cost and expense.

(c) If the indemnification provided in subsection (b) is, for any reason, either unavailable to the Authority or any of the other persons intended to be indemnified thereby or insufficient to hold it or any of them harmless, then the Owner hereby agrees to contribute to all amounts paid or payable by the Authority and such other persons as a result of any such obligation, claim, loss, demand, cost, expense, or judgment. The amount to be contributed by the Owner shall be the amount that is appropriate to reflect both the relative benefits received by the Owner, on the one hand, and by the Authority and such other persons, on the other hand, and the relative degrees of fault of the Owner, on the one hand, and of the Authority and such other persons, on the other hand.

17. Miscellaneous.

(a) The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions thereof.

(b) All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when mailed by certified or registered mail, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

To the Authority: Colorado Housing and Finance Authority
1981 Blake Street
Denver, Colorado 80202-1272
Attention: Low-Income Housing Tax Credit Program

To the Owner: [INSERT INFO]
_____
_____
Attention:_____
Email: _____

The Authority and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

(c) This Agreement shall be governed by the laws of the State of Colorado and, where applicable, the laws of the United States of America.

This Agreement may be amended from time to time by any written instruments signed by both the Authority and the Owner. The signing of any such instrument by the Authority shall be deemed for all purposes to be on behalf of, and shall be legally binding on, the Authority, any Qualifying Tenant and any individual who meets the income limitation applicable to the Project under the Code (whether present, prospective or former occupants of the Project).

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by electronic image scan transmission will be effective as delivery of a manually executed counterpart of the Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this agreement to be signed by their respective duly authorized representatives, as of the day and year first written above.

[Owner]
[NOTE: SIGNATURE BLOCK TO BE CONFIRMED BY OWNER AND ENTITY DOCUMENTS]

By:_____

Its:_____

STATE OF _____)
) ss.
_____ COUNTY OF _____)

Acknowledged before me this _____ day of _____, 20__, by_____as_____ _____of_____ _____.

My Commission expires: _____.

_____
Notary Public

COLORADO HOUSING AND FINANCE AUTHORITY

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

Acknowledged before me this _____ day of _____, 20__, by _____ as _____ of Colorado Housing and Finance Authority.

My Commission expires: _____.

_____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION

[to be inserted from title commitment or policy]

Also known as: [INSERT STREET ADDRESS] For informational Purposes only

EXHIBIT B

Minimum Applicable Fraction by Building

Building Identification Number	Minimum Applicable Fraction

EXHIBIT C

Additional Owner Agreements

I. State Credits [insert if state credits]

RECITALS

A. The Authority is authorized by Part 21 of Article 22 of Title 39, Colorado Revised Statutes, as may be amended from time to time (the "**State Affordable Housing Credit Act**") to allocate affordable housing tax credits under the State Tax Credit Act.

B. Under the State Affordable Housing Credit Act, the Authority determines the eligibility for and allocates credits in accordance with the standards and requirements set forth in the State Affordable Housing Credit Act and Section 42 of the Code.

C. The Owner applied to the Authority for an allocation of affordable housing credits under the State Affordable Housing Credit Act (the "**State Credits**").

D. In connection with its Application (defined below) the Owner made certain representations to the Authority about the Project, including representations as to the number of Tax Credit Units and the term of occupancy restrictions, upon which representations the Authority relied in considering the Application for a reservation and allocation of State Credits.

E. The Authority is unwilling to allocate State Credits to the Project unless the Owner enters into this Agreement, and consents to be regulated by the Authority in order that the Authority may enforce the occupancy restrictions and other covenants, terms and conditions of this Agreement in accordance with the State Affordable Housing Credit Act.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Owner and the Authority agree as follows:

1. Incorporation of Recitals. The recitals above are incorporated in and made a part of this Agreement.

2. Definitions. All references in the Agreement to the following capitalized terms, shall have the following meaning:

a. "**Allocation Certificate**" means the Colorado Affordable Housing Tax Credit Allocation Certificate.

b. "**Application**" means the application submitted to the Authority for a reservation, initial determination, or allocation of Federal Credits and/or State Credits. The Application includes all materials provided to the Authority, as required by the applicable checklist, and any additional materials provided to the Authority that are reviewed as part of the tax application process.

c. "**Credit Period**" means, with respect to the State Tax Credit, the "credit period" as defined in Section 39-22-2101 of the State Tax Credit Act, and with respect to the Federal Credit, the "credit period" as defined in Section 42(f) of the Code.

d. "**Department**" means the Colorado Department of Revenue.

e. **"Qualified Development"** means a "qualified development" under Section 39-22-2101 (10) of the State Tax Credit Act.

3. Additional Representations, Covenants and Warranties of the Owner. The Owner covenants, represents and warrants as follows:

a. In compliance with the State Affordable Housing Credit Act:

i. Each building that is the subject of an allocation of State Credits is or by not later than the last day of the Credit Period will be a Qualified Low-Income Building and the Project constitutes or will constitute a Qualified Development.

ii. The Project will be operated and maintained as a Qualified Development.

iii. The Owner shall operate the Project in accordance with the accessibility and adaptability requirements of the Federal Credits and Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, as amended.

iv. The Owner will not knowingly take or permit any action that would result in a violation of the State Affordable Housing Act.

b. The Owner covenants that it will not knowingly take or permit any action that would result in a violation of the requirements of the State Affordable Housing Credit Act.

c. If the Owner becomes aware of any situation, event or condition that would result in non-compliance of the Project or the Owner with the State Affordable Housing Credit Act, the Owner shall promptly give written notice thereof to the Authority.

d. The Owner covenants to take any lawful action (including amendment of this Agreement) as may be necessary, in the opinion of the Authority, to comply fully with all applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department or the Authority from time to time pertaining to the Owner's obligations under the State Affordable Housing Credit Act and affecting the Project.

4. Compliance Monitoring. The Owner agrees that the Authority must monitor the Owner and the Project for compliance with the State Affordable Housing Credit Act in addition to the Code, and may report any non-compliance to the Department in addition to the IRS, and may provide the Department all filings provided to the IRS. As such, the Owner agrees to be bound by all State Credit compliance requirements found in the Compliance Manual and to take all actions required by the Authority pursuant to the Compliance Manual to assist or cooperate with the Authority in monitoring such compliance.

5. Owner Certifications and Reports.

a. Within ninety (90) days of filing the Allocation Certificate with the Department, the Owner shall provide to the Authority a copy, for each building, of the Allocation Certificate, as filed by with the Department for the first year of the Credit Period.

b. The Owner shall provide the Department with any documentation, certifications, and/or reports required by the State Affordable Housing Credit Act and/or as required by the Department for its monitoring of the State Credits.

c. The Owner shall maintain its records and provide the Authority with all notices and correspondence from or with the Department concerning the Project or the Owner, and provide the Authority with any other information, documents or certifications requested, from time to time, by the Authority which the Authority reasonably deems necessary to substantiate the Owner's continuing compliance with the State Affordable Housing Credit Act.

6. Enforcement. All the enforcements rights of the Authority included in this Agreement include the Authority's rights to ensure compliance with the State Credits and the State Affordable Housing Credit Act.

7. Termination in the Event of Foreclosure. This Agreement shall not terminate, with respect to the State Credits, on the date the Project is acquired by foreclosure or instrument in lieu of foreclosure if the Authority determines that such acquisition is part of an arrangement, a purpose of which is to cause such termination.

8. Restrictions on Transfers. In addition to the requirements in Section 11 of the Agreement, the Authority's consent to a transfer of the Project will be conditioned on the Owner's and the Project's compliance with the State Affordable Housing Credit Act.

9. Allocation Certificate. The Authority's issuance of the Allocation Certificate is conditioned upon the satisfaction of the Owner of all requirements in the Qualified Allocation Plan for the issuance of such certificate.

II. Special Populations Served

1. The Owner further covenants and agrees that not later than the last day of the first year of the Credit Period, at least _____ (_____) of the residential rental units in the Project shall be constructed, equipped, set aside and occupied (or held vacant and available for immediate occupancy) by _____ [describe special housing needs resident] at all times during the term of this Agreement, and the Owner shall provide evidence to the Authority of any license, permit or other governmental approval required for such occupancy. **[USE IF SPECIAL NEEDS HOUSING]**

2. [USE IF REQUIREMENT TO ADD LANGUAGE RE SENIOR – PREFERENCE NOT TO INCLUDE, AND IF INCLUDE, NOT TO SPECIFY AGE]

3. The Owner will provide the Authority with notification of any substantial changes in population served.

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 27, 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
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED FOOD PROJECT COORDINATOR TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE

SUMMARY:

The Mayor requests that one full-time position be added to the Mayor's Office for the purpose of providing full-time support for the Pueblo Food Project through June 30, 2025. The position is entirely funded through the State of Colorado Department of Law Grant, Project CI2207, Ordinance No. 10116.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

BACKGROUND:

The Pueblo Food Project is currently staffed with one part-time employee working for the City coordinating efforts with an outside contracted vendor in support of the program. The part-time employee is entirely grant funded. The request is to convert this temporary position to a full-time classified position subject to Civil Service entitled Food Project Coordinator to allow for critical work to continue in support of the program through June 30, 2025, at which time the grant is anticipated to end.

The position will lead the Pueblo Food Project team members to co-facilitate and guide agenda creation for the work groups, task forces and lead various events connected to the project. A key responsibility for the position will be to develop a succession plan for the Pueblo Food Project outlining key transition activities when the grant ends and determining next steps for the program.

FINANCIAL IMPLICATIONS:

All costs associated with this proposal will be paid out of the State of Colorado Department of

Law Grant at an approximate cost of $128,333.33 through June 20, 2025, at which time, the grant is anticipated to end.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

The suggested change allows for important transition work to occur in support of the Pueblo Food Project. If this is not approved, the hours that can be worked to perform these duties are substantially limited as only a part-time employee could continue working on the project.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME POSITION ENTITLED FOOD PROJECT COORDINATOR TO THE AUTHORIZED STAFFING OF THE MAYOR'S OFFICE

WHEREAS, it is necessary to revise the position for the ultimate efficiency and functionality for the Pueblo Food Project; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

The following sections captioned "Mayor's Office" of Ordinance No. 10085, being the 2022 Staffing Ordinance, is amended as follows:

Mayor's Office	
Mayor	1
Chief of Staff	1
Deputy Mayor	1
Director of Public Affairs	1
Grant & Resource Development Administrator	1
Secretary to the Mayor	1
Administrative Assistant	1
Food Project Coordinator	**1**
Total	**[7] 8**

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 transactions described therein.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Mayor's Office and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____

Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____

President of City Council

ATTEST

_____

City Clerk

City Clerk's Office Item # N-8

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marissa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING 17-4-7 OF CHAPTER 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS

SUMMARY:

Attached for consideration is a text amendment that will amend Chapter 4 of Title XVII of the Pueblo Municipal Code amending the landscape regulations for existing properties in the established development area of the City.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City of Pueblo Planning and Community Development Department is requesting approval to remove a requirement from the current landscape performance standard code, which states that any addition to a non-single family residential structure larger than 1,000 square feet would trigger all landscaping requirements. The Planning Department is also proposing to include a residence, two family (duplex) as an exception to the landscape performance standards code. The City of Pueblo Planning Department has determined that a 1,000 square foot addition to a commercial property, currently outlined in Sec 17-4-7(b)(2)(b) and 17-4-7(b)(2)(g)(1), is triggering full landscape requirements, to include parking lot landscape islands, parking lot screening, buffering, tree lawns, and landscape setbacks. These additional landscape requirements are a financial burden and have been proven to be a detriment to the development of existing commercial properties. Therefore, the Planning Department is requesting to remove the 1,000 square foot addition requirement from the landscape code. Removing this requirement will also align the landscape performance standards code with the current small and medium scale development performance standards, which are triggered by any addition to a commercial structure exceeding 35-percent.

Prior to 2018, landscaping for commercial development was only required when a new structure was constructed or when an addition was proposed that equaled 35-percent or more of the gross square footage of the existing structure.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 8, 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 by publication of the proposed amendment fifteen (15) days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, Title XVII of the Pueblo Municipal Code will not be amended to reflect the proposed changes relating to zoning.

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 June 8, 2022 Public Hearing
Planning and Zoning Commission Staff Report with Exhibits

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 17-4-7 OF CHAPTER 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 17-4-7(b)(2) of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-4-7. Landscape Performance Standard

. . .

(2) Applicable Zones: Unless provided through a Special Area Plan or Planned Unit Development, the provisions of this Section shall apply in the following zone districts: R-4, R-5, R-6, RCN, B-1, B-2, B-3, B-4, BP, PUD (when the PUD does not establish its own landscaping regulations), H-B, Industrial-Zoned properties in the designated high-visibility areas, O-1, CCN, S-1, S-4 and S-5 when at least one (1) of the following occurs within the above-mentioned zones:

a. The construction or placement of any building or structure upon any lot except a residence, one (1) family **and a residence, two (2) family**.

b. Any addition of thirty-five percent (35%) or more of the gross square footage of an existing building, except a residence, one (1) family **and a residence, two (2) family**; **[an addition of more than one thousand (1,000) square feet, except a residence, one (1) family;]** or an addition **[over]** **of** ten thousand (10,000) **gross square feet or more of an existing building** in an I-2 zone district (whichever quantity is less). Additional increases in floor area, based on the above zone districts, shall be a maximum allowable limit of expansion whether cumulative or not, based on structure size after 2017.

. . .

g. Those properties located in the "Established Development Area", as illustrated on the map adopted by City Council Resolution and on file in the Community Development Department, are eligible for adjustments to the Landscape Performance Standards for the landscaping locations/functions described in Section 17-4-7(b)(3), as follows:

1. A building addition **[of over one thousand (1,000) square feet, or more]** **greater** than thirty-five percent (35%) of the existing building**'s gross** square footage **[(whichever is greater),]** shall not require compliance with the requirements of Section 17-4-7(b)(3) in the "Landscape Setback", "Parking Lot", and "Landscaped Open Space" areas**,** when it has been determined by the Land Use Administrator that omitting landscaping from the proposed construction project would not be considered a significant visual impact nor detriment to the health, safety, and welfare of the neighborhood. However, additions to existing buildings within the size ranges described in this paragraph must comply with the standards described in paragraph (b)(2) g.2 below. Criteria used in determining whether this waiver shall be allowed include:

. . .

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 thirty (30) days after 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

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, June 8, 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 3:31 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; and Joe Martellaro, Associate Engineer II.

APPROVAL OF THE JUNE 8, 2022 AGENDA:

Bailey moved to approve the June 8, 2022 agenda with S-22-06 North Vista Filing No. 5 Subdivision and Z-22-04 Keating School Rezoning continued to the July 13, 2022 Planning and Zoning Commission Public Hearing.

Second by Spinuzzi, motion carried 7-0.

PUBLIC HEARING AND ACTION

TA-21-04 Text Amendment: An ordinance amending Section 17-4-7 of Title XVII of the Pueblo Municipal Code relating to landscape requirements.

Staff presentation by Beritt Odom

BACKGROUND AND ANALYSIS:
The City of Pueblo Planning & Community Development Department is requesting approval to remove a requirement from the current landscape performance standard code, which states that any addition to a non-single family residential structure larger than 1,000 square feet would trigger all landscaping requirements. The Planning Department is also proposing to include a residence, two family (duplex) as an exception to the landscape performance standards code.

The City of Pueblo Planning Department has determined that the 1,000 square foot addition currently outlined in Sec 17-4-7(b)(2)(b) and 17-4-7(b)(2)(g)(1) is triggering full landscape requirements, to include parking lot landscape islands, parking lot screening, buffering, tree lawns, and landscape setbacks. These additional landscape requirements are a financial burden and have been proven to be a detriment to the development of existing commercial properties. Therefore, the Planning Department is requesting to remove the 1,000 square foot addition requirement from the landscape code. Removing this requirement will also align the landscape performance standards code with the current small and medium scale development performance standards, which are triggered by any addition to a commercial structure exceeding 35-percent. Prior to 2018, landscaping for commercial development was only required when a new structure was constructed or when an addition was proposed that equaled 35-percent or more of the gross square footage of the existing structure.

The Planning Department is also requesting to add a residence, two family to the exemptions within the landscape performance standards code in Sec 17-4-7(b)(2)(a) and (b). The current landscape code states a residence, single family is exempt from the landscaping requirement that is triggered by a 1,000 square foot and 35-percent addition requirement. Therefore, including residence, two family to this exemption allows residential properties the opportunity to increase in size in zone districts that require landscaping without requiring full landscape improvements. Including the residence, two family in the exemption also aligns with our new residence, multifamily definition, which is now defined as a residential structure with three or more dwelling units. Multifamily dwelling units are considered commercial and must abide by the newly implemented Sec 17-4-14, which outlines multifamily housing development design standards.

RECOMMENDATION:
Staff recommends that the Planning and Zoning Commission forward a recommendation of approval of the proposed text amendment to City Council.

HEARING: No one spoke in favor or opposition.

MOTION: Motion to recommend approval to City Council was made by Bailey, second by Aznar.

MOTION PASSED 7-0

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

TEXT AMENDMENT
TA-21-04

TO:	**City of Pueblo Planning and Zoning Commission**
FROM:	**Danielle Baxter, Planner**
THROUGH:	**Scott Hobson, Acting Director of Planning and Community Development**
DATE:	**June 8, 2022**
SUBJECT:	**An ordinance amending Section 17-4-7 of Title XVII of the Pueblo Municipal Code relating to landscape requirements.**

Background:
The City of Pueblo Planning & Community Development Department is requesting approval to remove a requirement from the current landscape performance standard code, which states that any addition to a non-single family residential structure larger than 1,000 square feet would trigger all landscaping requirements. The Planning Department is also proposing to include a residence, two family (duplex) as an exception to the landscape performance standards code.

Analysis:
The City of Pueblo Planning Department has determined that the 1,000 square foot addition currently outlined in Sec 17-4-7(b)(2)(b) and 17-4-7(b)(2)(g)(1) is triggering full landscape requirements, to include parking lot landscape islands, parking lot screening, buffering, tree lawns, and landscape setbacks. These additional landscape requirements are a financial burden and have been proven to be a detriment to the development of existing commercial properties. Therefore, the Planning Department is requesting to remove the 1,000 square foot addition requirement from the landscape code. Removing this requirement will also align the landscape performance standards code with the current small and medium scale development performance standards, which are triggered by any addition to a commercial structure exceeding 35-percent. Prior to 2018, landscaping for commercial development was only required when a new structure was constructed or when an addition was proposed that equaled 35-percent or more of the gross square footage of the existing structure.

The Planning Department is also requesting to add a residence, two family to the exemptions within the landscape performance standards code in Sec 17-4-7(b)(2)(a) and (b). The current landscape code states a residence, single family is exempt from the landscaping requirement that is triggered by a 1,000 square foot and 35-percent addition requirement. Therefore, including residence, two family to this exemption allows residential properties the opportunity to increase in size in zone districts that require landscaping without requiring full landscape improvements. Including the residence, two family in the exemption also aligns with our new residence, multifamily definition, which is now defined as a residential structure with three or more dwelling units. Multifamily dwelling units are considered commercial and must abide by the newly implemented Sec 17-4-14, which outlines multifamily housing development design standards.

Recommendation:
Staff recommends that the Planning and Zoning Commission forward a recommendation of approval of the proposed text amendment to City Council.

Attachments:
Ordinance Amending §17-4-7 of Title XVII of the Pueblo Municipal Code Relating to Landscape Performance Standards.

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 17-4-7 OF CHAPTER 4 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO LANDSCAPE PERFORMANCE STANDARDS.

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

(brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 17-4-7(b)(2) of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-4-7. Landscape Performance Standard

. . .

(2) Applicable Zones: Unless provided through a Special Area Plan or Planned Unit Development, the provisions of this Section shall apply in the following zone districts: R-4, R-5, R-6, RCN, B-1, B-2, B-3, B-4, BP, PUD (when the PUD does not establish its own landscaping regulations), H-B, Industrial-Zoned properties in the designated high-visibility areas, O-1, CCN, S-1, S-4 and S-5 when at least one (1) of the following occurs within the above-mentioned zones:

a. The construction or placement of any building or structure upon any lot except a residence, one (1) family **and a residence, two (2) family**.

b. Any addition of thirty-five percent (35%) or more of the gross square footage of an existing building, except a residence, one (1) family **and a residence, two (2) family**; **[an addition of more than one thousand (1,000) square feet, except a residence, one (1) family;]** or an addition **[over] of** ten thousand (10,000) **gross square feet or more of an existing building** in an I-2 zone district (whichever quantity is less). Additional increases in floor area, based on the above zone districts, shall be a maximum allowable limit of expansion whether cumulative or not, based on structure size after 2017.

. . .

g. Those properties located in the "Established Development Area", as illustrated on the map adopted by City Council Resolution and on file in the Community Development Department, are eligible for adjustments to the Landscape Performance Standards for the landscaping locations/functions described in Section 17-4-7(b)(3), as follows:

1. A building addition **[of over one thousand (1,000) square feet, or more] greater** than thirty-five percent (35%) of the existing building**'s gross** square footage **[(whichever is greater),]** shall not require compliance with the requirements of Section 17-4-7(b)(3) in the "Landscape Setback", "Parking Lot", and "Landscaped Open Space" areas**,** when it has been determined by the Land

Use Administrator that omitting landscaping from the proposed construction project would not be considered a significant visual impact nor detriment to the health, safety, and welfare of the neighborhood. However, additions to existing buildings within the size ranges described in this paragraph must comply with the standards described in paragraph (b)(2)g.2 below. Criteria used in determining whether this waiver shall be allowed include:

SECTION 2.

The officers and staff of the City are authorized and directed 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 thirty (30) days after 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: June 27, 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 SECTIONS 6 AND 15 OF CHAPTER 10 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO HIGH RISE SIGN DISTRICT NUMBER 3

SUMMARY:

Attached for consideration is a Text Amendment that will amend sections 6 and 15 of chapter 10 of Title XVII of the Pueblo Municipal Code relating to the location of allowed high-rise signs in Special Sign District 3.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Under the existing code, properties fronting Interstate-25, West Pueblo Boulevard, and Gateway Drive, north and west of Interstate 25, are in Special Sign District 3 and are allowed to install one 30-foot pole/free standing sign with a maximum sign area of 300 square feet. These properties are also allowed an additional low-profile sign if they are a through lot and have an arterial street right of way adjacent to the rear property line. The proposed Ordinance revises the sign code by including commercial/industrial properties, adjacent to the east side of Interstate-25, in the Special Sign District. The Ordinance also modifies the language describing the district to aid in understanding the intent and purpose of the district. Finally, the Ordinance amends the Special Sign District table to allow properties within Districts 1-4 to have a low-profile sign adjacent to another street right-of-way if the property is a through lot or a corner lot. Previously, only through lots that fronted on a right-of-way, identified in the district, and on an arterial street were allowed to have both a high-rise sign and low-profile sign. This language prevented several lots with multiple frontages on rights-of-way to have both types of signs. The Planning and Community Development Department received interest to develop a convenience store on the unimproved parcel located north-east of the West Pueblo Boulevard and Interstate-25 interchange. The developers requested to be included in the Special Sign District 3 to receive equitable sign opportunities as the properties located directly west of their site. To further equitable sign opportunities along Interstate-25, the Planning Department proposes to extend the district south of the West Pueblo Boulevard and Interstate-25 interchange for the properties that front Interstate-

25 and Greenhorn Drive. The district is proposed to end at the point where Greenhorn Drive jogs west to run adjacent to Interstate-25.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their June 8, 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 by publication of the proposed amendment fifteen (15) days prior to the Public Hearing.

ALTERNATIVES:

If City Council does not approve this Ordinance, sections 6 and 15 of chapter 10 of Title XVII of the Pueblo Municipal Code relating to high rise sign district number 3 will 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
District 3 Map
Minutes of the Planning and Zoning Commission June 8, 2022 Public Hearing
Planning and Zoning Commission Staff Report

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 6 AND 15 OF CHAPTER 10 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO HIGH RISE SIGN DISTRICT NUMBER 3

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 6 of Chapter 10, Title XVII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-10-06. Special S[s]ign D[d]istricts.

Special **S**[s]ign **D**[d]istricts have been established to prescribe special regulations to modify or supplement **sign** regulations of the **properties identified in Appendix A, Special Sign Districts, 17-10-15. [**general district**]** **Properties located** in **the Special Sign Districts either front Interstate 25, Highway 50 West, and/or arterial roadways, which warrant high profile signs and additional low-profile signs to aid travelers and customers in wayfinding. [**recognition of distinguishing circumstances while maintaining the character and purposes of the general use district area over which it is superimposed (See attached map descriptions in Appendix A).**]**

Type	Maximum number permitted	Maximum Height	Maximum Area per Sign	Additional Requirements
District 1: Freestanding "high-rise" signs on properties fronting on Street between Highway 50 West and Wills Boulevard.	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.

District 2: Freestanding "high-rise" signs on properties fronting on the east side of Interstate 25 between Highway 50 and the proposed Dillon Drive interchange.	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 3: Freestanding "high-rise" signs on properties fronting on Interstate 25, Pueblo Boulevard, Gateway Drive and Southgate Place**.** **[**between the JJ Raigoza Park and Lake Avenue.**]**	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 4: Freestanding "high-rise" signs on properties fronting on Highway 50 between Interstate 25 and the railroad track.	1*	50'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 5: Freestanding "high-rise" signs on properties fronting on Interstate 25 generally between Highway 50 and 29th Street.	1	65'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.

District 6: Freestanding "high-rise" signs on properties in the Pinion Ridge Commercial Center Subdivision.	1 high rise sign per "sign area" **	Sign Area 1 – 75' Sign Area 2 – 50'	300 sq. ft. ***	Only one (1) high-rise sign may be located in each of the two (2) sign areas indicated on the map.

Note:

*If property adjoins I-25 and **[**an arterial**]** **another** street right-of-way on a through lot **or corner lot**, an additional 1 low-profile sign is permitted at a maximum of 125 sq. ft. and 25' high; however, the high-rise sign must be placed adjacent to I-25 and the low-profile sign must be placed adjacent to the other public right-of-way.

**Each parcel located in the Pinion Ridge Commercial Center Subdivision may also install one (1) monument sign at a maximum of 80 sq. ft. and 8' high.

***For shopping center signage allowable area see Section 17-10-05 (f) multiple tenant "maximum area".

SECTION 2.

Appendix A, Section 15 of Chapter 10, Title XVII of the Pueblo Municipal Code is hereby amended as follows:

District 3 of Appendix A is deleted in its entirety, and District 3 attached hereto is adopted in substitution thereof.

SECTION 3.

This Ordinance shall become effective thirty (30) days after 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 _____

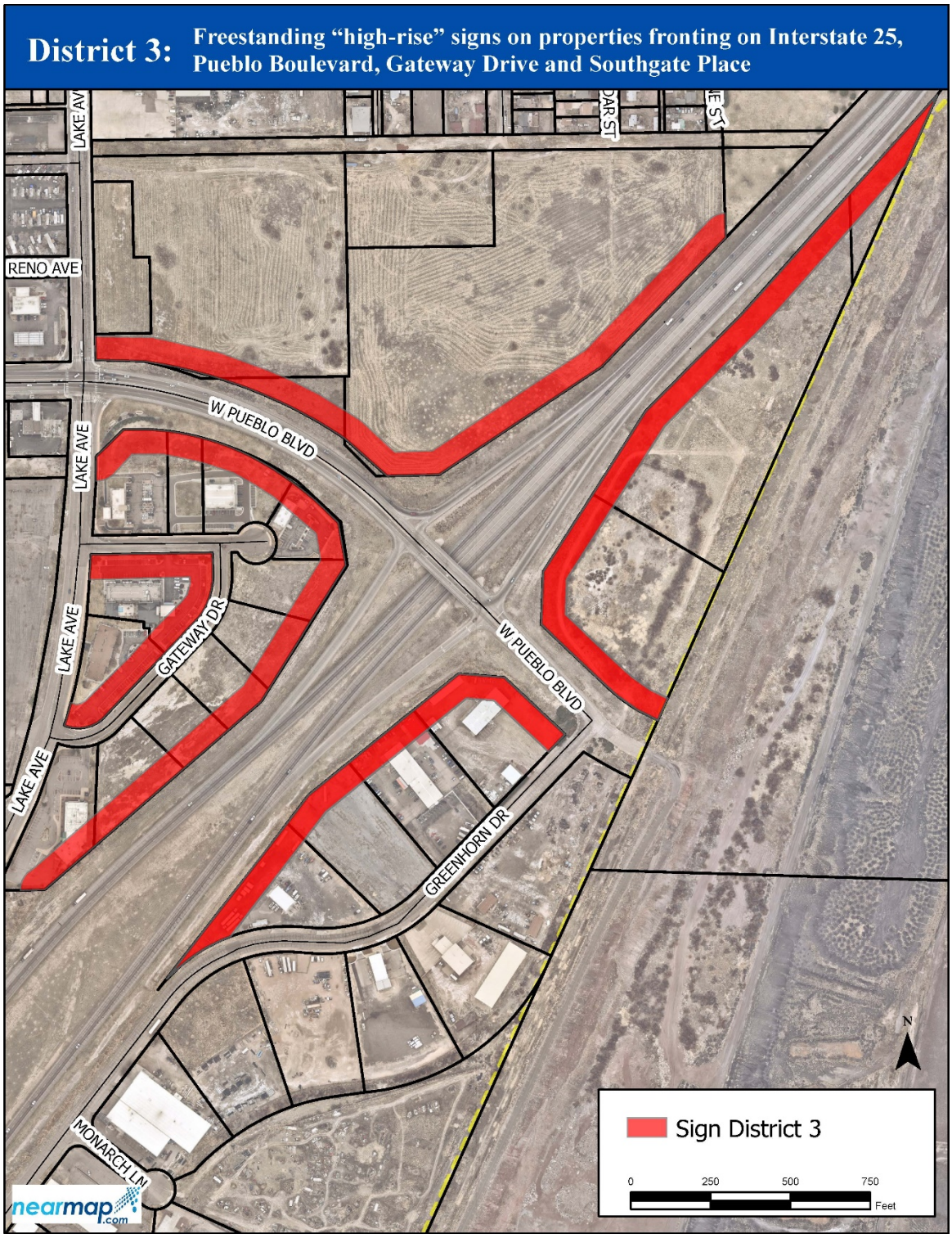
☐ Council action on _____ failed to override the Mayor's veto.

_____
President of City Council

ATTEST

_____
City Clerk

Appendix A


District 3: Freestanding "high-rise" signs on properties fronting on Interstate 25, Pueblo Boulevard, Gateway Drive and Southgate Place
LAKE AV
RENO AVE
W PUEBLO BLVD
LAKE AVE
GATEWAY DR
GREENHORN DR
MONARCH LN
N
Sign District 3
0
250
500
750
Feet
nearmap.com

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, June 8, 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 3:31 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; and Joe Martellaro, Associate Engineer II.

APPROVAL OF THE JUNE 8, 2022 AGENDA:

Bailey moved to approve the June 8, 2022 agenda with S-22-06 North Vista Filing No. 5 Subdivision and Z-22-04 Keating School Rezoning continued to the July 13, 2022 Planning and Zoning Commission Public Hearing.

Second by Spinuzzi, motion carried 7-0.

PUBLIC HEARING AND ACTION

TA-22-02 Text Amendment: An Ordinance amending Sections 6 and 15 of Chapter 10 of Title XVII of the Pueblo Municipal Code (PMC) relating to the location of allowed high-rise signs in Special Sign District 3.

Staff presentation by Beritt Odom

BACKGROUND AND ANALYSIS:
Under the existing code, properties fronting Interstate-25, W. Pueblo Blvd., and Gateway Drive north and west of Interstate 25 are in Special Sign District 3 and are allowed to install one 30-foot pole/free standing sign with a maximum sign area of 300 square feet. These properties are also allowed an additional low-profile sign if they are a through lot and have an arterial street right of way adjacent to the rear property line. The proposed ordinance revises the sign code by including commercial/industrial properties, adjacent to the east side of Interstate-25, in the Special Sign District. The ordinance also modifies the language describing the district to aid in understanding the intent and purpose of the district. Finally, the ordinance amends the Special Sign District table to allow properties within Districts 1-4 to have a low-profile sign adjacent to another street right-of-way if the property is a through lot or a corner lot. Previously, only through lots that fronted on a right-of-way, identified in the district, and on an arterial street were allowed to have both a high-rise sign and low-profile sign. This language prevented several lots with multiple frontages on rights-of-way to have both types of signs.

The Planning and Community Development Department received interest from a large national convenience store on the unimproved parcel located north-east of the W. Pueblo Blvd. and Interstate-25 interchange. The developers requested to be included in the Special Sign District 3 to receive equitable sign opportunities as the properties located directly west of their site. To further equitable sign opportunities along Interstate-25, the Planning Department proposes to extend the district south of the W. Pueblo Blvd. and Interstate-25 interchange for the properties that front Interstate-25 and Greenhorn Drive. The district is proposed to end at the point where Greenhorn Drive jogs west to run adjacent to Interstate-25.

RECOMMENDATION:
Staff recommends that the Planning and Zoning Commission forward a recommendation of approval of the proposed text amendment to City Council.

HEARING: No one spoke in favor or opposition.

MOTION: Motion to recommend approval to City Council was made by Bailey, second by Avalos.

MOTION PASSED 7-0

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

TEXT AMENDMENT
TA-22-02

TO: **City of Pueblo Planning and Zoning Commission**

FROM: **Beritt Odom, Principal Planner**

THROUGH: **Scott Hobson, Acting Director of Planning and Community Development**

DATE: **June 8, 2022**

SUBJECT: **An ordinance amending Sections 6 and 15 of Chapter 10 of Title XVII of the Pueblo Municipal Code (PMC) relating to the location of allowed high-rise signs in Special Sign District 3.**

Background and Analysis:
Under the existing code, properties fronting Interstate-25, W. Pueblo Blvd., and Gateway Drive north and west of Interstate 25 are in Special Sign District 3 and are allowed to install one 30-foot pole/free standing sign with a maximum sign area of 300 square feet. These properties are also allowed an additional low-profile sign if they are a through lot and have an arterial street right of way adjacent to the rear property line. The proposed ordinance revises the sign code by including commercial/industrial properties, adjacent to the east side of Interstate-25, in the Special Sign District. The ordinance also modifies the language describing the district to aid in understanding the intent and purpose of the district. Finally, the ordinance amends the Special Sign District table to allow properties within Districts 1-4 to have a low-profile sign adjacent to another street right-of-way if the property is a through lot or a corner lot. Previously, only through lots that fronted on a right-of-way, identified in the district, and on an arterial street were allowed to have both a high-rise sign and low-profile sign. This language prevented several lots with multiple frontages on rights-of-way to have both types of signs.

The Planning and Community Development Department received interest from a large national convenience store on the unimproved parcel located north-east of the W. Pueblo Blvd. and Interstate-25 interchange. The developers requested to be included in the Special Sign District 3 to receive equitable sign opportunities as the properties located directly west of their site. To further equitable sign opportunities along Interstate-25, the Planning Department proposes to extend the district south of the W. Pueblo Blvd. and Interstate-25 interchange for the properties that front Interstate-25 and Greenhorn Drive. The district is proposed to end at the point where Greenhorn Drive jogs west to run adjacent to Interstate-25.

Recommendation:
Staff recommends that the Planning and Zoning Commission forward a recommendation of approval of the proposed text amendment to City Council.

Attachments:
Draft Ordinance

ORDINANCE NO._____

AN ORDINANCE AMENDING SECTIONS 6 AND 15 OF CHAPTER 10 OF TITLE XVII OF THE PUEBLO MUNICIPAL CODE RELATING TO HIGH RISE SIGN DISTRICT NUMBER 3

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
(brackets indicate matter being deleted, underscoring indicating matter being added)

SECTION 1.

Section 6 of Chapter 10, Title XVII of the Pueblo Municipal Code is hereby amended to read as follows:

Sec. 17-10-06. Special S[s]ign D[d]istricts.

Special **S**[s]ign **D**[d]istricts have been established to prescribe special regulations to modify or supplement **sign** regulations of the **properties identified in Appendix A, Special Sign Districts, 17-10-15. [**general district] **Properties located** in **the Special Sign Districts either front Interstate 25, Highway 50 West, and/or arterial roadways, which warrant high profile signs and additional low-profile signs to aid travelers and customers in wayfinding. [**recognition of distinguishing circumstances while maintaining the character and purposes of the general use district area over which it is superimposed (See attached map descriptions in Appendix A).**]**

Type	Maximum number permitted	Maximum Height	Maximum Area per Sign	Additional Requirements
District 1: Freestanding "high-rise" signs on properties fronting on Street between Highway 50 West and Wills Boulevard.	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 2: Freestanding "high-rise" signs on properties fronting on the east side of Interstate 25 between Highway 50 and the proposed Dillon Drive interchange.	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.

District 3: Freestanding "high-rise" signs on properties fronting on Interstate 25, Pueblo Boulevard, Gateway Drive and Southgate Place**.** **[**between the JJ Raigoza Park and Lake Avenue.**]**	1*	75'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 4: Freestanding "high-rise" signs on properties fronting on Highway 50 between Interstate 25 and the railroad track.	1*	50'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 5: Freestanding "high-rise" signs on properties fronting on Interstate 25 generally between Highway 50 and 29th Street.	1	65'	300 sq. ft.	Entire sign must be placed within 75' of the public right-of-way.
District 6: Freestanding "high-rise" signs on properties in the Pinion Ridge Commercial Center Subdivision.	1 high rise sign per "sign area" **	Sign Area 1 – 75' Sign Area 2 – 50'	300 sq. ft. ***	Only one (1) high-rise sign may be located in each of the two (2) sign areas indicated on the map.

Note:

*If property adjoins I-25 and **[**an arterial**]** **another** street right-of-way on a through lot **or corner lot**, an additional 1 low-profile sign is permitted at a maximum of 125 sq. ft. and 25' high; however, the high-rise sign must be placed adjacent to I-25 and the low-profile sign must be placed adjacent to the other public right-of-way.

**Each parcel located in the Pinion Ridge Commercial Center Subdivision may also install one (1) monument sign at a maximum of 80 sq. ft. and 8' high.

***For shopping center signage allowable area see Section 17-10-05 (f) multiple tenant "maximum area".

SECTION 2.

Appendix A, Section 15 of Chapter 10, Title XVII of the Pueblo Municipal Code is hereby amended as follows:

District 3 of Appendix A is deleted in its entirety, and District 3 attached hereto is adopted in substitution thereof.

SECTION 3.

This Ordinance shall become effective thirty (30) days after 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 _____

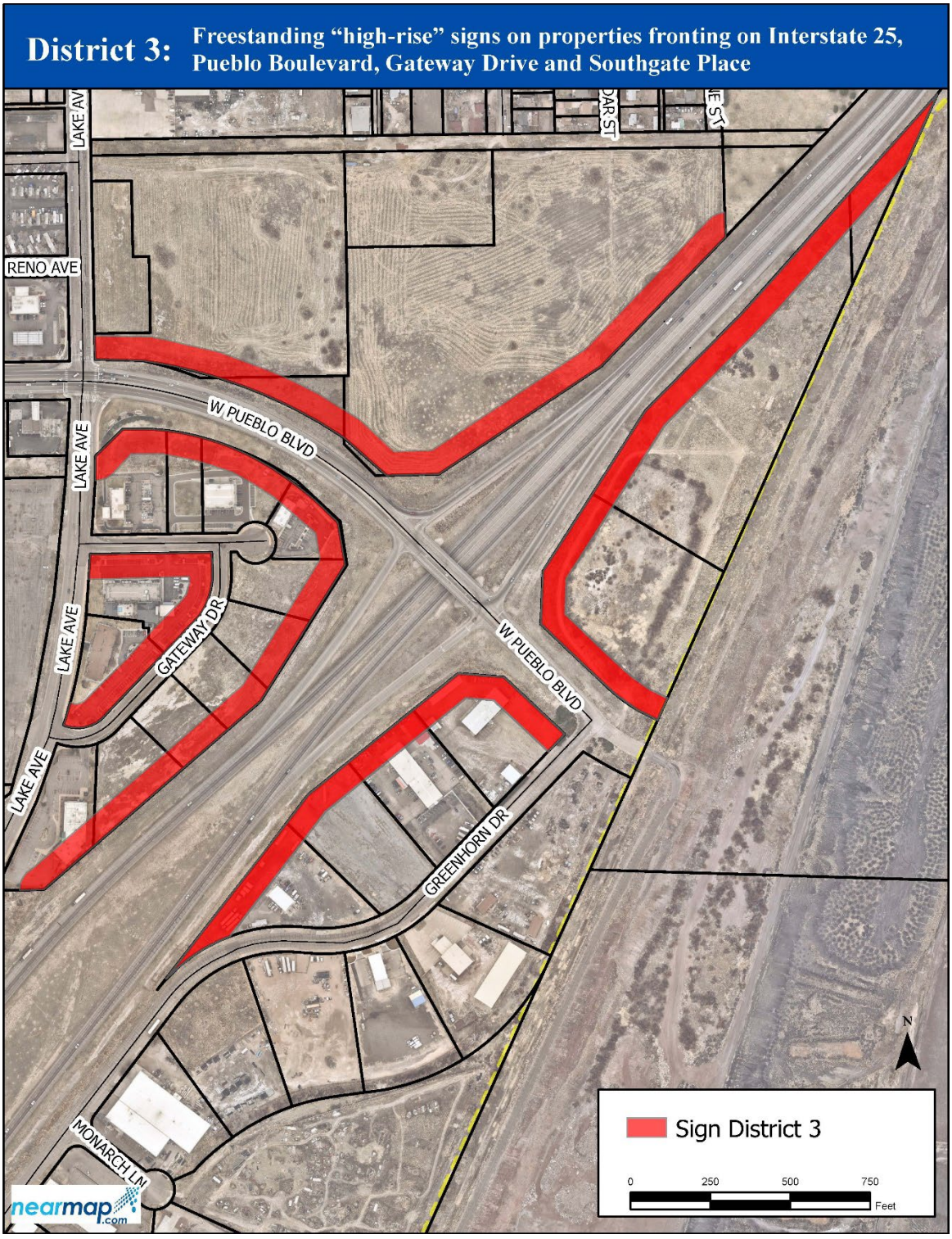
☐ Council action on _____ failed to override the Mayor's veto.

_____
President of City Council

ATTEST

_____
City Clerk

Appendix A


District 3:
Freestanding "high-rise" signs on properties fronting on Interstate 25, Pueblo Boulevard, Gateway Drive and Southgate Place
LAKE AV
RENO AVE
W PUEBLO BLVD
LAKE AVE
GATEWAY DR
LAKE AVE
LAKE AVE
W PUEBLO BLVD
GREENHORN DR
MONARCH LN
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Sign District 3
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Feet
nearmap.com

City Clerk's Office Item # N-10

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director of Aviation

SUBJECT: AN ORDINANCE APPROVING A FIXED BASE OPERATOR GROUND LEASE AND OPERATING AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABLITY CORPORATION, RESCINDING ALL PREVIOUS AGREEMENTS WITH ROCKY MOUNTAIN FBO, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign a Fixed Base Operator Ground Lease and Operating Agreement with Freeman Holdings of Colorado, LLC, a limited liability corporation ("Freeman"), which also rescinds all previous agreements with Rocky Mountain FBO, LLC dba Flower ("Flower").

PREVIOUS COUNCIL ACTION:

City Council has approved previous lease and management agreements for Fixed Base Operators, most recently with Rocky Mountain FBO, LLC.

BACKGROUND

The City owns 31000 Bryan Circle, 30900 Bryan Circle, 525 Skyway Street, and the Fuel Farm at 415 Bell Street at the Pueblo Memorial Airport, which can all be leased out for Fixed Based Operator services. The facilities are currently being leased to Flower, but Flower wishes to sell and assign its interests in the properties to Freeman. To establish a clean record, and instead of assigning a number of documents from Flower to Freeman, the parties wish to enter into a new Ground Lease and Operating Agreement that incorporates all prior terms and establishes one agreement that will control.

FINANCIAL IMPLICATIONS:

The hangars, office spaces, and ramp will be rented at various rates and two percent (2%) of Freeman's gross revenues derived from its business activities conducted at Pueblo Memorial Airport will be paid to the City. The fuel farm tanks will also be leased and there will be commissions paid based on fuel delivered.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the current leases will remain in effect.

RECOMMENDATION

It is the recommendation of the Department of Aviation that this Ordinance be approved.

Attachments:
Fixed Base Operator Ground Lease and Operating Agreement

ORDINANCE NO. _____

AN ORDINANCE APPROVING A FIXED BASE OPERATOR GROUND LEASE AND OPERATING AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND FREEMAN HOLDINGS OF COLORADO, LLC, A LIMITED LIABLITY CORPORATION, RESCINDING ALL PREVIOUS AGREEMENTS WITH ROCKY MOUNTAIN FBO, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo is the owner and operator of the Pueblo Memorial Airport together with the land on which said Airport is situated; and

WHEREAS, Freeman Holdings of Colorado, LLC is desirous of leasing certain property for the purpose of a fixed base operation, where said property is owned by the City of Pueblo; NOW, THEREFORE,

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

SECTION 1.

A certain Fixed Base Operator Ground Lease and Operating Agreement ("Lease"), by and between the City of Pueblo, a Municipal Corporation, and Freeman Holdings of Colorado, LLC, a Limited Liability Company, and Rocky Mountain FBO, LLC, a Colorado Limited Liability Company, to lease space for a fixed base operation at the Pueblo Memorial Airport, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Lease on behalf of the City of Pueblo, and the City Clerk shall 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 the intent of this Ordinance and the attached Lease to implement the terms and conditions described therein.

SECTION 4.

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

Action by City Council:

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

Final adoption of Ordinance by City Council on _____.

_____
President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

FIXED BASE OPERATOR
GROUND LEASE AND OPERATING AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into as of _____, **2022** ("Effective Date"), between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003, ("Lessor") and Freeman Holdings of Colorado, LLC, a Colorado limited liability company, d/b/a Freeman Jet Center Pueblo, with an address of 16221 Foster Street, Overland Park, Kansas 66085, ("Lessee") and Rocky Mountain FBO, LLC, a Colorado limited liability company, d/b/a/ Flower Aviation FBO, with an address of 31000 Bryan Circle, Pueblo, Colorado 81001 ("Flower").

WHEREAS, the Lessor is the owner and operator of the Pueblo Memorial Airport ("Airport"), together with the land on which said Airport is situated; and

WHEREAS, Lessee is desirous of leasing certain real property, ramp space, and fuel tanks on said Airport property for the purpose of the sale of aviation fuels and other related aviation services; and

WHEREAS, Lessor entered into a certain Ground Lease and Operating Agreement dated June 25, 2005 ("Lease No. 1") with Travelaire Service, Inc., a Colorado corporation, ("Travelaire") for the parcel commonly known as 525 Skyway Street, Pueblo, Colorado, and Jet-A Tank No. 4, the legal description for which is contained in Lease No. 1; and

WHEREAS, Lessor entered into Amendment No. 1 ("Amendment") to the Lease No. 1 dated April 24, 2006 with Travelaire and Flower, evidenced by Resolution No. 10700, where several changes were made, including but not limited to, the initial term of Lease No. 1 being amended to end April 30, 2026, AV-Fuel Tank No. B being added to the lease, and Lessor consenting to assignment of Lease No. 1 from Travelaire to Flower; and

WHEREAS, Lessor entered into the Fuel Tank Agreement ("FT Agreement") dated May 1, 2008 with Flower, where Lease No. 1 was further amended to substitute AV-Fuel Tank No. C for AV-Fuel Tank No. B and more specific terms were set out with regards to use of the fuel tanks under the lease; and

WHEREAS, Lessor executed the Consent to Assignment evidenced by Resolution No. 13354 on December 28, 2015, consenting to and assigning Lease No. 1 from Flower to PDC Acquisition Corp., a Colorado corporation ("PDC"); and

WHEREAS, Lessor entered into the Assignment of Lease Agreement ("Assignment") to the Lease No. 1 dated March 24, 2017 with PDC and Flower, where Lease No. 1, was assigned back to Flower; and

WHEREAS, Lessor entered into a certain Ground Lease and Operating Agreement dated October 26, 2015 ("Lease No. 2") with PDC for Parcel C, more commonly known as 31000 and 30900 Bryan Circle, Pueblo, Colorado, and attached spaces; and

WHEREAS, Lessor executed the Assignment of Lease Agreement dated December 31,

2016 with PDC and Flower, assigning Lease No. 2 from PDC to Flower; and

WHEREAS, Flower is selling all of its assets to Lessee in accordance with the Asset Purchase Agreement, including its interests in Lease No. 1 and Lease No. 2, as each were amended and assigned, and Lessor does not object to the sale and transfer; and

WHEREAS, the parties desire to condense the aforementioned documents and create a single agreement with which to bind the parties.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. **Leased Property:**

A. The Lessor hereby leases unto the Lessee and Lessee hereby leases from Lessor for the term and upon the requirements and conditions hereinafter stated, the real property marked as "Leased Premises" on the plot plan, attached hereto and incorporated herein as Exhibit B, ("Leased Premises") situated in the County of Pueblo, State of Colorado, subject to existing easements and deed restrictions, including all structures thereon which Lessee acknowledges are the property of Lessor, including but not limited to:

i. 525 Skyway Street: six thousand four hundred (6,400) square foot hangar and two thousand four hundred seventy-two (2,472) square feet of office space that includes one thousand three hundred fifty-two (1,352) square feet of ground floor and one thousand one hundred twenty (1,120) square feet of second story. Land leased for 525 Skyway Street is 36,216 square feet.

ii. 30900 Bryan Circle: ten thousand (10,000) square foot hangar, two thousand five hundred (2,500) square foot ground floor office and garage, thousand five hundred (2,500) square foot of second story improved space, two thousand (2,000) square foot attached shop, two thousand (2,000) square foot second story storage, three thousand (3,000) square foot ground floor vehicle shop, and five hundred eighty-eight (588) square foot second story improved space.

iii. 31000 Bryan Circle: four thousand three hundred sixty-seven (4,367) square feet of improved space. Land leased for 30900 Bryan Circle and 31000 Bryan Circle totals 79,335 square feet.

The term Leased Premises as used herein, means and includes the real property and structures described above, as well as any improvement hereafter constructed or added thereto.

B. Subject to the terms of this Lease, Lessor hereby leases to Lessee 83,626 square feet of ramp space, meaning and including that ramp space indicated as "Ramp" on the plot plan attached hereto and incorporated herein as Exhibit C, ("Ramp")

situated in the County of Pueblo, State of Colorado. The Leased Premises and Ramp do not include gates through the Airport fence, including but not limited to Gate D or the FBO Pedestrian Gate adjacent to the Ramp, and Lessor, its staff, and all users of the Airport may use such gates in accordance with applicable rules and regulations. Lessor, its staff, and all users of the Airport may use such areas of the Ramp as necessary for persons to access and use Airport gates for ingress and egress.

C. Subject to the terms of this Lease, Lessor hereby leases to Lessee four fuel tanks designated as (i) 40-3a, (ii) 40-2, (iii) 40-2a, (iv) 40-1, (v) 20-3, and (vi) 20-1 (together the "Fuel Tanks") at Lessor's fuel farm, indicated as "Fuel Tanks" on the plot plan attached hereto and incorporated herein as Exhibit D, situated in the County of Pueblo, State of Colorado.

D. The Leased Premises will be used for the regular business of a full service fixed base operator ("FBO"), including the sale of aviation fuel and related products and services. Any aircraft stored on the Leased Premises must be continually registered with the Federal Aviation Administration ("FAA") throughout the life of this Lease and the tail numbers for same must be reported to Lessor. Lessee agrees to report any changes in aircraft tail numbers to Lessor within fourteen (14) days, in order for Lessor to comply with FAA reporting requirements.

E. This Lease and Lessee's use of the Leased Premises, Ramp, and Fuel Tanks, together on the plot plan attached hereto and incorporated herein as Exhibit A, are subject to the easements, rights of way, covenants, conditions, restrictions, reservations, and limitations appearing of record, and all applicable zoning and land use laws, ordinances, codes, and regulations, including but not limited to all conditions, regulations, restrictions, and requirements imposed by the FAA, governing and regulating the Leased Premises, Ramp, and Fuel Tanks and their respective uses. Lessee shall have exclusive use of the Leased Premises, Ramp, and Fuel Tanks subject to the terms of this Lease.

2. <u>Term</u>:

A. The term of this Lease is for a period of twenty (20) years commencing on the Effective Date ("Commencement Date") and ending midnight on July 31, 2042, ("Initial Term") unless sooner terminated as herein provided. Provided that Lessee is not in default beyond any applicable cure period, the Lessee shall have the option to renew this Lease for one additional term of ten (10) years ("First Extension Term"). After the end of the First Extension Term, provided that Lessee is not in default beyond any applicable cure period, Lessee shall have the option to renew this Lease for an additional term of ten (10) years ("Second Extension Term") (the First Extension Term and Second Extension Term together the "Extension Terms").

B. These Extension Terms shall automatically be deemed exercised by the Lessee unless it provides the Lessor with written notice of its intention not to do so at least

sixty (60) days prior to the end of the then current term. Should either the Lessor or Lessee not wish to renew this Lease for the Second Extension Term, a party may provide the other written notice of its intention not to renew this Lease. This written notice shall be given not earlier than one hundred eighty (180) days nor less than one hundred twenty (120) days prior to the expiration of the Initial Term or either Extension Term.

C. All conditions and covenants contained herein shall remain in full force and effect during any and all extension periods.

3. <u>Rental Rate, Other Fees, and Commercial Charge</u>:

A. Lessee shall pay to Lessor monthly as rent for the land and structures covered by this Lease, the following amounts: $1,529.86 per month for the land portion of Leased Premises; and $8,551.13 per month for the structures located on the Leased Premises; and $567.81 per month for exclusive use Ramp. The total monthly rent for the land, structures, and Ramp is equal to $10,648.80.

B. Lessee shall also pay as rent and for the privilege to sell or dispense aviation fuel from the Leased Premises a monthly fuel flow fee of nine and four-tenths cents ($0.094) per gallon, starting with the month of August 2022 and each month thereafter for each gallon of aviation fuel delivered, or caused to be delivered to the Fuel Tanks, or if Lessee constructs its own fuel storage facilities, either alone or with Lessor or other lessees, or uses other fuel storage facilities at the Airport, delivered, or caused to be delivered by Lessee to such fuel storage facilities. Lessee shall not construct its own fuel storage facilities, either alone or with Lessor or other lessees, or use other fuel storage facilities at the Airport, without Lessor's prior written consent and an agreement governing the work and use. Lessee may choose, at its sole and absolute expense, to install fuel meters on the dispensing units of the fuel tanks. Such dispensing meters shall not be installed without the prior written approval of the Airport.

C. In addition, Lessee shall pay a monthly fee to Lessor for the Lease herein granted of two percent (2%) of Lessee's monthly gross revenues derived from all sales, operations, and services made, furnished, or conducted on or from the Leased Premises, Ramp, and Fuel Tanks, with the exception of revenue derived from the sale and dispensing of aviation fuel. Lessee shall file with Pueblo Memorial Airport monthly activity reports on or before the tenth (10th) day of each calendar month throughout the effective term indicating gross revenues and commissions derived from activity on any part of the Airport.

D. The rents for land, structures, and the Ramp shall be increased biennially based upon the consumer price index for all urban consumers, CPI-U (all items 1982-1984=100) or comparable index if the Department of Labor changes or modifies the CPI-U or no longer publishes the CPI-U. The rents shall be increased by a percentage equal to the percentage increase in the CPI-U during each preceding two-year period over the comparable CPI-U for the first month of each 2-year

period. If there is no percentage increase in the CPI-U for any preceding 2-year period, the rents will remain the same as the preceding 2-year period for the next 2-year period. In no event, shall the percentage increase for the rents be greater than five percent (5%) for any 2-year period.

E. At the option of the Lessor, the monthly fuel flow fee may be increased by up to three cents ($0.03) every four (4) years, the first increase being available and effective in 2024 immediately upon expiration or termination of Lessee's now current Domestic-Into-Plane Purchase Program contract with the Defense Logistics Agency – Energy ("DLA Energy"), and every four (4) years thereafter. Any increase in the fuel flow fee shall not take effect until the then current Domestic-Into-Plane Purchase Program contract with DLA Energy entered into by Lessee expires or terminates after its four (4) year term. Notwithstanding the foregoing, in no event may any increase in fees be deferred for more than one calendar year from whenever such an increase would normally become available, where Lessor may increase the fee after the additional calendar year if the Domestic-Into-Plane Purchase Program contract is extended or otherwise modified to continue after its standard four (4) year period. Such a deferral shall not otherwise alter when a fee increase becomes available.

F. The Lessee hereby agrees to pay when due all rent, fees, and charges imposed by the Lessor for the use and operation of the Airport. The fees and charges include, but are not limited to, fuel flowage fees, landing fees, permit fees, security charges, and administrative or service fees.

G. Such rents shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the month, and fees shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the following month, at the City of Pueblo Director of Aviation's office and shall be accompanied with such reporting forms as the Director of Finance shall determine. Rent not paid by the tenth (10th) of the month shall accrue a late fee of eight percent (8%) per month. Lessor shall have the right to examine and audit Lessee's and its subtenant's books and records to determine the accuracy of the numbers of gallons sold and the revenues derived by Lessee, fees, and their calculation.

4. <u>Deposit</u>:

A. Lessee agrees to pay a security deposit to the Lessor equal to one month's rent of $10,648.80. The security deposit and first month's rent shall be paid immediately upon execution of this agreement. Deposit shall be refunded following termination of this agreement, less any rent due or damages to the Leased Premises, Ramp, or Fuel Tanks.

B. In the event that Lessee fails, neglects, or refuses to pay any rent, fee, or other sum due, or fails to perform any obligation under this Lease, then Lessor may, in its sole and absolute discretion, draw from the security deposit to remedy Lessee's default. Nothing contained in this Lease shall require Lessor to remedy Lessee's default in this manner, and Lessor may instead, in its sole and absolute discretion, refuse to

remedy Lessee's default by drawing on the security deposit, and instead pursue the remedies for default provided in this Lease or by law.

C. In the event that Lessor draws from this security deposit to remedy Lessee's default, Lessor shall notify Lessee in writing and require Lessee to replenish the deposit to its original level. Failure of Lessee to comply with this section shall constitute a material breach of this Lease.

5. <u>Use of Leased Premises</u>:

A. The Leased Premises shall be used and occupied by Lessee as a full service fixed base operator and facility for the sale of aviation fuel and other related aeronautical services and products. The office areas shall be used for Lessee's business, flight preparation, and other incidental office work. The Leased Premises shall not be used for the storage of non-aeronautical personal property, living accommodations, or in any other way inconsistent with this Lease. Failure to abide by this provision shall constitute a material breach of this Lease.

B. All aircraft stored on the Leased Premises for more than seven (7) days must be reported to Airport administration. Lessee may perform maintenance and repairs to aircraft in accordance with the Airport's minimum standards, including routine maintenance, preventative maintenance, and regular maintenance required prior to flight. Lessee may wash aircraft within the Leased Premises but shall at all times protect the Lessor's stormwater system and abide by any requirements Lessor places on Lessee with regards to the cleaning of aircraft, including for the disposal of used water and other products.

C. Lessor retains and Lessee grants to the Lessor the right to enter the Leased Premises to do what is necessary for the purposes of repairing, replacing, and/or maintaining any and all utility lines under the Leased Premises which serve other uses at the Pueblo Memorial Airport, it being understood that the Lessor will repair, in a good and workmanlike fashion, any and all damage done to the Leased Premises as the result of work done hereunder.

D. Lessee shall maintain the Leased Premises, Ramp, and Fuel Tanks in accordance with the requirements and regulations of the Lessor and Lessor's fire code. The Lessee shall be responsible for all costs, fees, charges, and penalties associated with the discharge or release of any hazardous material (including petroleum products) or mitigating the containment or removal of any contamination or hazardous material (including petroleum products) on, over, or under the Leased Premises, Ramp, and Fuel Tanks which is caused by the Lessee, its officers, agents, or employees. The storage and accumulation of aviation fuel, flammables, explosive liquids, or solids, waste, debris, or other hazardous materials within or on the Leased Premises, Ramp, and Fuel Tanks shall be in an environmentally sound manner and comply with all federal, state, and local laws and regulations. Lessee agrees that no flammable liquids or hazardous materials shall be used or stored on the Leased Premises or Ramp, excepting those used in accordance with all laws and regulations and in the

furtherance of Lessee's authorized use of the leased premises, to include, but not limited to, the fuel in the Fuel Tanks, the aircraft fuel tanks, or in the tank of a stored automobile, properly parked. Lessee agrees to provide drip pans of a non-flammable material under aircraft to prevent damage to the floor, should any aircraft leak any fluids.

E. Lessee, at its sole cost and expense, may cause to be constructed and installed upon the Leased Premises and Fuel Tanks additional improvements in accordance with plans and specification approved by Lessor, including architectural approval, which consent will not be unreasonably withheld or arbitrarily denied. The improvements shall be constructed in a good and workmanlike manner in accordance with the applicable laws, ordinances, and building codes and pursuant to a building permit issued by the Regional Building Department. Lessee will not modify, alter, or improve any structure or improvements upon the Leased Premises whether now existing or hereafter constructed without the prior written approval of Lessor, which approval shall not be unreasonably or arbitrarily denied. Lessee may paint any improvements upon the Leased Premises and the Fuels Tanks with the approval of Lessor.

F. Lessee shall not park or leave, or allow to be parked or left, aircraft on the taxiways or on pavement adjacent to the Leased Premises, Ramp, or Fuel Tanks in a manner which interferes with or obstructs access to adjacent hangars or public areas. Parking of automobiles will be permitted only in designated spaces outside of the airport fence. No person or public roadway going automobile shall go beyond the immediate vicinity of the Leased Premises without the express written consent of the Director of Aviation. Automobiles must be parked in designated parking spaces or within the Hangar, except that the Hangar cannot be used solely for storage of automobiles. Nothing in this agreement provides exclusive access to the entrance and exit gates into and out of the Airport to Lessee.

G. Lessee, its employees, and invitees shall have the right of ingress and egress between designated Airport access points and the Leased Premises over, upon, and through such streets and not others as from time to time shall be designated by the Director of Aviation. Driveways from existing streets into the Leased Premises shall be located as designated by the Lessor through the Director of Aviation.

H. Hangar doors shall remain closed and locked except during periods when the Hangar is attended by Lessee. This is to prevent damage from sudden storms and the creation of foreign object debris.

I. On the Effective Date and annually thereafter, Lessee shall provide Lessor with a list of the Airport areas and any Airport tenants it intends to access when

providing services. Lessee shall keep this list current and report any changes to the Lessor upon such change being made.

J. Lessee shall not have exclusive use of any area of the Airport or of any Lessor equipment, unless Lessee contracts with Lessor for such use, and all such uses shall be as determined by the Director of Aviation in his or her sole discretion. All areas of the Airport and all Airport equipment will be inspected by Airport staff prior to use by Lessee, and Lessee shall be required to sign-off on Airport staff's inspection prior to said use.

K. Lessee acknowledges and agrees that Lessor's primary obligation is to operate the Airport for the use and benefit of the public and that the leased premises and ramp are prime locations for full service fixed-based operations at the Airport. Therefore, in view of the foregoing and long-term nature of this Lease, Lessee and Lessor shall meet at least annually to discuss Lessee's plans for the development and use of the Leased Premises, Ramp, and Fuel Tanks and the types, kinds, and classes of aeronautical activities then reasonably anticipated to be provided in the future, and Lessee's planned additions to and/or modifications of the Leased Premises and Fuel Tanks.

6. <u>Ramp Use</u>:

A. Lessee's use of the common ramp area, taxiways, and runways is non-exclusive and same may be used by the Airport, other tenants, users, and occupants of the Airport ("Airport Users"). Use of the Ramp shall be limited to the movement of aircraft, fueling of aircraft, movement, and parking of aircraft service vehicles, temporary parking of aircraft, servicing, and tie-down of aircraft. Lessee shall not use common area ramp space for the fueling of aircraft, temporary parking of aircraft, servicing and tie-down of aircraft, parking or storage of aircraft service vehicles, or any other purpose without the prior express written consent of the City of Pueblo. If Lessee collects a fee for any use of common areas at the Airport, it shall pay to Lessor as commission ten percent (10%) of said fees.

B. Lessee shall use the Ramp and common ramp area in compliance with Lessor's ground traffic and aircraft parking plans and regulations, which will reasonably accommodate Lessee's current and future use for the purposes set forth in this Lease.

C. Lessee acknowledges that portions of the Ramp, common ramp area, taxiways, and runways are currently in need of repairs and resurfacing and accept in whole the Ramp, common ramp area, taxiways, and runways in their present condition "AS IS" and "WITH ALL ITS FAULTS," without warranty or representation, express or implied, including, without limitation, any warranties of

merchantability or fitness for a particular purpose or condition or usability in their present condition. Lessee agrees that Lessor shall have no obligation to upgrade, repair, resurface, or maintain the Ramp, common ramp area, taxiways, and runways. Lessor maintains the right to close any portion of the Airport not limiting Lessee's access to airport runways.

D. Lessee shall maintain the surface of the Ramp free and clear of debris, snow, sand, and ice and shall be responsible to remove same from the Ramp as soon as reasonably possible in order for the Ramp to be continuously available for use.

7. <u>Fuel Tank Use</u>:

A. The Fuel Tanks and accessory equipment, including, but not limited to, pumps, motors, and fuel meter calibrations for each tank, are being leased "AS IS" "WITH ALL ITS FAULTS," without warranty or representation, express or implied, including, but not limited to, any warranties of merchantability or fitness for a particular purpose or condition or usability in their present condition.

B. Lessor has registered the above ground storage tanks located in its fuel farm with the Director of the Colorado Division of Oil and Public Safety pursuant to C.R.S. 8-20-.5-105 and updated its Spill Prevention Control and Countermeasure ("SPCC") Plan as required by law. Lessor shall continue to maintain compliance with those requirements.

C. Lessee shall be responsible for quality control of fuel, loading and unloading fuel to and from the Fuel Tanks, and compliance with the SPCC Plan for the fuel farm and leased fuel tanks. Lessee shall properly train its employees in the use of the fuel farm, Fuel Tanks, and the SPCC Plan.

D. Except for structural repairs not caused by the acts or omissions of Lessee, its officers, agents, employees, contractors, or fuel suppliers, Lessee shall be responsible to maintain and keep in good and safe repair and working condition the Fuel Tanks and accessory equipment, ordinary wear and tear excepted. Lessee will not be responsible for any reconstruction, remodeling, alteration, or modification of the fuel tanks of the fuel farm required to meet environmental standards not currently satisfied, unless caused by the acts or omissions of Lessee, its officers, agents, employees, contractors, or fuel suppliers.

If any such activity is required by the Lessor or if Lessor is required to make structural or other repairs to or replace the Fuel Tanks or any other fuel tanks located at the fuel farm for any reason, including fire or other casualty, or if Lessor is required to remediate or remove any contamination or hazardous materials

(including petroleum products) at or from the fuel farm, Lessor may, at its sole option, either (1) complete, at its cost, the required activities, replacement, or repairs, (2) negotiate a cost-sharing arrangement with Lessee to complete the required activities, replacement, and repairs, or (3) upon thirty (30) days prior written notice, terminate the Fuel Tanks lease and Lessee's right to store aviation fuel in the Fuel Tanks. In the event the Lessor terminates the fuel tanks lease as provided in (3) above, Lessor will, at the request of Lessee, negotiate in good faith with Lessee to lease sufficient land to construct and operate its own farm storage facilities for its own use at a location mutually agreeable to Lessor and Lessee.

E. Lessee shall:

(1) Maintain fuel meter calibration on the fuel tanks and provide required testing and copies thereof to the Lessor.

(2) Provide filters, hoses, and nozzles required for the Fuel Tanks.

(3) Immediately notify the Lessor of any fuel release or spills during the loading or unloading of the fuel storage tanks or when fueling or maintaining aircraft. Lessee shall be responsible for clean up to the satisfaction of Lessor of any such fuel releases or spills whether caused by Lessee, its officers, agents, employees, contractors, or fuel suppliers.

F. Lessee's mobile refuelers (fuel trucks) and Lessee's use thereof shall meet and comply with all applicable EPA spill prevention control and countermeasure regulations including, if required, drafting and implementing an SPCC Plan therefor.

G. At the time of the signing of this Lease, the fuel tanks 40-1 and 40-3a each need a significant capital expenditure to bring them to an operational state and all Fuel Tanks need Skully Systems installed. More specifically, the fuel tanks need the following repairs:

a. Tank 40-1 needs:

i. Hose replacement;
ii. Single point installation;
iii. Filter change;
iv. Water slug valve installation;
v. Deadman installation;
vi. Filter diff gauge installation; and
vii. Relief valve installation.

b. Tank 40-3a needs:

i. Water slub valve repair;
ii. Relieve valve repair;
iii. Filter diff gauge repair; and

iv. Deadman installation.

In exchange for Lessee's use of the Fuel Tanks however it sees fit to meet its operational needs but subject to this Lease, Lessee agrees to expend the funds necessary to make all leased Fuel Tanks operational by completing the above listed repairs, installing Skully Systems, and making other repairs and installations directed by Lessor. Once the Fuel Tanks are made operational and compliant with law, all remaining expenditures for maintenance and repair of the Fuel Tanks will be in accordance with the remaining terms of this Lease. After ten (10) years from the Effective Date, if any of the Fuel Tanks have not been used to store fuel within the preceding six (6) months, the parties may negotiate a monthly rent for the lease of unused fuel tanks.

8. <u>Maintenance Obligations</u>:

A. Lessee shall, at its own expense, keep the premises neat, clean, safe, and orderly at all times, free of waste, rubbish, and debris, and shall provide a complete and proper arrangement for the sanitary handling and disposal of all trash, garbage, and other refuse resulting from Lessee's activities at the Airport. No outside storage of parts, materials, equipment, inventory, or other materials shall be permitted.

B. Lessee will at all times, at its sole cost and expense, keep and maintain in good repair the interior of all buildings and grounds designated for the Lessee's exclusive use. The maintenance of the interior of the Leased Premises shall include, but not be limited to, the hangar door and the operation thereof, other entry/exit doors, ventilation filters, sprinkler systems, all interior walls, interior ceilings, floors/floor coverings, wiring, plumbing fixtures, and other interior utility fixtures. However, the Lessee's obligation for the maintenance of the exterior of the Leased Premises shall not include any repairs or replacement of the roof, foundation, or exterior walls. Lessee shall perform routine service and maintenance on all heating and air conditioning equipment and appurtenances thereto, except to the extent such repairs are occasioned by the negligence or fault of the Lessor. At the termination of the Lease, or any extension thereof, Lessee shall return the Leased Premises to the Lessor in good order and condition, ordinary wear and tear excepted.

C. Lessee, at its sole cost and discretion, shall maintain all walkways, sidewalks, and apron access on the Leased Premises and Fuel Tanks, including to the public taxiway or ramp area. This includes pavement maintenance, pest control, and other such activities necessary to access said areas. At no time shall snow, dirt, or other debris be piled or stored on these areas. It is the Lessee's responsibility to keep these areas free and clear of all snow, dirt, and other debris. Lessee understands that snow removal within six (6) feet of the Leased Premises, Ramp, and Fuel Tanks is always the responsibility of Lessee. However, Lessor, at its sole cost and discretion, shall be responsible for all major repairs of the public areas.

9. <u>Utility Costs</u>:

Lessee shall be responsible for all utilities supplied to the Leased Premises, Ramp, and Fuel Tanks. Agreements for service with utility providers are the responsibility of Lessee. Additions, deletions, or adjustments to utilities extended to the Leased Premises shall not be made without prior written approval from the Director of Aviation.

10. Signs:

Lessee shall not erect, paint, or maintain any signs whatsoever upon the Leased Premises, Ramp, or Fuel Tanks without first securing the written consent of the Lessor. Any such signs shall comply with all ordinances and regulations of the Lessor and standards which might be developed by the Department of Aviation. All worn, faded, damaged, or outdated signs will be repaired or corrected by Lessee upon notice from the Director of Aviation.

11. Right of Inspection:

The Lessor reserves and retains for its officers, employees, and authorized representatives the right to enter the Leased Premises, Ramp, and Fuel Tanks during reasonable business hours, and after prior notice, for the purpose of inspecting and protecting the Leased Premises, Ramp, and Fuel Tanks and for doing any and all things which the Lessor may deem necessary for the proper general conduct and operation of the Pueblo Memorial Airport and in the exercise of the Lessor's police power.

12. Title to Improvements:

A. All structures and improvements constructed or erected by Flower on the Leased Premises and Fuel Tanks, excluding movable trade fixtures, constitute a part of the Leased Premises and Fuel Tanks and may not be removed from the land. Flower and Lessee acknowledge and agree that fee simple title to these structures and improvements vested in Lessor immediately upon completion of construction of same, free of all liens and encumbrances. Notwithstanding the foregoing, Lessor shall not be responsible for any defects in the Leased Premises, Fuel Tanks, structures, or improvements and shall have no obligation or responsibility to maintain, repair, or restore the same; all such obligation and responsibility shall be held by Lessee.

B. The structures leased to Lessee hereunder and any improvements constructed or erected hereunder by Lessee, excluding movable trade fixtures, shall constitute a part of the Leased Premises and Fuel Tanks and therefore such structures and improvements cannot be removed from the land. Fee simple title to the structures are in the Lessor and fee simple title to subsequently constructed improvements shall vest with Lessor immediately upon completion of construction of same, free of all liens and encumbrances. Notwithstanding that title is in or vests in Lessor, Lessor shall not be responsible for any defects in the Leased Premises, Fuel Tanks, structures, or improvements and shall have no obligation or responsibility to maintain, repair, or restore the same; all such obligation and responsibility shall be that of Lessee.

13. Taxes, Licenses, and Liens:

A. Lessee covenants and agrees to pay promptly when due all taxes, fees, licenses, and other governmental charges of whatever nature assessed against or applicable to Lessee, the Leased Premises, Ramp, and Fuel Tanks, or to Lessee's property and operations thereon. Possessory interest tax is assessed by the County of Pueblo and is the responsibility of the Lessee. The Lessor is a tax-exempt entity and shall not be liable for any tax of the Lessee. All applicable taxes and costs shall be paid by Lessee, even if Lessee was unaware of such taxes and costs.

B. At all times during the term of this Lease, and of any renewal or extension hereof, Lessee shall, at its own cost and expense, provide and keep in good standing business licenses with the City of Pueblo and the State of Colorado. Lessee shall obtain and maintain any other licenses or certifications required by law, including those required by the FAA. Upon request, Lessee will provide Lessor with certificates of good standing evidencing that all licenses or certifications are current and not subject to discipline.

C. Lessee also covenants and agrees not to permit any mechanic's or material man's lien to be filed against the Leased Premises, Ramp, or Fuel Tanks or any part or parcel thereof by reason of any work or labor performed or materials furnished by any contractor, subcontractor, mechanic, or material man. Lessee further covenants and agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations on the Leased Premises, Ramp, and Fuel Tanks, and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment, or execution to be filed against the Leased Premises without the Lessor's prior consent which will not be unreasonably withheld, except that in no instance will the lien, mortgage, judgment, or execution be in any way an impairment of the rights of Lessor.

D. Lessees performing services using Airport Operations Areas ("AOA") must annually undergo American Association of Airport Executives ("AAAE") Airport News Training Network ("ANTN") Digicast Signatory Training and hold a current signatory certificate that must be filed yearly with Airport Administration. Such Lessees shall keep a record of all documentation related to badging and produce it upon request.

14. <u>Indemnification</u>:

Lessee assumes the risk of loss or damage to the Leased Premises, Ramp, and Fuel Tanks and property thereon and therein, including but not limited to aircraft and personal property, whether from windstorm, fire, earthquake, snow, water run-off, or any other causes whatsoever except for loss or damage caused by the gross negligence and/or willful misconduct of Lessor, its agents, officer, representatives, and employees. Lessee covenants and agrees to indemnify, defend, and save the Lessor, its agents, officer, representatives, and employees, harmless from and against any and all penalties, liability, or loss, including costs and attorney fees and all expenses incurred by Lessor in investigating or resisting the same, resulting from claims or court action, whether civil, criminal, or in equity, and arising directly or indirectly out of: (i) acts of the Lessee, its agents, employees, or representatives;

(ii) occurring in on or about the Leased Premises, Ramp, or Fuel Tanks; (iii) arising out of or resulting from the Leased Premises, Ramp, or Fuel Tanks, or any condition thereon, or from Lessee's use and occupancy of the Leased Premises, Ramp, or Fuel Tanks, or any equipment thereon or appurtenances thereto, or any activity conducted therein; or (iv) through any injury or damage that may be caused or occasioned. Except, Lessee is not required to indemnify, defend and save Lessor, its agents, officer, representatives, and employees from any and all penalties, liability, or loss, including costs and attorney fees and all expenses incurred by Lessor in investigating or resisting the same, resulting from claims or court action, whether civil, criminal, or in equity, and arising directly or indirectly out of Lessor's gross negligence or willful misconduct. Lessee shall not hold or attempt to hold Lessor liable for any injury, including loss of life, to any person, or for damage to any property while on the Leased Premises, Ramp, or Fuel Tanks or the Airport, irrespective of how such injury or damage may be caused or occasioned, unless that injury, including loss of life, to any person, or for damage to any property is caused by the gross negligence or willful misconduct of Lessor, its agents, officer, representatives, and employees. However, nothing herein shall limit the applicability of the Colorado Governmental Immunity Act or other law limiting the Lessor's liability. The provisions of this Section 14 shall survive the termination of this Lease.

15. <u>Insurance and Damage</u>:

A. Lessee assumes all risk of loss, damage, injury and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the Leased Premises, Ramp, and Fuel Tanks and Lessor shall not be liable or responsible for any such loss, damage or injury, regardless of the cause thereof, except any loss, damage, injury and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the Leased Premises, Ramp, and Fuel Tanks caused by the gross negligence or willful misconduct of Lessor, its agents, officer, representatives, and employees.

B. Lessor shall maintain storage tank pollution liability insurance covering the Fuel Tanks located within the fuel farm which are being used by Lessee. This policy shall name Lessee as an additional insured and loss payee for the policy and waive subrogation. So long as Lessee uses the Fuel Tanks for storage of aviation fuel, Lessee shall pay annually to Lessor, on the anniversary dates of the Commencement Date, a proportional share of Lessor's cost for storage tank pollution liability insurance. Lessee's portion of such charges shall be the ratio of the gallon capacity of Fuel Tanks Lessee leases hereunder compared to the total gallon capacity of the fuel tanks in Lessor's fuel farm being used by Lessor, Lessee, and other parties.

C. Lessee, at its sole cost and expense, shall, during the life of this agreement, procure, pay for and keep in full force and affect the following types of insurance:

(1) Aviation General Liability Insurance: A comprehensive policy of aviation general liability insurance, including but not limited to personal injury, products liability, hangar keepers' liability, and property damage. The policy shall have limits in an amount of not less than One Million Dollars

($1,000,000.00) per occurrence and Three Million Dollars ($3,000,000.00) in the aggregate. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Leased Premises, Ramp, and Fuel Tanks (including acts or omissions of the Lessee).

(2) Automobile Insurance: At all times during the term of this Lease, and any renewal or extension hereof, Lessee shall, at its own cost and expense, provide, and keep in force commercial automobile liability insurance with a combined single limit for all owned, hired, and non-owned autos of not less than one million dollars ($1,000,000.00).

(3) Workers Compensation Insurance: Lessee shall obtain statutory workers' compensation insurance which shall contain an endorsement waiving subrogation against the City of Pueblo. Such insurance shall cover all employees and agents of Lessee performing work at the Leased Premises or Airport irrespective of whether such employees may be shareholders, managers, partners, or owners of Lessee or exempt employees under the Act. Any independent contractors of Lessee shall be covered under Lessee's workers' compensation insurance and/or participant accident insurance policy or show evidence that said independent contractor is covered under its own workers' compensation insurance policy. Lessee shall have full and sole responsibility for ensuring compliance with this Section, including without limitation indemnification required under this Lease. All insurance policies required hereunder shall provide that such policies not be cancelled or reduced without thirty (30) days' advance written notice to the Lessor.

(4) Storage Tank Pollution Liability Insurance: Lessee shall maintain storage tank pollution liability insurance covering the Fuel Tanks located within the fuel farm which are being used by Lessee. This policy shall name Lessor as an additional insured and loss payee for the policy and waive subrogation.

D. Lessee shall insure the structures and other improvements, except fuel tanks, in an amount equal to their full insurable value naming Lessor as a loss payee. These policies shall name the City of Pueblo as additional insured and loss payee for the policy and waive subrogation. The policies shall contain a provision that the policy cannot be canceled or materially altered either by the insured or the insurance company unless thirty (30) days prior written notice thereof is given to the Lessee and Lessor. Upon issuance or renewal of any such insurance policy, the Lessee shall furnish to the Lessor a certificate of insurance evidencing coverage required under this contract.

E. If the structures or other improvements (the "Improvements"), except for the fuel tanks, are damaged or destroyed by fire or other casualty, Lessee shall within one hundred twenty (120) days from the occurrence of such casualty either (1) repair and restore the damaged or destroyed Improvements, (2) demolish the damaged or

destroyed Improvements, restore the Leased Premises to their original condition, and terminate this Lease, in which event the net proceeds of the property damage insurance required to be provided by Lessee shall be retained by Lessor, or (3) demolish the damaged or destroyed Improvements and commence construction of replacement Improvements, and thereafter complete such construction as soon as practicable, but at least within eighteen (18) months from the occurrence of such casualty, unless Lessor approves additional time which shall not be unreasonably withheld. All repairs to or restoration of Improvements and/or construction of replacement Improvements shall be in compliance with applicable laws and codes, and in accordance with plans and specifications therefor approved by Lessor, which approval will not be unreasonably withheld. Except in the event of (2) above, the net proceeds of property damage insurance provided by Lessee shall be released by Lessor and paid to Lessee for the purpose of Lessee repairing, restoring, or replacing improvements damaged or destroyed by such insured fire or other casualty.

F. Lessee shall not violate the terms or prohibitions of any insurance policy herein required to be furnished by Lessee. Coverage and limits enumerated in this insurance section represent only the minimum insurance required, and Lessee should rely on its expertise to obtain any additional insurance coverage needed for the Lessor and Lessee in its performance under this Lease. Failure of Lessee to comply with the provisions of this section shall constitute a material breach of this Lease.

16. <u>Waivers and Holdovers</u>:

No provision of this Lease may be waived except by an agreement signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision. Should Lessee holdover the use of or continue to occupy the Leased Premises after the termination or cancellation of this Lease, such holding over shall be deemed merely a tenancy for successive monthly terms upon the same conditions as provided in this Lease subject to termination upon thirty (30) days prior written notice.

17. <u>Inconvenience During Construction</u>:

Lessee recognizes that from time to time it will be necessary for the Lessor to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance, and repair at and to the Airport in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or interrupt Lessee's operations at the Airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, employees, contractors, subcontractors, and representatives by reason of such inconvenience or interruption, and for and in further consideration of the premises, Lessee waives any right to claim damages or other consideration therefore, provided, however, that this waiver shall not extend to, or be construed to be a waiver of, any claim for physical damage to property resulting from willful misconduct of the Lessor, its officers, agents, employees, contractors, subcontractors, and representatives. The Lessee shall be obligated to be pay all

rent and fulfill all obligations of this Lease at all times, including, but not limited to, when access to the Airport is temporarily restricted due to routine construction, reconstruction, expansion, or other potential alteration of the airfield.

18. Place and Manner of Payments:

In all cases where Lessee is required by this Lease to pay any rentals, rates, fees or other charges or to make other payments to Lessor, such payments shall be made at the Department of Aviation, or at such other place as Lessor may hereafter designate by notice in writing to Lessee and shall be made in legal tender of the United States and any check shall be received by Lessor subject to collection. Lessee agrees to pay any bank charges made for the collection of any such checks. All payments of rent shall be made on the first of each month.

19. Assignments and Subletting:

A. Lessee may not assign this Lease, in whole or in part, without the written consent of Lessor which may be granted or denied in its sole and absolute discretion, except that Lessee may assign this Lease to a successor legal entity which has merged with, or acquired substantially all the assets of the Lessee, if such successor legal entity should specifically agree in writing to perform this Lease, unless Lessor determines in its sole and absolute discretion based upon written information supplied to Lessor by Lessee at least sixty (60) days prior to the effective date of the assignment that the successor legal entity does not have the ability to fulfill the obligations of this Lease in a competent or financially responsible manner. Failure of Lessee to provide adequate written information concerning subtenants is sufficient for Lessor to make such determination and shall be, in and of itself, a sufficient basis for the Lessor to deny its consent to any proposed assignment.

B. Lessee, with the prior written consent of Lessor, the consent of which may be granted or denied in Lessor's sole and absolute discretion, may sublet a portion of the Leased Premises to a subtenant or subtenants ("Subtenant") pursuant to a written sublease, which shall contain among other provisions the following:

(1) The sublease must be subject to and governed by all of the covenants and provisions of this Lease. Subtenant must abide by all of the terms and conditions thereof applicable to the Leased Premises, Ramp, and Fuel Tanks and use thereof. The sublease may only be for a lesser term than specified in Section 2.

(2) The Subtenant shall maintain and keep in force aviation general liability insurance as described in Section 15.C. with a combined single limit not less than one million dollars ($1,000,000). Such insurance requirement will be satisfied if Subtenant is provided with coverage under Lessee's master liability insurance policy.

(3) The sublease must contain an Indemnification provision, substantially the same as set forth in Section 14 hereof, indemnifying Lessor.

(4) The sublease shall not become effective until an executed copy thereof is delivered to Lessor's Department of Aviation.

C. Subtenants for Hangaring of Aircraft: Lessee may, upon notice to Lessor but without Lessor's prior written consent, sublet to an entity or person sufficient hangar space to hangar the Sublessee's aircraft and any needed office space to perform Subtenant's aircraft operations pursuant to a template sublease agreement ("Template Agreement") that was prior approved by Lessor. Should Lessee wish to sublease a portion of the Leased Premises other than through a Template Agreement, it must obtain Lessor prior written approval in accordance with Section 19.B. above. All Subtenants intending to conduct business at the Airport must first obtain a commercial permit from the Director of Aviation. Upon entering into a sublease with a Subtenant, Lessee will provide written notice to Lessor that includes the name, address, tail number, aircraft model, length of term of sublease, and a copy of the sublease.

20. <u>Agreements with United States</u>:

This Lease is subject and subordinate to the terms, reservations, restrictions, provisions, and conditions of the deed of conveyance from the United States Government to the Lessor and of any other existing or future agreement between the Lessor and the United States, relative to the use, operation, or maintenance of the Pueblo Memorial Airport and its appurtenant facilities, the execution of which has been or may be required as a condition precedent to the participation by any Federal Agency in the extension, expansions, or development of said Airport and its facilities.

21. <u>Lessee's Default</u>:

A. Any one of the following shall constitute an event of default by Lessee hereunder:

(1) Failure of Lessee to pay in full all installments of rent, fees, additional rent, or pro rata portion of fuel farm insurance due by the first day of each month or immediately after written notice and demand therefor are given by Lessor to Lessee.

(2) Failure of Lessee to perform or comply with any obligation, covenant, or agreement of Lessee hereunder other than payment of money for a period of fourteen (14) days after written notice specifying such failure is given by Lessor to Lessee, except that if such obligation, covenant, or agreement is not capable of being performed within said fourteen (14) day period, Lessee shall not be in default if Lessee shall commence such performance within said fourteen (14) day period and thereafter prosecute the same with diligence and continuity to completion.

B. Lessee shall have thirty (30) days to cure any default. In the case of a continuing event of default by Lessee, Lessor shall have the following remedies in addition to

all other rights and remedies provided by law or in equity, including without limitation, damages and specific performance:

(1) Terminate this Lease by sixty (60) days prior written notice given to Lessee specifying the date of termination, and Lessee shall within said sixty (60) day period vacate the Leased Premises, Ramp, and Fuel Tanks and surrender possession thereof to Lessor.

(2) Without terminating this Lease, retake possession of the leased areas and relet the same or any part thereof for such term or terms and upon such other conditions as Lessee in its reasonable judgment shall determine. If the rent, fees, and other charges are less than those provided for herein, Lessee shall be responsible and liable for any deficiency between the amount of the rent, fees and charges provided for herein and those received through such reletting. Lessor shall not be responsible or liable for any failure to relet the leased premises or any part thereof, or failure to collect any rent, fees, or other charges due upon such reletting. No notices from Lessor hereunder or under a forcible entry and detainer statute or similar law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. Lessor reserves the right following any such reentry and/or reletting to exercise its right to terminate this Lease as provided in Section 21.B.(1) above.

C. If the Lessee shall be declared insolvent or bankrupt, or if any assignment of the Lessee's property shall be made for the benefit of creditors or otherwise, or if Lessee's leasehold interest herein shall be levied upon under execution, or seized by virtue of any writ of any Court of Law, or a Trustee in Bankruptcy or a Receiver appointed for the property of the Lessee, whether under the operation of the State or the Federal statutes, then and in any such case, the Lessor may, at his option, immediately with or without notice, notice being expressly waived, terminate this Lease and immediately retake possession of the Leased Premises without the same working any forfeiture of any accrued obligations of the Lessee hereunder.

D. After the expiration of this Lease or any violation of any term or provision as herein provided for, if Lessee shall refuse to surrender and deliver possession of the Leased Premises after notice of termination, then in that event Lessor may, without further notice or demand, enter into and upon said premises, or any part thereof, and take possession thereof and repossess them, and expel, remove, and put out of possession the Lessee, using such help, assistance and force in so doing as may be needful and proper, without prejudice to any remedy allowed by law, available in such cases.

E. That in case the Leased Premises are left vacant and any part of the rent herein reserved be due and unpaid, then the Lessor may, without in anyway being obligated to do so, and without terminating this Lease, retake possession of said premises and rent the same for such rent, and upon such conditions as the Lessor may think best, making such changes and repairs as may be required, giving credit for the amount of rent so received less all expenses of such changes and repairs,

and said Lessee shall be liable for the balance of the rent herein reserved until the expiration of this Lease.

F. Lessee agrees to pay the Lessor all costs, including reasonable attorney fees, incurred by Lessor in recovering any rent or other money due and unpaid under the terms of this Lease or to recover possession of the Leased Premises after termination of this Lease.

22. Notices:

All notices, required to be given to Lessor hereunder, shall be in writing and be sent by certified mail to Pueblo Memorial Airport, Administration Office, 31201 Bryan Circle, Pueblo, Colorado 81001 with a copy to City of Pueblo, City Attorney's Office, 1 City Hall Place, Pueblo, Colorado 81003. All notices required to be given to Lessee hereunder shall be in writing and sent by certified mail, addressed to Freeman Holdings of Colorado, LLC, Attn: Scott Freeman, 16221 Foster Street, Overland Park, Kansas 66085, email: sfreeman@pvillc.com; with a copy to Freeman Holdings Group, Attn: Reese Hays, 16221 Foster Street, Overland Park, Kansas 66085, email: rhays@freeemanholdingsgroup.com, provided that the parties, or either of them, may designate in writing from time to time subsequent or supplementary persons or address in connection with said notices. The effective date or service of any such notice shall be the date such notice is mailed by Lessee or Lessor.

23. Environmental Provisions:

A. For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of Colorado, or the United States government and shall include, but not be limited to: (i) substances defined as "hazardous waste," "restricted hazardous waste," "hazardous substance" or "hazardous material" under any applicable federal, state, or local law or regulation (Environmental Regulations); (ii) asbestos-containing materials; (iii) PCBs; (iv) petroleum or petroleum based products; and (v) lead.

B. Lessee will comply with Environmental Regulations that are applicable to Lessee and its use of the Leased Premises, Ramp, and Fuel Tanks. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors, or subcontractors, on all or any portion of the Leased Premises, Ramp, and Fuel Tanks which would cause or permit: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Material in, on, under, about, or from the Leased Premises, Ramp, and Fuel Tanks or any part thereof in violation of any Environmental Regulations; (ii) any portion of the Leased Premises, Ramp, and Fuel Tanks to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water

Pollution Control Act, U.S.C. Section 1251 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.

C. Except to the extent Lessor is covered by an insurance policy, Lessee agrees to defend, indemnify, and forever hold harmless Lessor, and its officers, employees, agents, successors, and assigns, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, attorneys' fees, characterization, remediation and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about, or from the Leased Premises, Ramp, and Fuel Tanks, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

24. <u>Law, Rules and Regulations</u>:

A. Lessee, its officers, agents, and employees shall faithfully observe and comply with all applicable federal, state, and local laws, regulations, and ordinances now existing or hereafter adopted relating to the use and occupancy of the Airport or Leased Premises, Ramp, and Fuel Tanks, including without limitation Chapter 1 of Title III of the Pueblo Municipal Code and rules affecting the operation of motor vehicles upon, to, and from the Airport. The Lessee, and all officers, agents, and employees of Lessee, hereby agree to be bound by and subject to all police ordinances of the City of Pueblo at all times while on the Airport, whether acting in the course of Lessee's business or otherwise.

B. Lessee, its officers, agents, and employees shall faithfully observe and comply with all minimum standards and rules regulating operations and activities from and upon the Airport adopted from time to time by Lessor. Such minimum standards and rules shall not be applied arbitrarily, discriminatorily, or unreasonably. If any provision of this Lease shall conflict with any provision of the minimum standards or rules adopted or amended by Lessor after commencement date, the conflicting provision of this Lease shall control.

C. It is expressly understood by Lessee that security within the air operations area of the Airport is vital. The drive through gate entering the air operations area shall be kept closed and secured at all times except for ingress and egress. Only public road going automobiles under escort will be permitted on the air operations area. Any public road going automobile brought by Lessee shall be the sole responsibility of the Lessee. Violation of airport security rules as now, or in the future may, exist shall be grounds for immediate termination of this Lease.

25. <u>F.A.A. Lease Requirements</u>:

A. The Lessor reserves the right, without any obligation on its part to do so, to develop, modify, change, improve, or abandon the Pueblo Memorial Airport or any part thereof, as it may determine in its sole discretion, at any time, regardless of the desires or view of Lessee, and without interference or hindrance from Lessee or liability to Lessee.

B. The Lessor reserves the right, without any obligation on its part to do so, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.

C. Lessor shall have full and unrestricted right to enter upon those portions of the Airport occupied and leased herein by the Lessee, and Lessor, its agents, or representatives shall be permitted to inspect same during any regular business hours or upon twenty-four (24) hours' notice to Lessee.

D. This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the Lessor and the United States, relative to the use, development, operation, and maintenance of the Airport.

E. Lessee shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations with respect to the construction of any structure or building on the Leased Premises, Ramp, and Fuel Tanks, or in the event of any planned modification or alteration of any present or future building or structure on the Leased Premises, Ramp, or Fuel Tanks.

F. All rights not herein granted to the Lessee are reserved to Lessor and nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended.

G. Lessor reserves for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, Ramp, and Fuel Tanks, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation or flight in said airspace, and for use of said airspace for landing on, taking off from, or operations on or over the Pueblo Memorial Airport.

H. By accepting this Lease, Lessee expressly agrees for itself, its successors, and assigns that it will not erect nor permit the erection of any structure, building, or object nor permit the growth of any tree on the Leased Premises, Ramp, and Fuel Tanks to a height not to exceed twenty-five (25) feet above ground level. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the Leased Premises, Ramp, and Fuel Tanks and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee.

I. Lessee shall not make use of the Leased Premises, Ramp, and Fuel Tanks in any manner which might interfere with the landing and taking off of aircraft at Pueblo Memorial Airport or otherwise constitute a hazard to aviation. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the Leased Premises, Ramp, and Fuel Tanks and cause the abatement of such interference at the expense of the Lessee.

J. If during the term of this Lease, all or part of the Leased Premises, Ramp, or Fuel Tanks should be taken or threatened to be taken for any public or quasi-public use under any governmental law or by right of eminent domain or sold to the condemning authority under threat of condemnation, this Lease shall terminate and the proceeds, if any, from such taking or sale shall be allocated between Lessor and Lessee in accordance with applicable condemnation law.

K. Lessor reserves the right to grant and to take easements or rights of way in, under, over, and across the Leased Premises, Ramp, and Fuel Tanks, in which event, Lessee shall only be entitled to compensation for damages to improvements of the Lessee destroyed or damaged thereby, but not to damages for loss of use of the Leased Premises, Ramp, and Fuel Tanks. Lessor will attempt to ensure such easements or rights of way will not impede, prohibit, or infringe upon Lessee's ability to carry out its authorized uses of the Leased Premises, but makes no guarantees as to such.

L. Lessee agrees to annually complete and submit a Department of Transportation - Federal Aviation Administration Airport Activity Survey (FAA Form 1800-31), as may be amended, that documents Lessee's air taxi-commercial passenger enplanements for each calendar year.

M. It is not the intent of this Lease to grant to Lessee the exclusive right to provide any or all of the services which Lessee may engage in at any time during the term of this agreement. Accordingly, the Lessor reserves the right, to grant others certain rights and privileges upon the Airport which may be similar in part or in whole to those granted to Lessee, in accordance with any applicable minimum standards and procedures adopted by the Lessor and amended from time to time for the Airport. Nothing herein shall prevent Lessor from entering into leases or subleases with other tenants who may be in competition with the rights and privileges granted to Lessee hereunder.

26. <u>Nondiscrimination Assurances</u>

A. The Lessee, for itself, its successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Leased Premises or ramp, for a purpose for which Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lease shall maintain and operate such facilities and services in compliance with all requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as the regulations may be amended.

B. The Lessee, for itself, its successors, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (i) no person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased

Premises or ramp; (ii) that in construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) that the Lessee shall use the Leased Premises and ramp in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, and as the regulations may be amended.

C. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, religion, disability, national origin, sex, or sexual orientation be excluded from participating in any contracting, leasing, or employment activities covered in 14 CFR Part 152, Subpart E. Lessee assures that no person shall be excluded, on these grounds, from participating in or receiving the services or benefits of any program or activity covered by this subpart. Lessee assures that it will require that its covered suborganizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

D. Lessee agrees to operate the Leased Premises, Ramp, and Fuel Tanks for the use and benefit of the public and to furnish good, prompt and efficient services adequate to meet all the demands for its services at the Airport, to furnish service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit of service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

E. Notwithstanding anything contained herein that may be or appear to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the Lessor reserves the right to grant similar privileges to another operator or operators on other parts of the Airport. It is not the intent of the Lease to grant to Lessee the exclusive right to provide any or all of the services Lessee may engage in at any time during the term of the Lease. Accordingly:

(1) Lessor reserves the right, to grant others certain rights and privileges upon the Airport which may be similar in part or in whole to those granted to Lessee, in accordance which any applicable minimum standards and procedures adopted by Lessor and amended from time to time.

(2) Nothing shall prevent Lessor from entering into leases or subleases with other tenants who may be in competition with the rights and privileges granted to Lessee hereunder. However, the Lessor agrees not to enter into any sublease, lease, contract or other agreement with any similarly situated full service fixed base operator at the Airport, which contains more favorable terms than this lease or grants rights, privileges or concessions which are not granted to Lessee herein, to the extent required by FAA Grant

Assurances, except where such differences are nondiscriminatory and substantially comparable.

(3) Lessor will require that a competitor make an investment sufficient to meet the full requirements of the Airport's applicable minimum standards prior to competitor's operation.

F. The Lessee for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree 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 Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Lessee will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, religion, national origin, sex, disability, or age, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

(2) In the event of breach of any of the above Nondiscrimination covenants, City will have the right to terminate the agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the agreement had never been made or issued.

27. <u>Prior Agreements</u>:

Upon the Effective Date, Lease No. 1 and Lease No. 2, as each were amended and assigned, will immediately terminate and all of Flower's interests in Lease No. 1, Lease No. 2, the Leased Premises, Ramp, and Fuel Tanks shall terminate and Flower's rights to the same will cease and be of no force nor effect. All other agreements entered into between Lessor and Flower and all other interests in property at the Airport held by Flower will also terminate on the Effective Date. All interest in the Leased Premises, Ramp, and Fuel Tanks shall be held solely by Lessee in accordance with the terms of this Lease. All parties acknowledge and agree that the Leased Premises, Ramp, and Fuel Tanks, and all structures and improvements thereon, are owned solely by Lessor and Lessor has all rights and powers to lease the same.

28. <u>Miscellaneous</u>:

A. This Lease and all of its covenants and provisions shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, subtenants, and approved assigns.

B. This Lease and any amendments hereto are subject to prior approval of the Federal Aviation Administration.

C. Lessee is leasing the Leased Premises, Ramp, and Fuel Tanks "AS IS, WHERE IS, WITH ALL FAULTS" in their present condition. Lessor makes no representation or warranties of any kind or character, express or implied, with respect to the Leased Premises, Ramp, and Fuel Tanks, including but not limited to, any warranty or representation as to suitability or fitness for a particular purpose, title, zoning, physical or environment conditions, utilities, governmental approvals, the compliance of the Leased Premises, Ramp, and Fuel Tanks with governmental and environment laws and regulations, the truth, accuracy or completeness of any document or other information provided to Lessee by Lessor or any other person, or any other matter or thing regarding the Leased Premises, Ramp, and Fuel Tanks. Lessor shall be under no obligation to maintain the Leased Premises, Ramp, and Fuel Tanks or the Pueblo Memorial Airport or any part thereof in a particular location or condition. If the Pueblo Memorial Airport shall permanently close or relocate, the use restrictions herein shall not apply, and the Lessee may use the Leased Premises, Ramp, and Fuel Tanks for any lawful use or purpose allowed by the then existing Pueblo Municipal Code, or in the alternative, Lessee may terminate this Lease upon thirty (30) days prior written notice given to Lessor.

D. The Lessee represents that it has inspected the Airport, Leased Premises, Ramp, Fuel Tanks, and facilities and accepts the conditions of same and fully assumes the risk incident to the use thereof. The Lessor shall not be liable to the Lessee for any damages or injuries to the property or personnel of the Lessee which result from hidden, latent, or other dangerous conditions on the Airport or Leased Premises, Ramp, and Fuel Tanks. Lessee's taking of possession of the Leased Premises, Ramp, and Fuel Tanks shall be conclusive evidence that Lessee accepts the Leased Premises, Ramp, and Fuel Tanks in their present condition and that the Leased Premises, Ramp, and Fuel Tanks are in good and satisfactory condition at the time such possession was taken.

E. The acts and omissions of Lessee's employees, agents, contractors, and guests shall be imputed to Lessee for purposes of this Lease.

F. This Lease 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 Lease, with respect to any financial obligation of Lessor which may arise under this Lease in any fiscal year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Lease, including any sub-agreement, attachment, schedule or exhibit thereto, by the Lessor.

G. Nothing in this Lease is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred upon the Lessor under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq.

H. This Lease contains the entire and exclusive agreement between the parties relating to the Leased Premises, Ramp, and Fuel Tanks and may not be amended except by written instrument signed by the parties. Neither party shall be, or hold itself out as, agent of the other or as joint venturers or partners under this Lease.

I. This Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under this Lease or for the enforcement of this Lease shall be in a state court with jurisdiction located in Pueblo County, Colorado.

J. Each person signing this Lease on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this Lease on behalf of such party and that this Lease is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.

[Remainder of page intentionally left blank.]

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

LESSOR:

CITY OF PUEBLO
a Municipal Corporation

By_____
Nicholas A. Gradisar

Title: Mayor

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney

LESSEE:

Freeman Holdings of Colorado, LLC
a Colorado limited liability company

By_____
Francis B. Freeman Jr.

Title: Managing Member

FLOWER:

Rocky Mountain FBO, LLC
a Colorado limited liability company
d/b/a/ Flower Aviation FBO

By_____

Name _____

Title:_____

Exhibit A
All Leased Areas



Exhibit B
Structures and Ground Lease

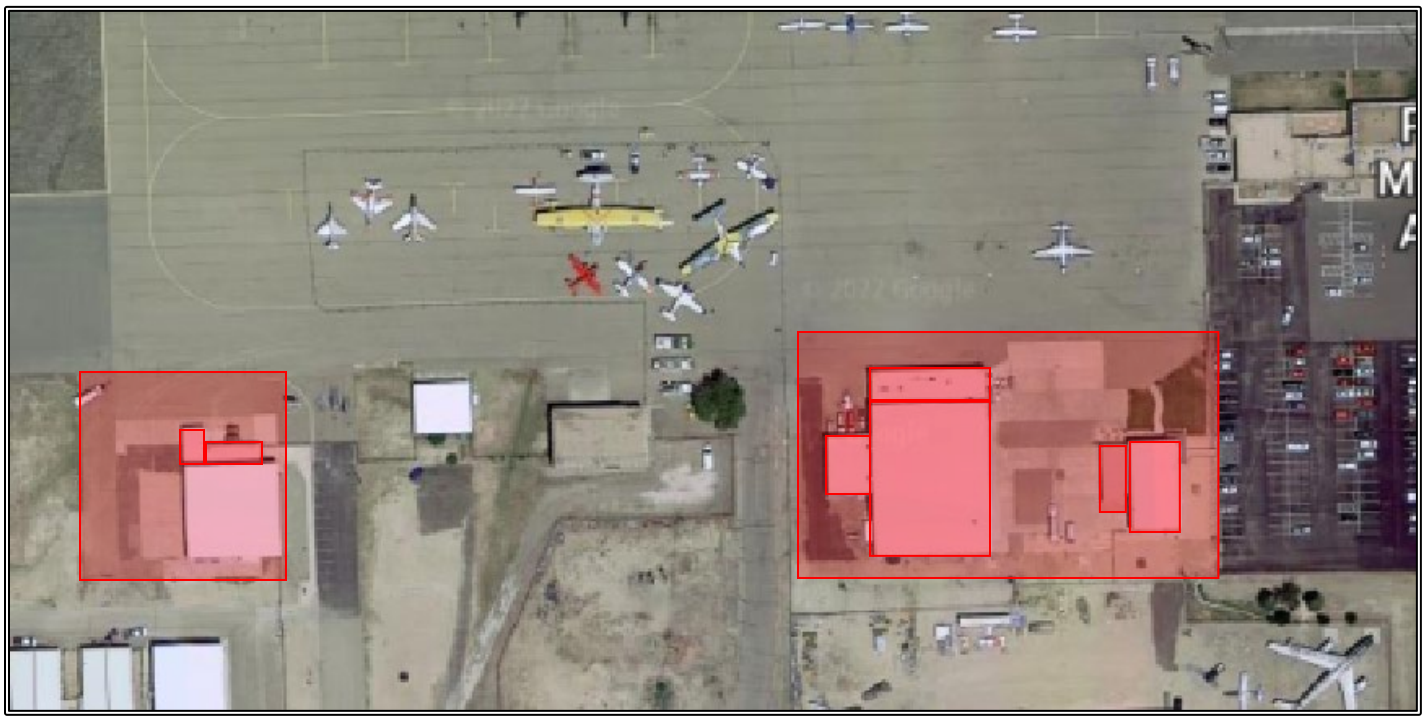


Exhibit C
Ramp Area



Exhibit D
Fuel Tanks



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 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 AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND ROCKY MOUNTAIN S.E.R./JOBS FOR PROGRESS, INC., REGARDING THE PUEBLO FOOD PROJECT'S ENTREPRENEUR START-UP PROGRAM, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is an Ordinance approving and authorizing a Memorandum of Understanding ("MOU") with Rocky Mountain S.E.R./Jobs for Progress, Inc. ("RMSER") for the short term rental of a room for the Pueblo Food Project's Entrepreneur Start-up program.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The room to be rented, Room 114, is contained within the grounds of RMSER's Empowerment Center at 330 Lake Avenue, Pueblo, Colorado. It will be used as a working classroom and collaborative resource center for education, an office, storage space, and for other programmatic related needs of the Pueblo Food Project's Food Entrepreneurial Start-up program.

FINANCIAL IMPLICATIONS:

Under the attached MOU, the City would pay RMSER a flat rate of $7,800 for the short term rental access.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Pueblo Food Project will need to find another location to host community educational programming.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
Proposed Ordinance
Proposed Memorandum of Understanding

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND ROCKY MOUNTAIN S.E.R./JOBS FOR PROGRESS, INC., REGARDING THE PUEBLO FOOD PROJECT'S ENTREPRENEUR START-UP PROGRAM, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo ("City") is desirous of obtaining a location for food systems educational programming; and

WHEREAS, Rocky Mountain S.E.R./Jobs for Progress, Inc. ("RMSER") shares the Pueblo Food Project's desire and mission of improving the delivery of community services and resources and wishes to maintain a collaborative relationship for responsive solutions to community needs; NOW, THEREFORE,

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

SECTION 1.

The Memorandum of Understanding ("MOU") between the City of Pueblo, a Municipal Corporation, and Rocky Mountain S.E.R./Jobs for Progress, Inc., a copy of which is attached hereto and incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the aforesaid MOU in the name of the City and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the total amount of $7,800 shall be paid from Project CI2014 – PFP Entrepreneur Start Up Program.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached MOU, which are necessary or appropriate to implement the transactions described therein.

SECTION 5.

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

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

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into this __ day of _____, 2022 ("Effective Date"), by and between **Rocky Mountain S.E.R./Jobs for Progress, Inc.**, hereinafter referred to as the "RMSER", and the **City of Pueblo, a Municipal Corporation**, through the **Pueblo Food Project**, hereinafter referred to as "PFP", collectively the Parties.

PURPOSE STATEMENT:

WHEREAS, RMSER desires to continue its active role in community service and charitable community activities through the establishment of ongoing, collaborative relationships with community organizations like PFP to promote access to community services and resources for all Pueblo residents; and

WHEREAS, PFP shares RMSER's desire and mission of improving the delivery of community services, resources and to maintain a collaborative relationship for responsive solutions to community needs;

WHEREAS, PFP has worked to address hunger, food insecurity and to strengthen its community's ability to fortify its own responses to food access issues;

WHEREAS, RMSER desires to be a collaborative partner with PFP by improving existing services and creating of new solutions and opportunities for residents in Pueblo, Colorado (and surrounding counties).

NOW, THEREFORE, the Parties agree to the following:

INTENT: To establish a cooperative relationship and work together to provide human health and wellness services, projects, programming, and solutions for all families in Pueblo Colorado and surrounding areas, and to continue to collaborate on future projects and programs to positively impact and serve the greater good of all.

SCOPE OF SERVICES & PERFORMANCE: Parties further agree that:

<u>RMSER will</u>:

- Provide a 1 year Rental of Room 114, contained within the grounds of RMSER's Empowerment Center at 330 Lake Avenue, Pueblo, Colorado, for use as a working classroom and collaborative resource center for education, office, storage and other programmatic related needs of the Pueblo Food Project's Food Entrepreneurial Program.
    - The rental will be for Room 114 from June 1, 2022 through May 31, 2023. This will include access during normal business hours (7 am to 8 pm, Monday through Sunday) for the

Entrepreneurial Program staff and students for the purposes of group project work, meetings, and planning sessions.
    - It will also include access to Room 114 June 1,2022 to May 31,2023 during the term of this MOU, for actual class instruction time.
    - It will also include access and use of (1 day) Kitchen usage (monthly) on the following dates: June 2022, July 2022, August 2022, September 2022, November 2022, December 2022, January 2023, February 2023, March 2023, April 2023, and May 2023 . This access and use will be from 5:00pm -8:00pm on these evenings and PFP will be responsible for cleaning, and repair if applicable.
    - The Rental Fee for 1 year use will be a flat fee of $7,800.00, and shall be inclusive of all utilities, cam fees, and property taxes if applicable. In Lieu of a Damage Deposit, Pueblo Food Project will pay the entire fee ($7,800.00) up front, prior to start of the 1 year Rental access.
    - This rental will also include 2 keys. One key will be to get access into the RMSER Empowerment Center at 330 Lake Avenue in Pueblo Colorado. The other key will be for access into room 114.
- Collaborate with PFP in creating future activities and opportunities to improve and empower social and community conditions for the City of Pueblo and its surrounding communities.
- Collaborate with PFP to offer opportunities for community engagement and training, as opportunities arise.
- Share responsibility in seeking out additional resources for the Pueblo community.

<u>The Pueblo Food Project will:</u>

- Rent Room 114 at RMSER's Empowerment Center located at 330 Lake Avenue for $7,800 for a term from June 1, 2022 to May 31, 2023.
    - Pueblo Food Project shall have the ability to use agreed upon premises (Room 114 and additional nights in Kitchen and Cafeteria) to further its organizational interests, including schooling, office, storage, and related uses.
    - Pueblo Food Project, at its own expense, will comply promptly with all applicable statutes, ordinances, rules, regulations, orders, restrictions of record and requirements in effect during the Term or any part of the Term hereof that regulate the use of the Premises and that pertain to Pueblo Food Project's use of the Premises.
    - Pueblo Food Project understands and agrees that the Premises is accepted in its current as-is, where-is condition with all faults and without representation or warranty by RMSER of any kind, including, the suitability thereof for PFP's intended use. No promises to construct, alter, remodel, or improve the Premises and no representations concerning the condition of the Premises have been made by RMSER to PFP other than as may be expressly stated in this MOU. Pueblo Food Project accepts possession of the Premises on the Possession Date in their then-current condition on an "AS IS, WHERE IS AND WITH ALL FAULTS" basis.
    - Pueblo Food Project shall, at its sole cost and expense, keep and maintain in good order, condition, and repair all portions of the Premises utilized by PFP as part of this agreement, not required to be maintained by RMSER as provided below. PFP shall make, at PFP's expense, all necessary nonstructural minor repairs to the Premises if said repairs are required due to PFP's staff or guests. Minor repairs shall include such items as repairs of floors, walls, fixtures, doors, and other parts of the Premises damaged by PFP's staff or guests but shall not include normal wear and tear ("Minor Repairs"). Minor Repairs shall not include repairs

to major mechanical systems, plumbing, heating and air conditioning units, windows, exterior walls or to the roof of the building.
    - PFP shall, at its own expense, maintain a policy or policies of comprehensive general liability insurance.
    - If this agreement needs to be extended, it must be done in a signed writing by both parties prior to May 31, 2023.
- Collaborate with RMSER in creating future activities and opportunities to improve and empower social and community conditions for the City of Pueblo and its surrounding communities.
- Collaborate with RMSER to offer opportunities for community engagement and training, as opportunities arise.
- Share responsibility in seeking out additional resources for the Pueblo community.

JOINT EFFORTS:
- The Parties hereby agree to collaborate on maintaining open and ongoing communication, and each may maximize supportive efforts for the other, while utilizing resources to accomplish in unison, their respective Mission and Vision objectives.
- The Parties will problem solve together to determine how best to approach and provide community solutions. Together where applicable
- The Parties may post respective logos on website and co-market the efforts together with the written consent of the Parties.

NOTICES: Notices concerning this MOU shall be given to RMSER as follows:

Rocky Mountain S.E.R./Jobs for Progress, Inc.
Attn: Lance Vieira, COO
3555 Pecos Street
Denver, CO 80211
Email: Lance@rmser.org

Notices concerning this MOU shall be given to PFP as follows:

Mayor's Office
Pueblo Food Project
1 City Hall Place
Pueblo, CO 81003

With a copy to:

Law Department
1 City Hall Place
Pueblo, CO 81003

MODIFICATION OF AGREEMENT: All modifications to this agreement shall be in writing and signed by both Parties.

TIME OF PERFORMANCE: The term of this MOU shall commence on the Effective Date and shall expire and terminate on May 31, 2023.

NO THIRD-PARTY BENEFICIARIES; NO WAIVER OF IMMUNITIES: Nothing in this MOU is intended, nor should it be construed, to create any rights, claims, or benefits or assume any liability for or on

behalf of any third party, or to waive any immunities or limitations conferred under federal or state law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.

WAIVER OF BREACH: A waiver by any party to this MOU of the breach of any term or provision of this MOU shall not operate or be construed as a waiver of any subsequent breach by either party.

ELECTRONIC SIGNATURES: This MOU 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 executed this Memorandum of Understanding as of the day and year above written.

SIGNATURES:

ROCKY MOUNTAIN S.E.R./Jobs for Progress, Inc.
3555 Pecos Street
Denver, CO 80211

By: _____
Christopher W. Hall, CEO

CITY OF PUEBLO, a Municipal Corporation
1 City Hall Place
Pueblo, Colorado 81003

By: _____
Nicholas A. Gradisar, Mayor

Background Paper for Proposed Resolution

COUNCIL MEETING DATE: June 27, 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 AN AGREEMENT FOR PROFESSIONAL DESIGN SERVICES IN THE AMOUNT OF $1,209,246 TO ALLRED AND ASSOCIATES, A COLORADO CORPORATION, FOR DESIGN AND ENGINEERING OF NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This Resolution awards an Agreement for Professional Design Services to Allred and Associates for design and engineering services of new fire stations 6, 8, and 11. Allred and Associates was determined to be the most responsible bidder and will be awarded a contract in the amount of $1,209,246.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated January 24, 2021, established the Fire Station 6, 8, and 11 Project, Project No. CI2205 and budgeted and appropriated $600,000.00.

Funds, in the amount of $609,245, were transferred, budgeted and appropriated at the June 13, 2022 City Council meeting (Ordinance item R-4).

A pending Ordinance (Ordinance item S-5), on City Council agenda for final reading on June 27, 2022, will transfer, budget and appropriate additional funds, in the amount of $270,000. This Resolution is contingent upon the approval of the pending Ordinance.

BACKGROUND:

In April 2022, the City of Pueblo solicited Requests for Proposals (RFP 22-010) for design and engineering services for new Fire Stations 6, 8, and 11. A total of nine (9) firms provided a proposal for the work. City Staff provided evaluations of the proposals using project approach, work schedule, fee schedule and statement of qualifications

evaluation criteria. Upon compilation of staff evaluations, the top five (5) firms were interviewed. Allred and Associates was then chosen by the interview committee.

FINANCIAL IMPLICATIONS:

Funding in the amount of $1,209,246 will be paid from the Fire Stations 6, 8, and 11 Project, No. CI2205.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable to this Resolution.

STAKEHOLDER PROCESS:

Not Applicable to this Resolution.

ALTERNATIVES:

Denial of this Resolution will result in the city being unable to proceed with the design and engineering of the new fire stations.

RECOMMENDATION:

Approval of the Resolution.

Attachments:
Proposed Resolution
Draft Agreement for Professional Services

RESOLUTION NO. _____

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL DESIGN SERVICES IN THE AMOUNT OF $1,209,246 TO ALLRED AND ASSOCIATES, A COLORADO CORPORATION, FOR DESIGN AND ENGINEERING OF NEW FIRE STATIONS 6, 8, AND 11 PROJECT NO. CI2205 AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, proposals for Project No. 22-010 Design and Engineering Services of New Fire Stations 6, 8, and 11, have been received and examined; and,

WHEREAS, the proposal of Allred and Associates, of Broomfield, Colorado was determined to be the most advantageous to the City, and in the best interest of the City, based on the evaluation factors set forth in the Request for Proposals; NOW, THEREFORE,

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

SECTION 1.

City Council authorizes Project No. 22-010 Design and Engineering Services for New Fire Stations 6, 8, and 11 to be performed, and contract for said project is hereby awarded to Allred and Associates, of Broomfield, Colorado, in the amount of $1,209,246.

SECTION 2.

Funds for said Agreement shall be paid from CI2205, Fire Station 6, 8, and 11 Project.

SECTION 3.

The Purchasing Agent is hereby authorized to execute said contract on behalf of Pueblo, Colorado 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 this Resolution to implement the policies and procedures described herein.

SECTION 5.

This Resolution is subject to and conditioned upon City Council passage and approval of an ordinance presented contemporaneously herewith and captioned “AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT” (“Funding Ordinance”). As such, this Resolution shall only become effective upon the date of final action by the Mayor and City Council approving this Resolution and the Funding Ordinance.

INTRODUCED June 27, 2022

BY:_____
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK

PROPOSED AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES
BY AND BETWEEN
CITY OF PUEBLO
AND
ALLRED & ASSOCIATES

THIS AGREEMENT made and entered this_____day of_____, 20 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "Owner" or "City") and Allred & Associates, a Registered Individual Business in the State of Colorado, a professional architectural firm (hereinafter referred to as "Architect") for Architect to render certain professional planning, design, architectural, and related services for Owner in connection with Bid 22-010 RFP – Design and Engineering of New Fire Stations 6, 8, and 11, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL

1.1 Architect shall satisfactorily perform professional architectural services for the following items as more specifically set forth in Schedule 1 – "Scope of Services":

[X] - Preliminary (Schematic) Design Phase

[X] - Design Development Phase

[X] - Construction Documents

[X] - Bidding Phase

[X] - Construction Services Phase

Upon completion of any phase for a work item, Architect shall not proceed with work on the next phase for a work item, if any, until authorized in writing by Owner to proceed therewith.

Such services shall include standard usual and customary professional architectural services and the furnishing (directly or through its professional consultants) of customary and usual civil, structural, mechanical, electrical, engineering, design, environmental, and planning services. Architect shall also provide any landscape, surveying, and geotechnical services incident to its work on the Project.

1.2 In performing the professional services, Architect shall complete the work items and phases set forth in Schedule 1 – "Scope of Services" and the items identified in Section 2 of this Agreement.

1.3 Professional architectural services (whether furnished directly or through a professional consultant subcontract) shall be performed under the direction and supervision of a registered architect in good standing and duly licensed to practice in the State of Colorado. Reproductions of final drawings for construction produced under this Agreement shall be the same as at least one record set which shall be furnished to Owner and which shall be signed by and bear the seal of such registered architect.

1.4 Surveying work included within or reasonably contemplated by this Agreement shall be performed under the direction and supervision of a registered Professional Land Surveyor in good standing and duly licensed to practice in the State of Colorado. All plats and surveys produced under this Agreement shall be signed by and bear the seal of said Professional Land Surveyor.

1.5 Any engineering services provided under this Agreement shall be performed under the direction and supervision of a registered professional engineer.

SECTION 2. ARCHITECTURAL SERVICES

2.1 Architect shall provide professional services with respect to the Project for the work item and phases outlined in the attached Schedule 1.

2.2 Additionally, Architect shall perform the following:

(a) Architect shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all of Architect's work, including that performed by Architect's consultants, and including designs, Drawings, Specifications, reports, and other services, irrespective of Owner's approval or acquiescence in same. Architect shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in his work.

(b) Architect shall be responsible, in accordance with applicable law, to Owner for all loss or damage to Owner caused by Architect's proven negligent act or omission; except that Architect hereby irrevocably waives and excuses Owner and its attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute.

(c) Architect's professional responsibility shall comply with the standard of care applicable to the type of engineering and architectural services provided, commensurate with the size, scope, and nature of the Project.

(d) Architect shall be completely responsible for the safety of Architect's employees in the execution of work under this Agreement, shall provide all necessary safety equipment for said employees, and shall hold harmless and indemnify and defend Owner from any and all claims, suits, loss, or injury to Architect's employees.

(e) Architect acknowledges that, due to the nature of architectural, design, and related professional services and the impact of same on the Project, the Owner has a substantial interest in the personnel and consultants to whom Architect assigns principal responsibility for services performed under this Agreement. Consequently, Architect represents that Architect has selected and intends to employ or assign the key personnel and consultants identified in Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility", attached hereto for the Project assignments and areas of responsibility stated therein. Within 10 days of execution of this Agreement, Owner shall have the right to object in writing to employment on the Project of any such key person, consultant, or assignment of principal responsibility, in which case Architect will employ alternate personnel for such function or reassign such responsibility to another to whom Owner has no reasonable objection. Thereafter, Architect shall not assign or reassign Project work to any person to whom Owner has reasonable objection.

Within five (5) days of execution of this Agreement, Architect shall designate in writing a Project representative who shall have complete authority to bind Architect, and to whom Owner should address communications.

(f) Promptly after execution of this Agreement and upon receipt of authorization from Owner to proceed, Architect shall submit to Owner for approval a schedule showing the order in which Architect proposes to accomplish his work, with dates on which he will commence and complete each major work item. The schedule shall provide for performance of the work in a timely manner so as to not delay Owner's timetable for achievement of interim tasks and final completion of Project work, provided however, the Architect will not be responsible for delays beyond his control. The Schedule shall not be materially different than the Project Schedule attached hereto and labelled Schedule 3.

(g) Before undertaking any work which Architect considers beyond or in addition to the scope of work and services which Architect has contractually agreed to perform under the terms of this Agreement, Architect shall advise Owner in writing (i) that Architect considers the work beyond the scope of this

Agreement, (ii) the reasons the Architect believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Architect shall not proceed with such out of scope or additional work until authorized in writing by Owner. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Architect shall be compensated for his direct costs and professional time at the rates set forth in Schedule 2 - "Fee Schedule".

SECTION 3. OWNER'S RESPONSIBILITIES

3.1 Owner shall:

(a) Designate a representative to whom all communications from Architect shall be directed and who shall have limited administrative authority on behalf of Owner to receive and transmit information and make decisions with respect to Project. Said representative shall not, however, have authority to bind Owner as to matters of legislative or fiscal policy.

(b) Advise Architect of Owner's Project requirements including objective, project criteria, use and performance requirements, special considerations, physical limitations, financial constraints, and required construction contract provisions and standards.

(c) Provide Architect with available information pertinent to the Project including any previous reports, studies or data possessed by Owner which relates to design or construction of the Project. Architect shall be entitled to rely on the accuracy and completeness of all such information.

(d) Assist in arranging for Architect to have access to enter private and public property as required for Architect to perform his services.

(e) Examine all studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Architect, and render written decisions pertaining thereto within a reasonable time. The Owner's approval of Drawings, design, Specifications, reports and incidental work or materials furnished hereunder shall not in any way relieve the Architect of responsibility for the professional adequacy of 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 Architect, obtain required approvals and permits for the Project. The Architect shall provide all supportive documents and exhibits necessary for obtaining said approvals and permits.

(g) Notify Architect whenever Owner becomes aware of any substantial development or occurrence which materially affects the scope or timing of Architect's services.

(h) Owner shall perform its obligations and render decisions within a reasonable time under the presented circumstances. However, given the nature of Owner's internal organization and requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact. A period of 45 days shall be presumed reasonable for Owner to act with respect to any matter involving policy or significant financial impact.

SECTION 4. TIME FOR PERFORMANCE

Subject to the requirements of above Section 2.2(f), Architect's obligation to render services shall continue for such period of time as may reasonably be required for completion of the work contemplated in Schedule 1 – “Scope of Services” and Section 1 of this Agreement.

SECTION 5. PAYMENT

5.1 Owner will pay to Architect as full compensation for Grand Total Base Bid and Alternates 1, 2, and 3 as required to be performed by Architect under this Agreement, except for services for additional work or work beyond the scope of this Agreement, an amount not to exceed $1,209,246.00 in the aggregate, and not to exceed those maximum amounts set forth in Schedule 2 - "Fee Schedule" and computed in accordance with this Section. In addition, the maximum amount of compensation for any phase and work item shall not exceed the amount specified in Schedule 2 for such phase and work item.

5.2 Architect shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount, for actual professional services rendered and reimbursable expenses incurred. Such applications shall be submitted with appropriate documentation that such services have been performed and expenses incurred. Thereafter, Owner shall pay Architect for the amount of the application within 40 days of the date of billing, provided that sufficient documentation has been furnished, and further provided that Owner will not be required to pay more than 90% of the maximum amount unless the Architect's services on the Project phases and work item for which this Agreement is applicable have been completed to Owner's reasonable satisfaction and all required Architect submittals have been provided. The Owner will not withhold retainage on invoicing by the Architect.

5.3 The rates of compensation for service and for reimbursable expenses to be used with periodic and final payment applications shall be those set forth in Schedule 2 - "Fee Schedule."

5.4 No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2 - "Fee Schedule."

5.5 No compensation shall be paid to Architect for services required and expenditures incurred in correcting Architect's mistakes or negligence.

5.6 Compensation for authorized work beyond the scope of this Agreement shall be governed by Paragraph 2.6(g).

SECTION 6. TERMINATION

6.1 Owner reserves the right to terminate this Agreement and Architect's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Architect and its subcontractors shall cease all work and stop incurring expenses, and upon full payment to Architect for services rendered, shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Architect may have accumulated in performing this Agreement, together with all finished work and work in progress.

6.2 Upon termination of this Agreement for events or reasons not the fault of Architect, Architect shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Architect or Client. In no event shall payment to Architect upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

6.3 In the event termination of this Agreement or Architect's services is for breach of this Agreement by Architect, or for other fault of Architect including but not limited to any failure to timely proceed with work, or to pay its employees and Architects, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Architect's entire right to compensation shall be limited payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

6.4 Architect's professional responsibility for its completed work and services shall survive any termination.

SECTION 7. GENERAL PROVISIONS

7.1 Ownership of Documents and Advertising.

(a) Ownership of Documents. All designs, Drawings, Specifications, technical data, and other documents or instruments procured or produced by the Architect in the performance of this Agreement shall be the sole property of the Owner and the Owner is vested with all rights therein of whatever kind and however created, whether created by common law, statutory law, or by equity. The Architect agrees that the Owner shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data pertaining to the work to be performed under this Agreement. In the event Owner uses the designs, Drawings or Specifications provided hereunder for another project independent from Project, without adaptation by Architect, Owner shall hold harmless and indemnify Architect from all loss, claims, injury, and judgments arising from the use of such designs, Drawings or Specifications for such other project.

(b) Advertising. Unless specifically approved in advance in writing by Owner, Architect shall not include representations of the Project in any advertising or promotional materials, except for accurate statements contained in resumes or curriculum vitae of Architect's employees. If Architect wishes to include representations in advertising or promotional materials, it shall submit a draft of same and printer's proof of the proposed advertising or promotional materials to the Owner for prior review and shall not publish or distribute same unless written approval of the materials is first obtained.

7.2 Insurance and Indemnity.

(a) Architect agrees that 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 Architect shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed.

(ii) Commercial General Liability Insurance. The 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 and 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) Architect agrees to hold harmless, and indemnify Owner from and against liability to third parties, but only to the extent cause by the negligent acts, errors or omissions of Architect, his employees, subcontractors, and consultants. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations.

7.3 Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either the Owner or the Architect by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid, addressed to the Owner at City of Pueblo, Department of Public Works, Attn: Andrew Hayes, Director, 211 E. "D" Street, Pueblo, CO 81003 or to the Architect at Allred & Associates, Attn: Brent Allred, Owner, 580 Burbank Street, Suite 125, Broomfield, CO 80020. Either party may change their business address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

7.4 Entire Agreement. This instrument contains the entire agreement between the Owner and the Architect respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either the Owner or the Architect in relation thereto not expressly set forth in this instrument is null and void. In the event of any conflict between any provision of this Agreement and a provision of any Schedule or attachment to this Agreement, the provision in this Agreement shall control and supersede the conflicting provision in the Schedule or attachment. Any inconsistent resolution provision in any attachment to this Agreement shall be void.

7.5 Successors and Assigns. This Agreement shall be binding on the parties hereto and on their partners, heirs, executors, administrators, successors, and assigns; provided, however, that neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to the Architect may be assigned by him without the written consent of the Owner. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the parties hereto that any person or entity, other than the parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

7.6 Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written Amendment signed by an authorized representative of Architect 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, Architect shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, or age. Architect shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, or age.

7.9 Severability. If any provision of this Agreement, except for Section 2.6, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2.6 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

7.10 Appropriations. Subject to execution of this Agreement by the Director of Finance certifying that a balance of appropriation exists and funds are available, the amount of money appropriated for this Agreement is equal to or in excess of the maximum compensation payable hereunder; provided, however, that if construction is phased and subject to annual appropriation, funds only in the amount of initial appropriation are available and Architect shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

7.11 Additional Requirements on Federally Funded Contracts. If any of the work to be performed by Architect 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, Architect agrees to be bound by all such mandatory federal requirements, irrespective of Architect's actual knowledge or lack of knowledge of such requirements prior to execution of this Agreement.

7.12 Access to Property Not Under Owner's Control. Architect acknowledges that the Project may require access to property not under the control of Owner at the time of execution of this Agreement. Architect and Architect's employees and consultants shall, at Architect's expense, obtain all additional necessary approvals and clearances required for access to such property. Owner shall assist Architect in obtaining access to such property at reasonable times but make no warranty or representation whatsoever regarding access to such property. Architect understands and agrees that entry to properties not under Owner's control may require Architect to comply with the terms of separate access agreements to be negotiated hereafter with owners of such property.

SECTION 8. DISPUTES

8.1 Any dispute or disagreement between Architect and Owner arising from or relating to this Agreement or Architect's services or right to payment hereunder shall be determined and decided by the Owner's Director of Public Works whose written decision shall be final and binding unless judicial review is sought in a Colorado Court of competent jurisdiction located in Pueblo County, Colorado, pursuant to Rule 106, C.R.C.P.

Pending resolution of any dispute or disagreement, or judicial review, Architect shall proceed diligently with performance of his work under this Agreement. as long as Owner continues to pay Architect for services rendered which are not subject to dispute of disagreement under this Section.

SECTION 9. SCHEDULES

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

Schedule 1 - "Scope of Services" consisting of 5 pages.
Schedule 2 - "Fee Schedule" consisting of 3 pages.
Schedule 3 - "Project Schedule" consisting of 2 pages.
Schedule 4 - "Identification of Personnel, Subcontractors, and Task Responsibility" consisting of 19 pages.

SECTION 10. ACCESSIBILITY.

The Americans with Disabilities Act (ADA) provides that it is a violation of the ADA to design and construct a facility for first occupancy later than January 26, 1993, that does not meet the accessibility and usability requirements of the ADA except where an entity can demonstrate that it is structurally impractical to meet such requirements. The Architect therefore, will use his or her reasonable professional efforts to implement applicable ADA requirements and other federal, state, and local laws, rules codes, ordinances and regulations as they apply to the Project.

SECTION 11. STATE-IMPOSED MANDATES PROHIBITING WORKERS WITHOUT AUTHORIZATION FROM PERFORMING WORK

(a) At or prior to the time for execution of this Contract, Architect shall submit to the Purchasing Agent of the City its certification that it does not knowingly employ or contract with a "worker without authorization", as that term is defined within §8-17.5-101 (9), C.R.S. (herein "Worker without Authorization"), who will perform work under this Contract and that the Architect will participate in either the "E-Verify Program" created in Public Law 208, 104th Congress, as amended and expanded in Public law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland

Security or the "Department Program" established pursuant to section 8-17.5-102(5)(c), C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(b) Architect shall not:

(i) Knowingly employ or contract with a Worker without Authorization to perform work under this Agreement;

(ii) Enter into a contract with a subcontractor that fails to certify to Architect that the subcontractor shall not knowingly employ or contract with a Worker without Authorization to perform work under this Agreement.

(c) The following state-imposed requirements apply to this Agreement:

(i) The Architect shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or Department Program.

(ii) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(iii) If the Architect obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with a Worker without Authorization to perform work under this Agreement, the Architect shall be required to:

A. Notify the subcontractor and the Purchasing Agent of the City within three (3) days that the Architect has actual knowledge that the subcontractor is employing or contracting with a Worker without Authorization; and

B. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (c)(iii)A. above, the subcontractor does not stop employing or contracting with the Worker without Authorization ; except that the Architect shall not terminate the contract with the subcontractor if, during such three (3) days, the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a Worker without Authorization.

(iv) The Architect is required to comply with any reasonable request by the 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 Architect shall constitute a breach of the agreement and grounds for termination. In the event of such termination, the Architect shall be liable for City's actual and consequential damages.

(e) Nothing in this Section shall be construed as requiring the Architect to violate any terms of participation in the E-Verify Program.

SECTION 12. ELECTRONIC SIGNATURE

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one

or more counterparts, each of which shall be: (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.

SECTION 13. PERA LIABILITY

The Architect shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Architect shall fill out the Colorado PERA Questionnaire and submit the completed form to City as part of the signed Agreement.

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

ALLRED & ASSOCIATES

By_____
Brent Allred, Owner

Attest_____
Marisa Stoller, City Clerk

[S E A L]

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

_____
Laura Solano, Chief of Staff

APPROVED AS TO FORM:

_____
Daniel Kogovsek, City Attorney

Attachments:

Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule
Schedule 3 - Project Schedule
Schedule 4 - Identification of Personnel, Subcontractors, and Task Responsibility

SCHEDULE 1

Scope of Services

Excerpt from Request for Proposal dated March 9, 2022, Section 2 and Addendum No. 1 dated March 25, 2022

2.1 Objective

The City seeks a design that will promote efficiency and convenience in operation. The budget for the construction of Fire Station 6 is approximately $5,000,000.

All three (3) stations are manned 24 hours a day (with three 24-hour rotating shifts). Each station, during each shift, will initially house four (4) firefighters with the possibility of expanding to a staff of eight (8) in the future. The anticipated size of each proposed fire station is between 8,000 to 12,000 square feet. Each station shall include storage and use area for fire equipment (Part A), living quarters (Part B), additional areas (Part C), and property requirements (Part D).

Part A - Storage and use area for fire equipment:

- Two (2) apparatus bays for ladder trucks
- Additional truck bay (for an over-sized standard vehicle like a brush truck)
- Decontamination room
- Storage for truck supplies, cleaning supplies, and bunker storage
- Cleaning and storage area for PPE
- Hot and cold zones for decontamination
- Hose cleaning area with adequately sized floor drains

Part B – Living quarters for all shift personnel:

- A fully operational kitchen with refrigerator and pantry for each of the three (3) shifts
- Dormitory (or clustered sleeping rooms) with storage and desk space
- Bathroom and shower facilities with individual lockers
- Day room
- Dining space
- Two (2) offices
- A workout facility (indoor with outdoor area)
- Storage for food,
- Janitor's closet,
- Laundry facilities (separate for clean and dirty/decontamination)
- Workshop with hand tool storage, work bench, etc
- IT server and mechanical space
- Fenced back yard with a covered patio and garden area

Part C – Additional areas:

- Community room for conference or training with separate public access and ADA accessible male & female restrooms
- Medical supply storage
- Outdoor equipment/maintenance storage

Part D – Property requirements:

- Backup power with automatic transfer switch
- Parking for staff and public
- Exhaust removal system

2.2 Scope of Service

In general, the design consultant shall electronically submit plans for review to the City at the preliminary design, design development and construction documents phases including technical specifications and estimates. The design consultant will also be required to submit the necessary number of sets, in the required format, for the building permit review/approval.

The consultant and staff shall meet at least once a week during the preliminary (schematic) design phase, and at least every two weeks thereafter, to discuss the progress of the project; this shall remain in effect for the duration of the design process and will end once the plans have been approved by the City. More frequent meetings may be required in the early stages of the project to ensure project needs are being met.

The consultant shall provide meeting minutes within five (5) working days of each meeting for review and comment. Cost estimates shall be submitted to serve as an on-going basis for budget development. The estimate shall be refined with each milestone submittal: 100% preliminary (schematic) design and 100% design development.

Net Zero options shall be considered in the design; however, if incorporating Net Zero involves additional architectural fees, then the proposal must quantify the amount in the fees section of their proposal (Bid Alternate 1).

The consultant will be required to provide all professional services in the completion of the City of Pueblo Fire Station project consisting of, but not limited to the following:

2.2.1 Preliminary (Schematic) Design Phase

- Hold a kick-off meeting with appropriate City staff, including the Fire Department, to discuss project approach and features of the new station design requirements.

- Prepare a project schedule and kick-off meeting minutes.

- The City will provide the design survey, with boundary and contours, geotechnical report and Phase 1 environmental study.

- Prepare preliminary design plans that adequately meet the requirements listed in Section 1.3 and the needs provided by the City staff.

- Provide a minimum of two (2) alternatives of each of the following: building layout with schematic dimensioned floor plans; building elevations demonstrating architectural styles; and site designs depicting parking layouts, landscaping, utility layout, pedestrian and vehicle circulation.

- Present alternatives to the Owner for review, comment and approval

- Anticipated Preliminary (Schematic) Design Phase Deliverables
  1. Preliminary building plans

  2. Preliminary Site Plans:
     - Grading
     - Noted area for site detention
     - Preliminary building footprint
     - Off-site improvements
     - Stormwater compliance documentation
     - Landscaping

  3. Cost estimate

2.2.2 Design Development Phase

- The consultant team shall refine design of floor plan, building elevations, and site plan for presentation at a public meeting.

- Presentation materials shall be provided by the consultant in colored plans, perspective renderings and as necessary to effectively disseminate information at the public meeting.

- Organize, attend, and facilitate a public meeting to present the preliminary design.

- The City of Pueblo will provide the meeting locations and will advertise the meetings.

- Unless restricted by COVID, the public meeting shall be in person.

o The structural system and the building mechanical, plumbing and electrical systems will be developed consistent with the design concept.

o The Consultant shall coordinate with appropriate City staff, systems for phone/data/cable, station alerting requirements, interior material and color board and will develop preliminary fixture and furniture selections.

o The site plan design should demonstrate all required specifics including but not limited to, grading and erosion control, landscaping and irrigation, all applicable utilities, including telecommunications, parking, ingress/egress, all existing features that border the site, ADA access, etc.

o The building design should demonstrate all required specifics including but not limited to; location (horizontally and vertically) on the site, foundation type and design – including details, detailed and dimensioned floor plan, detailed building elevations, building cross sections, typical wall sections, detailed wall sections, plans and details of the mechanical (HVAC), plumbing and electrical (including telecommunications) systems, and all construction materials, furnishings and fixtures.

o Present design to the Owner for review, comment and approval at 100% design development.

o A construction cost estimate based on actual building components at 100% design development shall be presented which will be more detailed than the systems estimate prepared during the preliminary design phase.

o Make presentations to the City Planning Commission and the City Council.

o Anticipated Design Development Deliverables

1. Building plans:
   - Building elevations
   - Floor plans
   - Preliminary MEP plans
   - Preliminary structural plans

2. Site Plans noting:
   - Grading
   - Utility locations and connection points
   - Stormwater compliance plan and studies
   - Off-site improvements including street, curb and gutter, sidewalk and ADA ramp improvements
   - Landscaping and irrigation
   - Cost Estimate

2.2.3 Construction Documents

o The Consultant shall prepare documents for construction including Plans, Specifications and Estimates (PS&E) based on the approved Design Development elements suitable for bidding.

o Submittals for City review and comment will be at 50%

- The set of documents shall be sufficient for City of Pueblo to solicit bids and to apply for permitting.

- Once all approvals have been obtained, hard copies of all plans, specifications, reports and estimates shall be provided for final signatures and permits.

- Construction Documents will incorporate Geotechnical requirements and recommendations for soils preparation, foundation and paving design.

- Submit plans to the City and Pueblo Regional Building Department for plan review and perform all required revisions to construction documents based on each reviewing agency and Department's comments.

- Final selection of materials and equipment shall be closely coordinated with the City's project manager, City building maintenance and Fire Departments representative.

- Meet with City staff to review final design and construction documents.

- The Drawings and Specifications shall comply with National Fire Protection Association (NFPA), and 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.

- Digital project files shall be provided in both PDF and native formats (AutoCAD/REVIT, Word, Excel, etc.) prior to final payment release.

- Anticipated Deliverables for Construction Documents Phase
  1. Building Plans
     - Floor plans
     - Building elevations
     - Structural Plans
     - MEP Plans

  2. Site Plans
     - Grading plan
     - Utility locations and connection points
     - Stormwater Compliance Plans and Studies
     - Off-site Improvement Plans
     - Landscaping and irrigation

  3. Technical Specifications

2.2.4 Bidding Phase

- The City will develop bidding materials including invitation to bid, instructions to bidders, and other forms and supplements required by the City as necessary to ensure that prospective bidders are fully informed as to construction and materials requirements.

- Attend the pre-bid meeting and provide necessary information for issuance of addendums to the contract documents.

- Participate in a pre-bid walkthrough at the site with interested contractors and interpret and clarify contract documents for bidders.

- During the bidding period, the selected firm will respond to requests for information from bidders, and coordinate with the City for responses and required modifications. Any approved modifications to the bidding documents will be issued by Addendum by the City.

2.2.5 Construction Services Phase

Provide all customary services necessary to provide Post Construction Award Services (PCAS) for the Fire Station 6 construction.

- Attend Pre-Construction Meeting.
- Respond to contractor requests for information, review submittals, and review applications for payment.
- Review and approval of submittal and shop drawings
- Interpretation of contract document and responding to RFIs
- The City does not expect the scope of the construction to warrant a continuous on-site presence; however, the selected firm should plan on at least weekly project progress meetings, with the City and general contractor, and other meetings or site visits as needed to review work progress and verify work is proceeding in accordance with construction documents. Attendance at the weekly construction meetings may be periodically virtual; however, in-person attendance will be required upon request.
- Provide observations related to, but not limited to:
    - Foundations
    - Dry-in
    - Fire suppression systems certification
    - Finishes
    - Mechanical systems, TAB, and commissioning
    - Final acceptance
- Generate punch list and certify that all works are completed in accordance with contract documents.
- Verify as-built drawings at end of the project noting all approved field changes. As-built documents will be electronically updated in AutoCAD/Revit by the design team & consultants and be issued to the owner for use on future projects subject to release of liability.

SCHEDULE 2

Fee Schedule

Summary of Bidder's Proposed Fee Schedule submitted April 12, 2022
And Excerpt from Bidder's Proposal for Reimbursable Expenses and Rates as submitted April 12, 2022

BID: 22-010 RFP - Architectural and Consulting Services for Fire Stations 6, 8 and 11

		Allred & Associates				
		Preliminary Design Phase	Design Development	Construction Documents	Bidding and Negotiation Phase	Construction Administration Phase
Work Item						
Base	Base Building Design	$ 70,000.00	$ 100,000.00	$ 145,000.00		
Base	Complete Plans, Specifications and Estimating Station 6	$ 25,000.00	$ 28,600.00	$ 55,646.00	$ 20,000.00	$ 97,000.00
Alt 1	Net Zero	$ 49,000.00	$ 32,000.00	$ 42,000.00		-
Alt 2	Complete Plans, Specifications and Estimating Station 8	$ 41,000.00	$ 37,000.00	$ 60,000.00	$ 20,000.00	$ 97,000.00
Alt 3	Complete Plans, Specifications and Estimating Station 11	$ 41,000.00	$ 37,000.00	$ 94,000.00	$ 21,000.00	$ 97,000.00
Grand Total Base Bid + Alternates 1, 2, and 3		$1,209,246.00				

REIMBURSABLE EXPENSES:

Breakdown of charges are shown below.

- REIMBURSABLE OUT-SOURCED SERVICES:
- Printing: Xerox Large Scale Drawings per cost
- Courier: $10 to $60 per courier
- Overnight Mail: $12 to $75 per letter
- Copying: .06 per page
- Mileage miles @ .585 / mile
  Mail: per postage

- REIMBURSABLE IN-HOUSE SERVICES:
- Copying:
- 8 ½ x 11 $.10 per page
- 8 ½ x 14 $.20 per page
- 11 x 17 $.25 per page
- Printing: (B/W)
- 8 ½ x 11 $.15 per page
- 8 ½ x 14 $.20 per page
- 11 x 17 $.30 per page
- Printing: (Color)
- 8 ½ x 11 $1.00 per page
- 11 x 17 $2.00 per page
- Large Scale Plotting: $.50 per square foot

- Additional Trip Charges beyond those specified above are $950

RATES:

Allred & Associates - Architects

- Principal/Senior Designer $165 per hour
- Project Manager $155 per hour
- Project Architect $145 per hour
- Studio Lead/Interior Designer $130 per hour
- CAD: $100 per hour
- Administrative: $65 per hour

Leffler Group

- Principal/Senior Designer $235/Hr
- Project Manager $155/Hr.
- Project Architect $140/Hr.
- Studio Lead/Interior Designer $130/Hr.
- CAD: $110/Hr.
- Administrative: $75/Hr.

Farris Engineering - MEP

• Principal/LEED AP	$240 per hour
• Project Manager	$180 per hour
• Mech / Elec Engineer	$155 per hour
• Fire Protection Engineer	$155 per hour
• Mech Designer	$130 per hour
• Administration	$110 per hour

Meuran Design Group - Landscape

• Principal	$155 per hour
• Landscape Architect	$120 per hour
• Clerical	$85 per hour

LVI – Low Voltage Alert/Security

• Owner	$115 per hour
• Designer	$95 per hour

Schedule 3

Project Schedule

Excerpt from Submitted Proposal dated April 12, 2022, pages 59-60

1.8 PROJECT WORK SCHEDULE

Each station can run either concurrently or sequentially with the others

BASIS OF DESIGN STATION 6

PROGRAMING	PHASE IA	2 WEEKS	29 WEEKS
CITY REVIEW		2 WEEKS	
SCHEMATIC DESIGN	PHASE IB	5 WEEKS	
CITY REVIEW		2 WEEKS	
DESIGN DEVELOPMENT	PHASE II	4 WEEKS	
1ST PLANNING SUBMITTAL REVIEW		3 WEEKS	
CITY REVIEW		2 WEEKS	
CONSTRUCTION DOCUMENTS	PHASE III	6 WEEKS	
2ND PLANNING SUBMITTAL REVIEW		3 WEEKS	
WATER & SEWER REVIEW		3 WEEKS	
CITY REVIEW		2 WEEKS	
BIDDING AND NEGOTIATION	PHASE IV	4 WEEKS	
PERMITTING		4 WEEKS	
FINAL PLANNING APPROVAL		3 WEEKS	
CONSTRUCTION ADMINISTRATION	PHASE V	10 MONTHS	45 WEEKS

STATION 8

PROGRAMING	PHASE IA	0 WEEK	13 WEEKS
CITY REVIEW		0 WEEKS	
SCHEMATIC DESIGN	PHASE IB	1 WEEKS	
CITY REVIEW		2 WEEKS	
DESIGN DEVELOPMENT	PHASE II	2 WEEKS	
1ST PLANNING SUBMITTAL REVIEW		1 WEEKS	
CITY REVIEW		2 WEEKS	
CONSTRUCTION DOCUMENTS	PHASE III	3 WEEKS	
2ND PLANNING SUBMITTAL REVIEW		3 WEEKS	

WATER & SEWER REVIEW		3 WEEKS	
CITY REVIEW		2 WEEKS	
BIDDING AND NEGOTIATION	PHASE IV	4 WEEKS	
PERMITTING		4 WEEKS	
FINAL PLANNING APPROVAL		3 WEEKS	
CONSTRUCTION ADMINISTRATION	PHASE V	10 MONTHS	45 WEEKS

STATION 11

PROGRAMING	PHASE IA	0 WEEKS	13 WEEKS
CITY REVIEW		0 WEEKS	
SCHEMATIC DESIGN	PHASE IB	1 WEEKS	
CITY REVIEW		2 WEEKS	
DESIGN DEVELOPMENT	PHASE II	2 WEEKS	
1ST PLANNING SUBMITTAL REVIEW		1 WEEKS	
CITY REVIEW		2 WEEKS	
CONSTRUCTION DOCUMENTS	PHASE III	3 WEEKS	
2ND PLANNING SUBMITTAL REVIEW		3 WEEKS	
WATER & SEWER REVIEW		3 WEEKS	
CITY REVIEW		2 WEEKS	
BIDDING AND NEGOTIATION	PHASE IV	4 WEEKS	
PERMITTING		4 WEEKS	
FINAL PLANNING APPROVAL		3 WEEKS	
CONSTRUCTION ADMINISTRATION	PHASE V	10 MONTHS	45 WEEKS

Schedule 4

Identification of Personnel, Subcontractors, and Task Responsibility

Excerpt from Submitted Proposal dated April 12, 2022, pages 31 - 48



Brent McKay Allred AIA.

Principal / Team Leader
LEED AP

Professional Education:
Bachelor of Science - Architecture, California Polytechnic State University, San Luis Obispo, CA. 1983
International / Languages: Japanese language and Japanese culture.

Registered Architect
State of Colorado 2009- Active
State of Wyoming 2009 - Active
State of California 2007 – Active
State of New Mexico 2016 – Active
State of Arkansas 2015 – Active

Affiliations:
Member of American Institute of Architects
Member of Nation Council of Architectural Registration Boards

Professional
Brent Allred is a registered Architect with strong design background in commercial architecture. As principal at Allred & Associates, he is responsible for coordinating a team of architects, engineers, planners, and landscape architects to produce unique, functional, and feasible solutions for a variety of project types. His unique background provides the opportunity for converting design into construction that ultimately achieves the owner's goals fiscally, functionally and aesthetically.

Greater Brighton Fire Protection District Administration and Museum – Lead Designer, April 2021 – In Progress. Currently working with the district to prepare for planning.
Fredrick Firestone Fire Barefoot Lakes Station – Lead Designer, November 2021 – In Progress. Currently working with the district to procure bonding.
Fredrick Firestone Fire Station #5 – Lead Designer, November 2020 – In Progress. Currently working with the city planning department concerning planning and entitlements.
Canon City Fire District Station #2 Remodel – Lead Designer, November 2020 – In Progress. Currently working with staff to complete programmatic requirements and to provide construction documentation.
Canon City Fire District Station #1 Remodel – Lead Designer, November 2020 – In Progress. Currently working with staff to complete programmatic requirements and to provide construction documentation.
Canon City Fire District Station #3 – Lead Designer, November 2020 – In progress. Currently under construction.
911 Adcom Services Headquarters – Lead Designer, November 2020 – In progress. Currently working with the City Building Departmnet towards obtaining a building permit.
South Adams County Fire District Station #1 Remodel – Lead Designer, July 2021- In progress. Currently working with the City Planning Department and Building Department towards approvals.
Windsor Severance Fire Rescue Station #4 - Lead Designer, February 2020 – In Progress. Currently working with the fire fighter staff, Elder Construction, and owner representative Webmer to coordinated construction administration for the new fire station.
North Metro Fire Rescue District Station #61 - Lead Designer, February 2020 – In Progress. Currently under construction.
Arvada Fire Protection District Fire Station #3 – Lead Designer, February 2020 – In Progress. Currently under construction.
Arvada Fire Protection District Fire Station #9 – Lead Designer, February 2020 – In Progress. Currently under construction.
North Metro Fire Rescue District Station #62 – Lead Designer, January 2020 – 2021. This project includes a complete remodel to an existing Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.
Greater Brighton Fire Protection District Station #51 – Lead Designer, November 2019 – 2020 Complete. This project includes a complete remodel to an existing two-story Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.

Fort Lupton Fire District Station #3 – Lead Designer, October 2019 – 2021. This project is a new 16,000 square foot fire station to include 8 bunk rooms, day room, dining, fitness and a 3 bay drive through apparatus bays.

City of Thornton Fire Station #1 & Administration – Lead Designer, May 2018 – 2021. Completed Design Build project providing a new 26,000 square foot fire station and second floor administration for the fire department.

City of Thornton Fire Station #1 & Administration – Lead Designer, May 2018 – Under Construction. Project is under construction as a Design Build providing a new 26,000 square foot fire station and second floor administration for the fire department.

Adams County Fire Protection District Station #11 – Project Manager, January 2017 – September 2019. Providing a new 30,000 square foot fire station to include an antique truck display, board room/classroom, kitchen, day room, four offices, twelve bunk rooms, toilet rooms, office and five drive through bays.

Adams County Fire Protection District Administration Renovation – Lead Designer, December 2015 – Current. Renovating an existing training center to the new administration building for the district. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, and individual offices for staff.

Fort Lupton Fire Protection District Administration Renovation – Lead Designer, November 2015 – Current. Renovating the existing administration offices to a new state of the art facility with an identifiable entrance off of the public street. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, individual offices for staff, and a display area for the current model T fire truck for public viewing.

Adams County Fire Protection District Station #12– Lead Designer, December 2015 – Current. Renovating an existing two story fire station to include a new kitchen, finishes to all first floor spaces, reconfiguring the second floor bunk rooms to meet the current district standards and providing a new stair from the second floor bunk rooms directly to the apparatus bays.

Greater Brighton Fire Protection District Station #52 LEED Certified – Lead Designer, March 2015 – Current. Providing a new 18,000 square foot LEED Silver fire station to include a kitchen, day room, four offices, ten bunk rooms, toilet rooms, and four drive through bays. Assisted the District with obtaining grant funding.

South Adams County Fire District Station #4 – Lead Designer, January 2015 – Current. The existing fire station is being demolished for a new two story three bay fire station to meet the current fire fighters daily requirements. Unique to this station is that the bunkrooms are located on the first floor with the dayroom, dining room, kitchen and fitness room on the second floor per the owners request to reduce fire fighter injuries during evening calls.

City of Thornton Fire Station #2 – Lead Designer, May 2014 – November 2014. This project involved a new fitness room addition and the renovation of the existing fitness room to bunk rooms to meet the current fire fighters daily requirements.

Arvada Fire Protection District Fire Station #4 – Lead Designer, September 2012 – May 2014. This project involved a complete renovation of the existing fire station interiors to meet the current fire fighter daily requirements and a building addition that includes eight bunk rooms, a bunker gear room, and a storage room.

City of Boulder Fire Department Wildland Administration/ Fire Station LEED Silver certified – Lead Designer, September 2012 – February 2015. This project is currently in the design phase for a new 12,000 square foot wildland fire station adjacent to their regional fire training center. The project includes two apparatus bays, eight bunk rooms, four offices, and each of the associated amenities of a fire station.

Windsor Severance Fire Rescue Station #2 – Lead Designer, October 2012 – November 2013. This project involved a new 9,500 square foot, 1.5 million dollar station. The project includes two tandem drive through apparatus bays with a second floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

Arvada Fire Protection District Maintenance Facility – Lead Designer, May 2013 – July 2014. This project involved a new three bay drive through with a second floor mezzanine, two offices, locker rooms, kitchen, and compressor room to replace the current outdated maintenance facility located in an old fire station.

Greater Brighton Fire Protection District Station Existing #52 – Lead Designer, March – April 2013. With the construction of the new fire station #52, the existing station will become the maintenance and training building. Initial plans and a cost estimate has been issued to the District for approval and commencement once the new fire station is completed.

Arvada Fire Protection District Fire Station #6 – Lead Designer, September 2012 – October 2013. This project involved a second story addition over the existing station apparatus bays that will have thirteen bunk rooms, an office, a day room, a physical fitness room, a laundry room, three individual toilet rooms, and two fire poles that

will direct the fire fighters to the first floor apparatus bays. The existing first floor of the station will be renovated and include both interior and exterior fire fighter training evolutions.

Fort Lupton Fire Protection District Administration/ Station #1 – Lead Designer, December 2011 – October 2013. This project is includes renovations to the existing fire station and an addition that includes a board room/community room, day room dining room, kitchen, two administration offices, laundry room, 10 bunk rooms, and a fitness room.

Arvada Fire Protection District Fire Training Center Interiors – Lead Designer, June 2013 – November 2013. This project involved renovations to the existing women's restrooms and men's locker room, adding a new women's locker room, removing an existing kitchen, and providing a new corridor to the training grounds.

Arvada Fire Protection District Fire Station #5 – Principal in Charge, June 2011 – June 2012. This project involved the renovation of the existing fire station interiors to meet the current fire fighter daily requirements and an building addition that include four bunk rooms, an exercise room, and a storage room.

Wheat Ridge Fire District Fire Station #1 – Lead Designer, July 2012 – October 2012. This project involved the renovation of the second story fire fighter day room, dining room, kitchen, men's and women's bathrooms, two office, laundry room, bunk rooms, and a fire pole that leads the fire fighters to the first floor apparatus bay rather than having to use a set of outdated stairs.

City of Aurora Fire Station #10 – Principal in Charge, November 2010 – August 2012. This project involved the renovation to approximately 5,000 square feet of existing building and a new fitness room addition. The current bunkroom layout was an open plan that did not provide the required privacy or spacial requirements for their current fire fighter personnel and also included a larger kitchen layout, a larger office space, and shared restroom facilities.

North Metro Fire Rescue District Administration Building LEED Gold certified – Principal in Charge, March 2007 – Current. This project involved the relocation of North Metro's fire prevention, headquarters staff, and division chief offices to one centralized administration building in the City and County of Broomfield. This 33,000 square foot, two story building includes a below grade parking garage and utilizes the current exterior materials of the newly completed fire stations along with complementary materials of the adjacent governmental buildings of the City and County of Broomfield. The project also includes an interactive public learning environment.

North Metro Fire Rescue District Renovation Projects – Principal in Charge, October 2006 – January 2011. Project scope involves reviewing existing building conditions, providing recommendations of findings, and providing cost estimates for existing fire stations roof leaks, replacement of concrete aprons, replacement of concrete at apparatus bays, reviewing site grade drainage issues, providing new landscape designs and cost estimates, and reviewing existing floor plans layouts for fire station additions. These existing fire stations include station #61, #63, #65, and the headquarters building.

Arvada Fire Protection District Fire Station #2 – Principal in Charge, May 2009 – November 2011. Working with the City planner, surrounding neighborhoods, and the Arvada Fire District our office coordinated the required planning requirements for City approval and issuance of construction documents. This new fire station was designed per the prototype Stations #7 & #8 and incorporated the following fire fighter training props: ground ladder evolutions, hose advancement and stairwell evolutions, confined space rescue, rappelling, and basket training.

Windsor Severance Fire Rescue Station #3 – Principal in Charge, January 2010 – December 2011. This project is a new 9,500 square foot, 1.7 million dollar station. The project includes two tandem drive through apparatus bays with a second floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

North Metro Fire Rescue District Fire Station #67 – Principal in Charge, April 2007 – Current. Project scope involved the construction of a drive through three bay, eight-bunk room, 2.0 million dollar fire station located at the western edge of the City and County of Broomfield along the Northwest Parkway.

North Metro Fire Rescue District Station #61 – Principal in Charge, December 2010. This project was developed for review by the North Metro board for acceptance. Two schemes were developed. The first scheme was to renovate the existing building footprint. The second option was to provide a renovation and addition to meet the current fire fighter needs as the station with the most calls.

Arvada Fire Protection District Candelas Training Facility – Principal in Charge, On Hold. The Candelas Training Facility involved working with a developer and the Arvada Fire Protection District to determine the best location and land requirements to build a new training facility within the next five years for Arvada Fire Protection District. This concept design includes a training/classroom facility, a fire station, a residential burn building, a high rise burn building, a confined training space, a trench rescue area, a haz mat prop, a vehicle extrication area and a vehicle skid pad.



Brad R. Bonnet
Project Manager

Professional Education:

Master of Architecture, University of Illinois at Urbana-Champaign
Bachelor of Arts Degree, Knox College, Galesburg, Illinois
LEED Classes, Understanding LEED Project Costs and Returns and Core Concepts and Strategies

Professional Experience:

Brad is experienced in all phases in the field of architecture. Brad's project experience includes both public and private sector projects. His responsibilities include city submittals, schematic design, preparation of construction documents and specifications, bidding, and construction administration of projects. He is proficient in CAD and preparing construction documents that meet the design intent of the owner. Brad is excellent at relationships with clients and contractors and reacts quickly to needs of the Owner. Projects that Brad has been involved include:

Greater Brighton Fire Protection District Administration and Museum – Project manager, April 2021 – In Progress. Currently working with staff to complete programmatic requirements and to prepare for planning.
Fredrick Firestone Fire Barefoot Lakes Station – Project manager, November 2021 – In Progress. Currently working with the district to procure bonding.
Fredrick Firestone Fire Station #5 – Project manager, November 2020 – In Progress. Currently working with the city planning department concerning planning and entitlements.
Canon City Fire District Station #2 Remodel – Project manager, November 2020 – In Progress. Currently working with staff to complete programmatic requirements and to provide construction documentation.
Canon City Fire District Station #1 Remodel – Project manager, November 2020 – In Progress. Currently working with staff to complete programmatic requirements and to provide construction documentation.
Canon City Fire District Station #3 – Project manager, November 2020 – In progress. Currently under construction.
911 Adcom Services Headquarters – Project manager, November 2020 – In progress. Currently working with the City Building Departmnet towards obtaining a building permit.
South Adams County Fire District Station #1 Remodel – Project Manager, July 2021- In progress. Currently working with the City Planning Department and Building Department towards approvals.
Windsor Severance Fire Rescue Station #4 - Project Manager, February 2020 – In Progress. Currently working with the fire fighter staff, Elder Construction, and owner representative Webmer to coordinated construction administration for the new fire station.
North Metro Fire Rescue District Station #61 - Project Manager, February 2020 – In Progress. Currently under construction.
Arvada Fire Protection District Fire Station #3 – Project Manager, February 2020 – In Progress. Currently under construction.
Arvada Fire Protection District Fire Station #9 – Project Manager, February 2020 – In Progress. Currently under construction.
North Metro Fire Rescue District Station #62 – Project Manager, January 2020 – 2021. This project includes a complete remodel to an existing Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.
Greater Brighton Fire Protection District Station #51 – Project Manager, November 2019 – 2020 Complete. This project includes a complete remodel to an existing two-story Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.
Fort Lupton Fire District Station #3 – Project Manager, October 2019 – 2021. This project is a new 16,000 square foot fire station to include 8 bunk rooms, day room, dining, fitness and a 3 bay drive through apparatus bays.
City of Thornton Fire Station #1 & Administration – Project Manager, May 2018 – 2021. Completed Design Build project providing a new 26,000 square foot fire station and second floor administration for the fire department.
North Metro Fire Rescue District Station #63 – Project Manager, April 2016 – April 2018. This project included a complete remodel and addition to an existing Fire Station to include new bunk rooms, day room, dining, fitness and two apparatus bays.

Adams County Fire Protection District Station #11 – Project Manager, January 2017 – September 2019. Providing a new 30,000 square foot fire station to include an antique truck display, board room/classroom, kitchen, day room, four offices, twelve bunk rooms, toilet rooms, office and five drive through bays.

Adams County Fire Protection District Administration Renovation – Project Manager, December 2015 – June 2017. Renovating an existing training center to the new administration building for the district. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, and individual offices for staff.

South Adams County Fire District Station #2 Remodel – Project Manager, August 2016 – July 2017. The existing fire station was completely remodeled to include new bunkrooms, dayroom, dining room, kitchen, apparatus bays & mezzanine.

Fort Lupton Fire Protection District Administration Renovation – Project Manager, November 2015 – May 2017. Renovating the existing administration offices to a new state of the art facility with an identifiable entrance off of the public street. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, individual offices for staff, and a display area for the current model T fire truck for public viewing.

Adams County Fire Protection District Station #12– Project Manager, December 2015 – January 2017. Renovating an existing two-story fire station to include a new kitchen, finishes to all first-floor spaces, reconfiguring the second-floor bunk rooms to meet the current district standards and providing a new stair from the second-floor bunk rooms directly to the apparatus bays.

Greater Brighton Fire Protection District Station #52 LEED Certified – Project Manager, March 2015 – July 2017. Providing a new 18,000 square foot LEED Silver fire station to include a kitchen, day room, four offices, ten bunk rooms, toilet rooms, and four drive through bays. Assisted the District with obtaining grant funding.

South Adams County Fire District Station #4 – Project Manager, January 2015 – June 2016. The existing fire station was demolished for a new two story three bay fire station to meet the current fire fighters daily requirements. Unique to this station is that the bunkrooms are located on the first floor with the dayroom, dining room, kitchen and fitness room on the second floor per the owners request to reduce fire fighter injuries during evening calls.

City of Thornton Fire Station #2 – Project Manager, May 2014 – November 2014. This project involved a new fitness room addition and the renovation of the existing fitness room to bunk rooms to meet the current fire fighters daily requirements.

Arvada Fire Protection District Fire Station #4 – Project Manager, September 2012 – May 2014. This project involved a complete renovation of the existing fire station interiors to meet the current fire fighter daily requirements and a building addition that includes eight bunk rooms, a bunker gear room, and a storage room.

City of Boulder Fire Department Wildland Administration/ Fire Station LEED Silver certified **–** Project Manager, September 2012 – February 2015. This project is a new 12,000 square foot wildland fire station adjacent to their regional fire training center. The project includes two apparatus bays, eight bunk rooms, four offices, and each of the associated amenities of a fire station.

Windsor Severance Fire Rescue Station #2 – Project Manager, October 2012 – November 2013. This project is a new 9,500 square foot, 1.5 million dollar station. The project includes two tandem drive through apparatus bays with a second-floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

Arvada Fire Protection District Maintenance Facility– Project Manager, May 2013 – July 2014. This project involved a new three bay drive through with a second-floor mezzanine, two offices, locker rooms, kitchen, and compressor room to replace the current outdated maintenance facility located in an old fire station.

Greater Brighton Fire Protection District Station Existing #52 – Project Manager, March – April 2013. With the construction of the new fire station #52, the existing station will become the maintenance and training building. Initial plans and a cost estimate have been issued to the District for approval and commencement once the new fire station is completed.

Arvada Fire Protection District Fire Station #6 – Project Manager, September 2012 – October 2013. This project involved a second story addition over the existing station apparatus bays that will have thirteen bunk rooms, an office, a day room, a physical fitness room, a laundry room, three individual toilet rooms, and two fire poles that will direct the fire fighters to the first-floor apparatus bays. The existing first floor of the station will be renovated and include both interior and exterior fire fighter training evolutions.

Fort Lupton Fire Protection District Administration/ Station #1 – Project Manager. This project is includes renovations to the existing fire station and an addition that includes a board room/community room, day room dining room, kitchen, two administration offices, laundry room, 10 bunk rooms, and a fitness room.

Arvada Fire District Fire Training Center Interiors – Project Manager, June 2013 – November 2013. This project involved renovations to the existing women's restrooms and men's locker room, adding a new women's locker room, removing an existing kitchen, and providing a new corridor to the training grounds.

Arvada Fire Protection District Fire Station #5 – Project Manager, June 2011 – June 2012. This project involved the renovation of the existing fire station interiors to meet the current fire fighter daily requirements and an building addition that include four bunk rooms, an exercise room, and a storage room.

Wheat Ridge Fire District Fire Station #1 – Project Manager, July 2012 – October 2012. This project involved the renovation of the second story fire fighter day room, dining room, kitchen, men's and women's bathrooms, two office, laundry room, bunk rooms, and a fire pole that leads the fire fighters to the first-floor apparatus bay rather than having to use a set of outdated stairs.

City of Aurora Fire Station #10 – Project Manager, November 2010 – August 2012. This project involved the renovation to approximately 5,000 square feet of existing building and a new fitness room addition. The current bunkroom layout was an open plan that did not provide the required privacy or spacial requirements for their current fire fighter personnel and also included a larger kitchen layout, a larger office space, and shared restroom facilities.

North Metro Fire Rescue District Administration Building LEED Gold certified – Project Manager, March 2007 – January 2011. This project involved the relocation of North Metro's fire prevention, headquarters staff, and division chief offices to one centralized administration building in the City and County of Broomfield. This 33,000 square foot, two story building includes a below grade parking garage and utilizes the current exterior materials of the newly completed fire stations along with complementary materials of the adjacent governmental buildings of the City and County of Broomfield. The project also includes an interactive public learning environment.

North Metro Fire Rescue District Renovation Projects – Project Manager, October 2006 – January 2011. Project scope involves reviewing existing building conditions, providing recommendations of findings, and providing cost estimates for existing fire stations roof leaks, replacement of concrete aprons, replacement of concrete at apparatus bays, reviewing site grade drainage issues, providing new landscape designs and cost estimates, and reviewing existing floor plans layouts for fire station additions. These existing fire stations include station #61, #63, #65, and the headquarters building.

Arvada Fire Protection District Fire Station #2 – Project Manager, May 2009 – November 2011. Working with the City planner, surrounding neighborhoods, and the Arvada Fire District our office coordinated the required planning requirements for City approval and issuance of construction documents. This new fire station was designed per the prototype Stations #7 & #8 and incorporated the following fire fighter training props; ground ladder evolutions, hose advancement and stairwell evolutions, confined space rescue, rappelling, and basket training.

Windsor Severance Fire Rescue Station #3 – Project Manager, January 2010 – December 2011. This project is a new 9,500 square foot, 1.7 million dollar station. The project includes two tandem drive through apparatus bays with a second-floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

North Metro Fire Rescue District Fire Station #67 – Project Manager, April 2007 – February 2010. Project scope involved the construction of a drive through three bay, seven-bunk room, 2.0 million dollar fire station located at the western edge of the City and County of Broomfield along the Northwest Parkway.

North Metro Fire Rescue District Station #61 – Project Manager, December 2010. This project was developed for review by the North Metro board for acceptance. Two schemes were developed. The first scheme was to renovate the existing building footprint. The second option was to provide a renovation and addition to meet the current fire fighter needs as the station with the most calls.

Arvada Fire Protection District Candelas Training Facility – Project Manager, On Hold. The Candelas Training Facility involved working with a developer and the Arvada Fire Protection District to determine the best location and land requirements to build a new training facility within the next five years for Arvada Fire Protection District. This concept design includes a training/classroom facility, a fire station, a residential burn building, a high rise burn building, a confined training space, a trench rescue area, a haz mat prop, a vehicle extrication area and a vehicle skid pad.

Arvada Fire Protection District Candelas Fire Station – Project Manager, On Hold. The Candelas Fire Station involved working with a developer and the Arvada Fire Protection District to determine the best location and land requirements to build a new fire station within the next five years to serve the Candelas development. This station is designed as a new 9,400 square foot, eight bunk room, two bay drive through fire station and consists of a dayroom, kitchen, and fitness room.



Brittany Crouch
Project Designer
LEED AP BD+C

Professional Education:
Bachelor of Environmental Design, University of Colorado, Boulder, Colorado
Technology Arts & Media Certificate, University of Colorado, Boulder, Colorado

Professional Experience:
Brittany is experienced in all phases in the field of architecture. She is knowledgeable at building 3d models on the computer for design review, coordinating thorough construction document drawings, coordinating interior finishes and reviewing construction submittals. Brittany is proficient at using AutoCAD, Sketchup and Photoshop. Projects that Brittany has been involved with include:

South Adams County Fire District Station #1 Remodel – Project Designer, March 2020 – Planning Submittal. Currently working with the City planner, surrounding neighborhoods, and the District to coordinated the requirements for City approval for a remodel and addition to a fire station.
Frederick Firestone Fire District - Project Designer, March 2020 – Planning Submittal. Currently working with the City planner, surrounding neighborhoods, and the District to coordinated the requirements for City approval for a new fire station.
Windsor Fire Rescue District Station #4 – Project Designer, February 2020 – Planning Submittal. Currently working with the City planner, surrounding neighborhoods, and the District to coordinated the requirements for City approval for a new fire station.
Fort Lupton Fire Protection District Station #3 – Project Designer, February 2020 – Under Construction with Golden Triangle Construction. Project is a new 15,000 square foot fire station.
North Metro Fire Rescue District Station #61 - Project Designer, February 2020 – Project Bidding. Project is a demolision of the current fire station and the construction of a new 15,000 square foot fire station.
Arvada Fire Protection District Fire Station #3 – Project Designer, February 2020 – Under Construction with Golden Triangle construction. This project is a demolision of the current station and a rebuld of a new 11,900 square foot fire station.
Arvada Fire Protection District Fire Station #9 – Project Designer, February 2020 – Planning Submittal with Golden Triangle Construction. Currently working with the City planner, surrounding neighborhoods, and the Arvada Fire District to coordinated the requirements for City approval for a new fire station.
North Metro Fire Rescue District Station #62 – Project Designer, Janaury 2020 – Under Construction. This project included a complete remodel to an existing Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.
Greater Brighton Fire Protection District Station #51 – Project Designer, November 2019 – October 2020. This project included a complete remodel to an existing two story Fire Station to include new bunk rooms, day room, dining, fitness and to the apparatus bays.
City of Thornton Fire Station #1 & Administration – Project Designer, May 2018 – December 2020. Project was a Design Build providing a new 26,000 square foot fire station and second floor administratin for the fire department.
North Metro Fire Rescue District Station #63 – Project Designer, April 2016 – April 2018. This project included a complete remodel and addition to an existing Fire Station to include new bunk rooms, day room, dining, fitness and two apparatus bays.
Adams County Fire Protection District Station #11 – Project Designer, January 2017 – September 2019. Providing a new 30,000 square foot fire station to include an antique truck display, board room/classroom, kitchen, day room, four offices, twlve bunk rooms, toilet rooms, office and five drive through bays.
Adams County Fire Protection District Administration Renovation – Project Designer, December 2015 – June 2017. Renovating an existing training center to the new administration building for the district. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, and individual offices for staff.
South Adams County Fire District Station #2 Remodel – Project Designer, August 2016 – July 2017. The existing fire station was completely remodeled to include new bunkrooms, dayroom, dining room, kitchen, apparatus bays & mezzanine.
Fort Lupton Fire Protection District Administration Renovation – Project Designer, November 2015 – May 2017. Renovating the existing administration offices to a new state of the art facility with an identifiable entrance off of

the public street. Renovation include a new site work to identify the building entrance, vestibule/reception area, conference rooms, kitchen, individual offices for staff, and a display area for the current model T fire truck for public viewing.

Adams County Fire Protection District Station #12– Project Designer, December 2015 – January 2017. Renovating an existing two story fire station to include a new kitchen, finishes to all first floor spaces, reconfiguring the second floor bunk rooms to meet the current district standards and providing a new stair from the second floor bunk rooms directly to the apparatus bays.

Greater Brighton Fire Protection District Station #52 – Project Designer, March 2015 – July 2017. Providing a new 18,000 square foot LEED Silver fire station to include a kitchen, day room, four offices, ten bunk rooms, toilet rooms, and four drive through bays. Assisted the District with obtaining grant funding.

South Adams County Fire District Station #4 – Project Designer, January 2015 – June 2016. The existing fire station was demolished for a new two story three bay fire station to meet the current fire fighters daily requirements. Unique to this station is that the bunkrooms are located on the first floor with the dayroom, dining room, kitchen and fitness room on the second floor per the owners request to reduce fire fighter injuries during evening calls.

City of Thornton Fire Station #2 – Project Designer, May 2014 – November 2014. This project involved a new fitness room addition and the renovation of the existing fitness room to bunk rooms to meet the current fire fighters daily requirements.

Arvada Fire District Fire Station #4 - Project Designer, September 2012 – May 2014. This project involved a complete renovation of the existing fire station interiors to meet the current fire fighter daily requirements and a building addition that includes eight bunk rooms, a buner gear room, and a storage room.

City of Boulder Fire Department Wildland Administration/ Fire Station LEED Silver certified – Project Designer, September 2012 – February 2015. This project is currently in the design phase for a new 12,000 squar foot wildland fire station adjacent to their regional fire training center. The project includes two apparatus bays, eight bunk rooms, four offices, and each of the associated amentities of a fire station.

Windsor Severance Fire Protection District Station #2 – Project Designer, October 2012 – November 2013. This project involved a new 9,500 square foot, 1.5 million dollar station. The project includes two tandem drive through apparatus bays with a second floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

Arvada Fire Protection District Maintenance Facility– Lead Designer, May 2013 – July 2014. This project involved a new three bay drive through with a second floor mezzanine, two offices, locker rooms, kitchen, and compressor room to replace the current outdated maintenance facility located in an old fire station.

Greater Brighton Fire Protection District Station Existing #52 – Project Designer, March – April 2013. With the construction of the new fire station #52, the existing station will become the maintenance and training building. Initial plans and a cost estimate has been issued to the District for approval and commencement once the new fire station is completed.

Greater Brighton Fire Protection District Station #52 – Project Designer, March – April 2013. Provided as built drawings and a cost estimate to the District to renovate the existing fire station to include a kitchen, day room, three offices, six bunk rooms, and toilet rooms. The District is reviewing with their board the next steps in the renovation process.

Arvada Fire District Fire Station #6 – Project Designer, September 2012 – October 2013. This project involved a second story addion over the existing station apparatus bays that will have thirteen bunk rooms, an office, a day room, a physical fitness room, a laundry room, three individual toiltet rooms, and two fire polse that will direct the fire fighters to the first floor apparatus bays. The existing first floor of the station will be renovated and include both interior and exterior fire fighter training evolutions.

Fort Lupton Fire Protection District Administration/ Station #1 – Project Designer, December 2011 – October 2013. This project is includes renovations to the existing fire station and an addition that includes a board room/community room, day room dining room, kitchen, two administration offices, laundry room, 10 bunk rooms, and a fitness room.

Arvada Fire District Fire Training Center Interiors – Lead Designer, June 2013 – November 2013. This project involved renovations to the existing women's restrooms and men's locker room, adding a new women's locker room, removing an existing kitchen, and providing a new corridor to the training grounds.

Arvada Fire District Fire Station #5 – Project Designer, June 2011 – June 2012. This project is currently in the construction document phase and involves the renovation of the existing fire station interiors to meet the current fire fighter daily requirements and an building addition that include four bunk rooms, an exercise room, and a storage room.

Wheat Ridge Fire District Fire Station #1 – Project Designer, July 2012 – October 2012. This project involved the renovation of the second story fire fighter day room, dining room, kitchen, mens and womens bathrooms, two office, laundry room, bunk rooms, and a fire pole that leads the fire fighters to the first floor apparatus bay rather than having to use a set of outdated stairs.

City of Aurora Fire Station #10 – Project Designer, November 2010 – August 2012. This project is currently in the construction bidding phase and involves the renovation to approximately 5,000 square feet of existing building and a new fitness room addition. The current bunkroom layout was an open plan that did not provide the required privacy or spacial requirements for their current fire fighter personnel and also included a larger kitchen layout, a larger office space, and shared restroom facilities.

North Metro Fire Rescue District Administration Building LEED Gold certified – Design Associate / LEED Project Administrator, March 2007 – Current. This project involves the relocation of North Metro's fire prevention, headquarters staff, and division chief offices to one centralized administration building in the City and County of Broomfield. This 33,000 square foot, two story building includes a below grade parking garage and utilizes the current exterior materials of the newly completed fire stations along with complementary materials of the adjacent governmental buildings of the City and County of Broomfield. The project also includes an interactive public learning environment.

North Metro Fire Rescue District Renovation Projects – Project Designer, October 2006 – January 2011. Project scope involved reviewing existing building conditions, providing recommendations of findings, and providing cost estimates for existing fire stations roof leaks, replacement of concrete aprons, replacement of concrete at apparatus bays, reviewing site grade drainage issues, providing new landscape designs and cost estimates, and reviewing existing floor plans layouts for fire station additions. These existing fire stations include station #61, #63, #65, and the headquarters building.

Arvada Fire District Fire Station #2 – Project Designer, May 2009 – November 2011. Working with the City planner, surrounding neighborhoods, and the Arvada Fire District our office coordinated the required planning requirements for City approval and issuance of construction documents. This new fire station was designed per the prototype Stations #7 & #8 and incorporated the following fire fighter training props; ground ladder evolutions, hose advancement and stairwell evolutions, confined space rescue, rappelling, and basket training.

Windsor Severance Fire Protection District Station #3 – Project Designer, January 2010 – December 2011. This project is currently under construction as a new 9,500 square foot, 1.7 million dollar station. The project includes two tandem drive through apparatus bays with a second floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters.

North Metro Fire Rescue District Fire Station #67 – Project Designer, April 2007 – Current. Project scope involved the construction of a drive through three bay, seven-bunk room, 2.0 million dollar fire station located at the western edge of the City and County of Broomfield along the Northwest Parkway.

North Metro Fire Rescue District Station #61 – Project Designer, December 2010. This project was developed for review by the North Metro board for acceptance. Two schemes were developed. The first scheme was to renovate the existing building footprint. The second option was to provide a renovation and addition to meet the current fire fighter needs as the station with the most calls.

City of Longmont Recreation Center Front Desk – Project Designer, December 2008 – May 2009. Project scope involved revisions of the existing front desk and added a new security public check-in station for the general public.

City of Longmont Sunset Bathhouse – Project Designer, November 2009 – September 2010. This project replaced an undersized and outdated 2,000 square foot 1964 bath house with a new 5,000 square foot facility. The new facility includes a central entrance, men's and women's locker rooms, two family changing rooms, a concession stand, and a meeting room.

Arvada Fire District Candelas Training Facility – Project Designer, On Hold. The Candelas Training Facility involved working with a developer and the Arvada Fire Protection District to determine the best location and land requirements to build a new training facility within the next five years for Arvada Fire Protection District. This concept design includes a training/classroom facility, a fire station, a residential burn building, a high rise burn building, a confined training space, a trench rescue area, a haz mat prop, a vehicle extrication area and a vehicle skid pad.

Arvada Fire District Candelas Fire Station – Project Designer, On Hold. The Candelas Fire Station involved working with a developer and the Arvada Fire Protection District to determine the best location and land requirements to build a new fire station within the next five years to serve the Candelas development. This

station is designed as a new 9,400 square foot, eight bunk room, two bay drive through fire station and consists of a dayroom, kitchen, and fitness room.

Greater Brighton Fire Protection District Vestas Station – Project Designer, On Hold. This project involved providing a schematic floor plan and site plan for grant submittal, city review, and staff development of a 20,000 square foot administration and four bay drive through station.

Canon City Fire Protection District Administration/ Station #1 – Project Designer, June 2012 – Current. The project team has completed two preliminary designs. One of the schemes is for a fire station and training building. The second scheme includes a new administration building with the fire station and training building. The District will be seek a mil levy in 2013 to assist with the construction of this new facility.

Arvada Fire District Headquarters Remodel – Project Designer, June 2008 – July 2008. A renovation of the second floor and first floor lobby space of an existing office building. This rennovation project consolidates each of Arvada Fire Protection District offices throughout the city into one central building. The second floor renovation includes one large and two small conference rooms, a training room, a central reception desk, eighteen offices, a renovated kitchen, and restrooms.

North Metro Fire Rescue District Training Facility – Project Designer, November 2006 – August 2008. This 14 acres 12.5 million dollar training facility is located in Northglenn Colorado and contains a new 13,000 square foot, drive through four bay, eight-bunk room fire station and a new 9,500 square foot, drive through four bay maintenance facility. Other buildings were completed by a joint architectural firm including a new 15,000 square foot classroom, five training buildings, and an emergency vehicle driving track. This project was completed as a CM/CG construction project with Pinkard Construction.

North Metro Fire Rescue District Addition to Fire Station #65 – Project Designer, October 2006 – January 2007. Project scope involved a new $680,000, 2,000 square foot addition, single drive through bay. The project included a drive through apparatus bay, a bunker gear room, and an exercise room to the existing 4,000 square foot fire station located at the Jefferson County Airport. The new drive through apparatus bay decreased the response time in allowing the emergency vehicles to directly access west 120th Avenue rather than having to loop around the existing facility.

Arvada Fire District Fire Station #7 and Fire Station #8 – Project Designer, March 2007 – September 2008. New 9,500 square foot, 1.9 million and 1.7 million dollar stations, two drive through apparatus bays with a second floor mechanical room, a decontamination room, and an exercise room. The apparatus bays separate the bunkroom sleeping quarters from the public entrance and daily activities spaces for the fire fighters. Station also #7 included a new direct bore sewer line connection to the city's public utilities.

North Metro Fire Rescue District 9-11 Memorial – Project Designer, May 2006 – September 2006. Project scope involved working with the selected contractor and sub contractors, the City and County of Broomfield arts director and agencies, and the awarded sculptor Sonny Rivera. The project consisted of three full size bronze sculptures, three bas-relief sculptures, and the pedestrian circulation between the works of art within the City and County of Broomfield Park.

Consultants – Key Individuals

Civil Engineer: NorthStar Engineering.
Location: Pueblo, Colorado
Principal: Michael L. Cuppy PE, PLS
Years in Business: 82
Professional Staff: 12
Primary Contact: Michael L. Cuppy PE, PLS / Vice President

Landscape Architect: Meuran Design Group
Location: Denver Colorado
Principal:. Kerry Smeester (Principal)
Years in Business: 40
Primary Contact: Kerry Smeester



Structural Engineer: The Leffler Group
Location: Denver Colorado
Principal:. Russ Leffler
Years in Business: 21
Professional Staff: 8 + 1400 nationwide
Primary Contact: Russ Leffler, P.E., S.E., M.L.S.E., Principal

MEP Engineers: Farris Engineering
Location: Colorado Springs, Colorado
Principal: Stephen C. Roitsch, PE, CxA, CGD, Vice President
Years in Business: 55
Professional Staff: 51
Primary Contact: Stephen C. Roitsch

Net Zero Energy Consultant: Ambient Energy
Location: Denver Colorado
Principal: Linda Morrison
Years in Business: 18
Professional Staff: 17
Primary Contact: Linda Morrison

Low Voltage Systems: LVI
Location: Golden Colorado
Principal: Shawn Tank
Professional Staff: 8

Furniture: Office Scapes
Location: Denver Colorado
Principal: Barbara Johnson

Traffic Engineering: Lantz Associates Engineers
Location: Denver Colorado
Principal: Fred Lantz

NORTHSTAR
ENGINEERING AND SURVEYING, INC.
Serving Pueblo & So. Colorado Since 1939

Name: **MICHAEL L. CUPPY, P.E., P.L.S.**

Title: Vice President / Principal, NorthStar Engineering and Surveying, Inc.

Education: Bachelor of Science, Civil Engineering Technology, 1999
Colorado State University-Pueblo

Registrations: Professional Engineer – Colorado
Professional Land Surveyor – Colorado

Affiliations: Coalition of Pueblo Engineers
Land Development Committee for Pueblo Association of Home Builders
Pueblo Downtown Association

Experience: NorthStar: 23 years
Hanten Surveying Inc.: 3 years

Mr. Cuppy has more than 23 years of experience in the design and construction of a wide variety of civil engineering projects. These projects include commercial and residential site improvements, highway and roadway improvements, storm drainage and flood plain improvements, municipal improvements, and water and wastewater treatment and conveyance facilities. Mike is familiar with several civil engineering software programs and their application. He is committed to providing the client with quality civil engineering services in a cost effective and timely manner.

KEY PROJECT EXPERIENCES

Pueblo County School District 60 – East and Centennial High School site improvements. Principal/Project Engineer for all phases of Civil site planning, design, and construction administration for new high schools at both East High School and Centennial High School. Projects included removal and replacement of all site improvements to meet the needs of the new high school construction. including ADA accessibility and utility, drainage, and safety improvements, etc.

Pueblo County School District 60 – Franklin and Sunset Park Elementary School site improvements. Principal/Project Engineer for all phases of Civil site planning, design, and construction administration for new elementary schools at both Franklin Elementary and Sunset Park Elementary. Projects included removal and replacement of all site improvements to meet the needs of the new school construction. including ADA accessibility and utility, drainage, and safety improvements, etc.

Pueblo County School District 60 – Heroes K-8 School site improvements. Principal/Project Engineer for all phases of Civil site planning, design, and construction administration for new Heroes K-8 school. Projects included removal and replacement of all site improvements to meet the needs of the new school construction. including ADA accessibility and utility, drainage, and safety improvements, etc.

Pueblo County School District 70 – Track, Field and Tennis Court Improvements. Principal/Project Engineer for all phases of planning, design, and construction administration for track, football field, and tennis court remediation at Pueblo West High School, Pueblo County High School and Rye High School. Projects included removal and replacement of existing fields, tracks, and courts with new synthetic surfacing and stadium upgrades including ADA accessibility and utility, drainage, and safety improvements. Two of the sites had field lighting systems completely redesigned. The facility at Pueblo West High School included a new 3,000 seat Grandstand with press box, men's and women's restroom facilities, home and visitor locker rooms, concession facilities, ticket booth, etc.

Soccer/Lacrosse Field, Colorado State University – Pueblo, for Colorado State University-Pueblo, Pueblo, Colorado. Principal/Project Manager for planning, design, and construction administration for a new soccer and lacrosse facility complete with press box, locker rooms, offices, training rooms,

pedestrian corridors/mezzanines, and parking lots on a 10 acre site immediately adjacent to the CSU-Pueblo campus.

Thunderbowl, Colorado State University – Pueblo, for the Friends of Football, Pueblo, Colorado. Project Engineer for planning, design, and construction administration for a new 8,000 seat football stadium and track facility complete with press box, locker rooms, offices, training rooms, pedestrian corridors/mezzanines, and parking lots on a 14 acre site immediately adjacent to the CSU-Pueblo campus.

CDOT Region 2 Headquarters, Pueblo, Colorado. Principal/Project Manager for all phases of surveying and civil engineering for this 12 acre which included subdivision, master plan, parking lots, detention and water quality facilities, and City roadways.

Dick's Sporting Goods shopping comples, Pueblo, Colorado. Principal/Project Manager for all phases of surveying and civil engineering for this 8 acre which included subdivision, new commercial retail with parking lots, detention and water quality facilities, and City roadways.

Land/Site/Municipal Improvement Projects Including Roadway, Drainage, & Utility Designs

Pueblo Memorial Airport Apron Rehabilitation Project, *Pueblo, CO.*
Pueblo Skilled Nursing Facility and Medical Office Building, Pueblo, CO
Parkview Medical Center Santa Fe Avenue property for future parking lot. *Pueblo CO.*
Bartley Boulevard Extension Project, Colorado State University – *Pueblo, CO.*
900 Acre Solar Energy Facility in Pueblo County, Comanche Solar Energy/SunEdison
4th Street Enhancement Project, Pueblo, CO
Santa Fe Avenue Streetscape Improvements, *Pueblo, CO*
Rocla Concrete Tie Manufacturing Facility, *Pueblo, CO*
Stormwater Engineering Improvements for Iowa&Lake Avenue Intersection, *Pueblo, CO*
VestasTowersAmericas Subdivision and Greenhorn Drive, *Pueblo, CO*
Walking Stick Vista Subdivision, Filing Nos. 1 and 2, *Pueblo, CO*
LakeMinnequaPark and Drainage Improvements – Phase 1, *Pueblo, CO*

Master Planning Projects

Arkansas River Levee Assessment Project and Phases I through V of Arkansas River Levee Remediation Project for the Pueblo Conservancy District
Lake Pueblo State Park Wet Utility Replacement, Colorado State Parks and Wildlife
City of Pueblo Master Basin Stormwater Planning Study, *Pueblo, CO*
Pueblo West Master Drainage Plan, *Pueblo West, CO*
Lake Avenue Corridor Plan, URAP, *Pueblo, CO*
22,000 Acre Pueblo Springs Ranch – Transportation, Drainage, and Utility Development Plans, Pueblo CO.
St. Charles Industrial Park – Transportation, Drainage, and Utility Master Plans, *Pueblo, CO*
North Vista Annexation – Transportation, Drainage, and Utility Master Plans, *Pueblo, CO*
Transportation Master Plan for Bandera Blvd. and State Highway 28 for the El Camino, Pueblo Del Sol, Ventana, and Pastora Ranch Development Projects, *Pueblo, CO*
SouthPointe Master Plan – Transportation, Drainage, and Utility Master Plans, *Pueblo, CO*
Ventana Development – Transportation, Drainage, and Utility Master Plans, *Pueblo, CO*
Eagleridge Development – Transportation, Drainage, and Utility Master Plans, *Pueblo, CO*

Kerry T. Smeester, ASLA
Principal
colorado licence #417

Kerry is a 1988 graduate of Colorado State University, College of Natural Resources with a Bachelor of Landscape Architecture degree. Prior to starting Meuran Design Group, Kerry worked as a landscape architect in Denver gaining a broad-based knowledge of site design, natural resources, regional planning and graphic communications as well as landscape construction documentation and horticulture. In 1998 Kerry founded Meuran Design Group and has continued to excel in project design, management, and construction. Much of Kerry's project experience has consisted of site development and renovation of various commercial, institutional and industrial facilities throughout Colorado.

Institutional
Arvada Fire Protection District Station #2; Arvada, Colorado
Adams County Fire Station #11; Adams County, Colorado
North Metro Fire Rescue District Station #63; Northglenn, Colorado
Thornton Firehouse #5 Xeriscape Garden; Thornton, Colorado
innovAge Health; Loveland, Colorado
Crested Butte High School; Crested Butte, Colorado
Windsor Fire Station #2; Windsor, Colorado
Gunnison High School; Gunnison, Colorado
Regis University Soccer Fields/Bleachers; Denver, Colorado

Parks/Recreation/Open Space
Ralston Estates Open Space Planning; Arvada, CO
Stapleton Business Center 2ac. Linear Parks; Denver, Colorado
Circlepoint Corporate Center 4 ac. Park; Westminster, Colorado
Hampden Town Center Native Wetland Rehabilitation; Aurora, CO
Mountain Shadows Estates Park/Open Space; Johnstown, CO

Office/Commercial/Industrial
Denver Broncos Indoor Training Facility; Dove Valley, CO
Vehicle Vault Museum; Parker, Colorado
Leopold Bros. Distillery; Denver, Colorado
Down town Walgreens Store; Steamboat Springs, Colorado
Wagner Cat Headquaters Landscape Re-Design; Aurora, Colorado
Circlepoint Corporate Center Bldgs.; Westminster, Colorado

Residential/Streetscape
Nevada Parcel; Crested Butte, Colorado
Bromley Farms Residential Planning; Arvada, Colorado
Sheridan Boulevard Landscape Improvments; Broomfield, CO
Hampden Town Center Streetscape; Aurora, Colorado
E. 32nd Parkway Street Renovation; Aurora, Colorado

meuran design group
700 colorado boulevard, suite 131
denver, co 80206
p(303) 512.0549
f(303) 320.5322
www.meuran.com

Selected Project Experience:

Fire Station / Emergency Response
- Brighton Fire Station #52
- North Metro Station #63
- Adams County Station #11
- Ft. Lupton FD Administration Remodel
- Adams County FPD Remodel
- Arvada FD Headquarters Entrance Vestibule
- South Adams County Station #2 Remodel
- Thornton Fire Station #4 Bunkroom Addition
- Prowers Medical Center ed-Surgery Expansion
- Various Remodel Projects

Police / Corrections
- Louisville Police Department
- CU Boulder Police Addition
- Colorado State Patrol Academy Vestibule
- *Adams County Justice Center**
- *Sterling Correctional Facility**
- *Trinidad Correctional Facility**
- *4 Mile Correctional Facility**

*With Other Firms

Educational
- Ralston House
- Montview Elementary School Addition & Remodel
- Denver Public Schools Assessments
- Wiggins Event Center / Cafetorium
- Ralston Elementary School
- Aurora 7 Elementary School
- Pinnacle High School

Golf Clubhouses / Facilities
- Mayacama, Santa Rosa, California
- Black Rock, Coeur d'Alene, Idaho
- Pine Canyon, Flagstaff, Arizona
- The Refuge, Lake Havasu, Arizona
- The Quarry, La Quinta, California
- San Clemente Municipal, California
- Pronghorn Golf Club, Bend, Oregon
- Pradera Golf Club, Castle Rock, Colorado

Artwork/Special
- Denver Art Museum Entry Piece
- Light Rail Station Canopy – Leaves – Denver
- Lowry FlightRide III, Denver

Residential
- The Manhattan, Denver: 12-story post-tensioned flat plate structure with 1 level below ground parking
- 22nd & Market Street, Denver: 8-story post-tensioned flat plate structure with 2 levels below ground parking.

Resume of

RUSS LEFFLER, P.E., S.E.

Principal

SUMMARY OF QUALIFICATIONS

Mr. Leffler has been providing consulting engineering services throughout his career including project management, design, value engineering and structural system selection for a variety of projects.

Mr. Leffler is in charge of project management and design. His key responsibilities will involve overall building review, design, and company project oversight from pre-design through the construction phase.

PROFESSIONAL REGISTRATIONS

Alaska, Alberta, Arizona, California, Colorado, Florida, Hawaii, Idaho, Kansas, Louisiana, Maryland, Michigan, Mississippi, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, Washington, Wyoming

EDUCATION

B.S. Civil Engineering
Colorado State University
Fort Collins, Colorado

M.S. Civil Engineering
Structural Engineering/Wind Engineering
Colorado State University
Fort Collins, Colorado

PUBLICATIONS

Wind-Tunnel Modeling of the Atmospheric Surface Layer. Journal of Wind Engineering and Industrial Aerodynamics, 54/55, 1995, pp. 505-513.

Area-average Wind Pressures on a Low-rise Building Proceedings, ASCE Structures Congress XIV, 1996, pp. 1037-1044.



FARRIS ENGINEERING

ASHLEY L. DAVIS, PE, LC, GPCP

Vice President | Fire Protection Engineer

ABOUT ME

Ashley has over fifteen years of experience in design and project management for mechanical engineering (ME) and fire protection engineering (FPE). Her experience includes the design and coordination for educational, commercial, industrial, research, and governmental facilities. Her work encompasses new construction, remodel design, and as built documentation. Her work encompasses new construction, remodel design, as-built documentation, and commissioning (Cx). She is comfortable working from project inception through construction administration for design-bid and design-build project delivery methods.

EDUCATION

- Bachelor of Science, Mechanical Engineering, Colorado State University, 2005

REGISTRATION

- Professional Mechanical/Fire Protection Engineer: Colorado #47063

PROFESSIONAL AFFILIATIONS

- Society of Fire Protection Engineers
- Society of American Military Engineers
- American Society of Heating, Refrigerating and Air Conditioning Engineers

WORK HISTORY

- 2015 - Present
- 2009 - 2015 - Plant Engineers
- 2006 - 2009 - RMG Engineers

SELECTED PROJECT EXAMPLES

- **Cape Cod AF Station Life Safety/Fire Protection Study, Cape Cod, MA**
  Role: Fire Protection Engineer/Project Manager
  The purpose of this project was to provide a study and Findings and Recommendations Report for multiple buildings on the installation involving addressing the life safety, egress, and fire protection issues of the facilities for this Air Force Station.
- **Peterson AFB Repair Building 122, Colorado Springs, CO**
  Role: Fire Protection Engineer
  One of the three task orders for this project was to repair plumbing which involved the replacement of the existing fire protection piping throughout the building, replacement of plumbing system piping constructed with galvanized pipe or that had deteriorated, and removal of abandoned piping and mechanical equipment throughout the facility.
- **Ft. Carson Army Post Repair Diver Locker 7440, Colorado Springs, CO**
  Role: Fire Protection Engineer
  Fire protection engineering included a comprehensive Fire Design Analysis for code study in accordance with UFC 3-600-01 for the building and subsequent scope drawings for the wet pipe fire sprinkler system modifications required in the renovation area.
- **Fort Carson Army Post Benham Blair Quads, Colorado Springs, CO**
  Role: Fire Protection Engineer
  The project involved reconfiguring an existing abandoned facility to new laundry and administrative spaces within the existing building envelope. Mechanical and Plumbing systems were demolished and reconstructed as required for the new building purpose. Fire protection engineering included a comprehensive Fire Design Analysis for code study in accordance with UFC 3-600-01.
- **Peterson AFB Repair Fire Deficiencies Bldg 672, Colorado Springs, CO**
  Role: Fire Protection Engineer
  The project involved renovating an existing 9,200 sf record storage facility by adding a wet pipe sprinkler system. The facility was previously unsprinkered so fire protection engineering included a comprehensive Fire Design Analysis for code study in accordance with UFC-3-600-01 for the building and subsequent scope drawings for the addition of a new wet pipe sprinkler system required throughout the facility.

OTHER RELEVANT PROJECTS

- **Colorado Springs Fire Station No. 1** Colorado Springs, CO
- **Pueblo School District 60 Multiple School Renovation Bond Projects,** Pueblo, CO
- **Peterson AFB Bldg. 1 Repair FPE Analysis, Colorado Springs, CO**
- **Buckley AFB Bldg. 1024 Renovation FPE, Aurora, CO**

FARRIS ENGINEERING

BRINGING YOUR BUILDINGS TO LIFE



FARRIS ENGINEERING

ERICKA M. NIENHUESER, PE, LC

Vice President | Electrical Engineer

ABOUT ME

Ericka is a professional engineer and has over 13 years of experience on various project types. She has completed work on lighting, power and telecommunications systems. Healthcare, government and educational facilities have been her primary focus. Her government projects range from City, State and Federal. Ericka has experience with a variety of public safety facilities such as fire stations, police stations and training facilities. She has a personable approach to engineering that promotes inclusion and solidarity with the Owner, design team, and contractors.

EDUCATION

- Master of Architectural Engineering, University of Nebraska-Lincoln, 2010
- Bachelor's of Science, Architectural Engineering, University of Nebraska at Omaha, 2009

REGISTRATION

- Professional Electrical Engineer: Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Wyoming
- Lighting Certified (LC)

PROFESSIONAL AFFILIATIONS

- Commercial Real Estate Women
- Illuminating Engineering Society (IES)

AVAILABILITY FOR THIS PROJECT

- Ericka can commit up to 30% of her weekly schedule to this project.

SELECTED PROJECT EXAMPLES

- **Dothan Regional Public Safety Training Center,** Dothan, AL
  Role: Electrical Engineer
  Multiple facility site, including a 26,000-sf administration facility with fire and police multipurpose training rooms, fitness center, locker rooms, classrooms and offices. Facility is completely backed up on emergency power. Other building facilities include a five-story burn tower, K-9 dog facility, gun shooting range building, warehouse, strip mall, sniper range and a pump house.
- **Omaha Fire Department – Fire Stations 24, 30 and 61,** Omaha, NE
  Role: Electrical Engineer/Project Manager
  Ericka oversaw engineering services for the mechanical, electrical and plumbing designs for kitchen remodels and additional renovation projects for three fire stations for the Omaha Fire Department.
- **Western Nebraska Regional Airport Aircraft Rescue and Firefighting Station,** Scottsbluff, NE
  Role: Electrical Engineer
  Mechanical, electrical, plumbing and fire protection design for a new 4,000-sf fire station building that will accommodate firefighting apparatus for the airport.
- **South Dakota Army National Guard Regional Training Institute HVAC Upgrades,** Sioux Falls, SD
  Role: Electrical Engineer
  Farris provided mechanical and electrical engineering design for this project that involved the upgrades to current HVAC equipment and the installation of water saving fixtures. The design focused on energy reduction and system efficiency. Project included maintenance on two existing boilers, work on a roof-top make-up air unit, and replacement of three ductless split-type air conditioners, one chiller unit two air handling unites. The 50,000-sf facility contains meeting areas, offices, kitchen/ cafeteria, classrooms, storage areas and restrooms on the main level. The second level is made up of one-room sleeping spaces as well as barracks.

OTHER RELEVANT PROJECTS

- **IHS Pueblo Pintado Health Center,** Pueblo Pintado, NM
- **Nebraska Army National Guard Readiness Center,** Grand Island, NE
- **Nebraska Army National Guard Readiness Center,** Mead, NE
- **Iowa Air National Guard Marshalltown Readiness Center Renovation,** Marshalltown, IA
- **Omaha Police Department K-9 Training Facility,** Omaha, NE
- **Hawkins Vehicle & Equipment Maintenance Facility,** Omaha, NE
- **Mitchell Tech Maintenance Shop Remodel,** Mitchell, SD
- **South Dakota State University Raven Precision Ag Classroom & Lab Facility,** Brookings, SD



FARRIS ENGINEERING

STEPHEN C. ROITSCH, PE, CXA, CGD, ATD

ABOUT ME

Stephen is a registered Mechanical Engineer with years of design and project management experience. His experience is primarily in the design of HVAC, plumbing, and fire protection systems, including extensive familiarity developing and writing control sequences of operation as well as surveying existing building mechanical systems. He has considerable experience with geothermal heat pump systems, and as a Certified Geo-Exchange Designer, he is capable of designing the entire system - both HVAC system inside the building and the ground loop heat exchanger outside. In addition to routinely serving as the Project Manager and Project Engineer for Farris, he has also served as the Owner's PM and prime A/E consultant for numerous projects. His wide range of experience is in educational, administrative and industrial type facilities. Stephen's computer experience includes applying software for building heat load calculations, geothermal loop design, energy

EDUCATION

- Bachelor of Science, Architectural Engineering, University of Wyoming.

REGISTRATION

- Professional Mechanicall Engineer: Colorado: 33281
- Certified Geo-Exchange Designer (CGD)
- Accredited Tier Designer (ATD)
- Certified Commissioning Authority

PROFESSIONAL AFFILIATIONS

- ASHRAE
- SAME

HISTORY WITH FARRIS

- 1993 - Present

SELECTED PROJECT EXAMPLES

Pueblo Fire Station No. 4 - Pueblo, CO
Role: Mechanical Engineer
The 12,300 square foot facility was equipped with a full-service kitchen/ dining area, a day room, a fitness center, shower facilities, storage space, office spaces, a three-bay apparatus area, a training classroom, a hose tower and sleeping quarters for eight resident fire-fighters. The HVAC design services provided by Farris Engineering included nine ground source heat pumps connected to an eight-hole geothermal bore field. Linear, infrared, radiant heat and evaporative cooling was provided in the apparatus bay. A general vehicle exhaust system that is automatically controlled was designed for the apparatus bay..

Pueblo Fire Station No. 9 - Pueblo, CO
Role: Mechanical Engineer
The 6,500 square foot facility was equipped with a full service kitchen/ dining area, a day room, a fitness center, shower facilities, storage space, office spaces, a two bay apparatus area, and sleeping quarters for four resident fire-fighters.The HVAC design services provided by Farris Engineering included three gas-fired blower coil air handling units with DX cooling units mounted in a mechanical courtyard. Linear, infrared, radiant heat and evaporative cooling was provided in the apparatus bay. A general vehicle exhaust system that is automatically controlled was designed for the apparatus bay.

City of Colorado Springs Fire Station No. 19 - Colorado Springs, CO
Role: Mechanical Engineer
The Mechanical Design for this 10,500 sf facility included a high efficiency gas-fired hot water boiler to serve the facility. A hot water radiant floor system was used in the truck bays, decon room, equipment storage, bunker, gear and shower rooms. The living areas of the fire station were served by three single zone air handlers with hot water heating coils and DX cooling units. The community room had its own

OTHER RELEVANT PROJECTS

- Colorado Springs Station Facility Assessment, Colorado Springs, CO
- Colorado Springs Fire Station No. 8, Colorado Springs, CO
- Colorado Springs Fire Station No. 14, Colorado Springs, CO
- Colorado Springs Fire Station No. 20, Colorado Springs, CO
- Pueblo Community College Learning Center, Pueblo, CO
- Cheyenne Mountain AFS Wildland Fire Ctr Vehicle Storage, Colorado Springs, CO
- Peterson AFB Fire Crash Rescue Station, Colorado Springs, CO
- Colorado College Tutt Library Ren&Add (NetZero), Colorado Springs, CO
- El Paso/Teller County 911 Addition, Colorado Springs, CO

ADDITIONAL INFORMATION FOR AGREEMENT

Certificate of Trade Name Registration

Colorado PERA Questionnaire

Affirmative Action Policy

E-Verify Participation Letter

Insurance Certificate(s)



For this Record...
Filing history and documents
File a form
Subscribe to email notification
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Business Home
Business Information
Business Search

FAQs, Glossary and Information

Summary

Details			
Trade name	Allred & Associates		
Registrant name	Brent Allred		
Status	Effective	**Formation Date**	05/01/2022
ID number	20221450375	**Form**	Individual
Renewal month	March	**Expiration Date**	06/01/2023
Primary residence or usual place of business street address	580 Burbank Street, Suite 125, Broomfield, CO 80020, United States		
Primary residence or usual place of business mailing address	580 Burbank Street, Suite 125, Broomfield, CO 80020, United States		

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF TRADE NAME

I, Jena Griswold , as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office, a Statement of Trade Name for:

Allred & Associates

(Entity ID # 20221450375)

was filed in this office on 05/01/2022 with an effective date of 05/01/2022 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 06/01/2022 that have been posted, and by documents delivered to this office electronically through 06/02/2022 @ 09:16:27 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 06/02/2022 @ 09:16:27 in accordance with applicable law. This certificate is assigned Confirmation Number 14064294 .

Secretary of State of the State of Colorado

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

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

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

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

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

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

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

_____.

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

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

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

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

Company Name: Allred & Associates

Authorized Signature: _____ Title: Architect / Owner

Printed Name: Brent M Allred Date: May 12, 2022

ALLRED&ASSOCIATES
Architecture • Planning • Interior Design

AFFIRMATIVE ACTION PLAN

Allred & Associates does not discriminate against any employee or applicant or employment because of race, color, religion, sex, national origin, creed or age.

Allred & Associates will take affirmative action to ensure applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, creed or age. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment of 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.

Sincerely,

Signature

Brent Allred

Printed Name

Owner, Managing Member

Title (must be signed by Managing Member, President, Vice President, or Secretary)

May 10th, 2022

Date

ALLRED&ASSOCIATES
Architecture • Planning • Interior Design

May 10th 2022

City of Pueblo
230 S Mechanic Street
Pueblo, CO 81003

Re: Compliance with E-Verify Program
Bid No.: _____
Bid Name: 22-010 RFP – Design and Engineering of New Fire Stations 6, 8, and 11

To Whom It May Concern:

Please accept this letter as certification that ____Allred & Associates____ does not knowingly employ or contract with any illegal aliens and has not or will not knowingly enter into a contract with any subcontractor that fails to certify to us that they do not knowingly employ or contract with any illegal aliens.

____Allred & Associates__ participates in or has applied for participation in the E-Verify Program created by Public Law 208, 104th Congress, as administered by the United States Department of Homeland Security.

Regards,



Signature

Brent M Allred

Printed Name

Owner

Title (must be signed by Managing Member, President, Vice President, or Secretary)

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/11/2022

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

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

PRODUCER	CONTACT NAME: Shannon Abeyta
State Farm Insurance Zane Carter Insurance Agency Inc. 1380 W Midway Blvd Broomfield, CO 80020	PHONE (A/C, No, Ext): (303)466-1887 FAX (A/C, No): (303)466-2278 E-MAIL ADDRESS: zane@zanecarterinsurance.com

INSURED	INSURER(S) AFFORDING COVERAGE	NAIC #
Brent M Allred 580 Burbank St Unit 125 Broomfield, CO 80020	INSURER A : State Farm Fire and Casualty Company	25143
	INSURER B : State Farm Mutual Automobile Insurance Company	25178
	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	ADD'L INSD	SUB WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY ☐ PRO-JECT ☐ LOC OTHER:	X	X	96-BC-J650-7	05/11/2022	05/15/2023	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY ☒ SCHEDULED AUTOS HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	X	X	241 4494-E06-06H	05/06/2022	11/06/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ 250,000 $ 500,000 $ 100,000
A	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION $			06-BA-V650-7	01/10/2022	01/10/2023	EACH OCCURRENCE AGGREGATE	$ 1,000,000 $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		96-C8-N687-1	12/01/2021	12/01/2022	PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ $ 100,000 $ 100,000 $ 500,000

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

The City of Pueblo it's officers, agents, and employees are included as additional insured for ongoing and completed operations on the General Liability and included as additional insured on the Auto Liability, Umbrella Liability, and Builder Risk with respect to operations of the named insured for the certificate holder as required by written contract. General Liability, Auto, and Umbrella coverage is primary and non-contributory. General Liability, Auto, Umbrella, and Builders Risk policies have been endorsed to provide 30 days notice of cancellation except 10-day notice for non-payment of premium. General Liability, Auto Liability, Umbrella, and Builders risk coverage include waivers of subrogation. All policy terms, conditions, and exclusions apply.

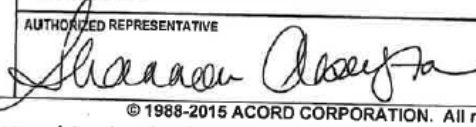
CERTIFICATE HOLDER

City of Pueblo, a Municipal Corporation
230 S. Mechanic Street
Pueblo, CO 81003

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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1001486 132849.14 04-13-2022

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/11/2022

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

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

PRODUCER	CONTACT NAME: Anthony Trujillo
AssuredPartners Colorado 2002 Caribou Dr #101 Fort Collins CO 80525	PHONE (A/C, No, Ext): 970-530-1235 FAX (A/C, No): E-MAIL ADDRESS: anthony.trujillo@assuredpartners.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Beazley Insurance Company, Inc	37540
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED	ALLR&AS-01
Allred & Associates 580 Burbank, Suite 125 Broomfield CO 80020-1434	

COVERAGES **CERTIFICATE NUMBER:** 410198238 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N / A						E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Professional Liability			V15QMS211301	1/7/2022	1/7/2023	Aggregate/ Per Claim	$2,000,000

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

22-010 RFP – Design and Engineering of New Fire Stations 6, 8, and 11

The City of Pueblo, its agents, officers and employees are designated as additional insured when required by written contract.

CERTIFICATE HOLDER

City of Pueblo, a Municipal Corporation
230 S. Mechanic Street
Pueblo CO 81003

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Background Paper for Proposed
RESOLUTION

COUNCIL MEETING DATE: June 27, 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 THE PUEBLO SYMPHONY ASSOCIATION IN THE AMOUNT OF $294.32 TO SUPPORT THE 2022 SEASON OF THE PUEBLO SYMPHONY ORCHESTRA

SUMMARY:

Attached for consideration is a request for support of the 2022 Season of the Pueblo Symphony Orchestra.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

City Council Member Dennis Flores is requesting $294.34 to support 2022 Pueblo Symphony Orchestra season. The Pueblo Symphony's goals are to enhance the cultural environment of the community, focusing on the promotion of the arts in educational excellence. The season includes shows such as "Bravo Broadway" on June 18 and "Romantic Virtuosity" on August 6, 2022.

FINANCIAL IMPLICATIONS:

Funds in the amount of $294.32 would be paid from the Council Contingencies Account in the 2022 General Fund Budget to the Pueblo Symphony Association.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Dennis Flores.

Attachments:
Proposed Resolution
Council Contingencies spreadsheet

RESOLUTION NO. 14929

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2022 GENERAL FUND BUDGET TO THE PUEBLO SYMPHONY ASSOCIATION IN THE AMOUNT OF $294.32 TO SUPPORT THE 2022 SEASON OF THE PUEBLO SYMPHONY ORCHESTRA

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

SECTION 1.

Payment in the amount of $294.32 from the Council Contingencies Account in the 2022 General Fund Budget is authorized to be paid to the Pueblo Symphony Association in support of the 2022 Season.

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 June 27, 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	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 Chuck Wagon Rendevous		$ 15,000.00		$ 61,260.30
5/23/22	Southern Colorado Equality Alliance LGBTQ+ Pride Event		$ 1,500.00		$ 59,760.30
5/23/22	Rollin on the Riverwalk HARP Event		$ 9,000.00		$ 50,760.30
6/13/22	2022 Leadership Pueblo Project		$ 300.00		$ 50,460.30
6/27/22	Pueblo Symphony		$ 294.32		$ 50,165.98
					$ 50,165.98
					$ 50,165.98
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					$ 50,165.98

City Clerk's Office Item # R-1

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 27, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN EMERGENCY ORDINANCE APPROVING A LEASE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND FRIDAY HEALTH PLANS MANAGEMENT SERVICES COMPANY, INC., A COLORADO CORPORATION, FOR SUITE 300, 317 NORTH MAIN STREET, PUEBLO, CO 81003 AND AUTHORIZING THE MAYOR TO EXECUTE SAID LEASE AND RATIFYING THE MAYOR'S PRIOR SIGNATURE THERETO

SUMMARY:

Attached is a proposed Emergency Ordinance approving and authorizing the Mayor to sign and ratifying the Mayor's prior signature to a lease between the City of Pueblo and Friday Health Plans Management Services Company, Inc., a Colorado corporation ("Company").

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Company is requesting a short-term lease of 3,000 square feet of space in the Pope Block building located at 317 North Main Street in Downtown Pueblo. The Pope Block building is owned by the City of Pueblo. The Company is willing to sign the Lease approved hereby on the condition that it take occupancy of the leased premises on July 1, 2022

FINANCIAL IMPLICATIONS:

The City and Company have agreed to a three-month lease on the following terms and conditions:

MONTH	RENT	PARKING	TOTAL
July, 2022	$ 4,250	$ 900	$ 5,150
August, 2022	4,250	900	5,150
September, 2022	4,250	900	5,150
TOTAL	$12,750	$2,700	$15,450

Company is paying rent at the rate of $17 per square foot including CAM expenses. In addition, Company has been assigned 30 parking spaces at the rate of $30 per parking space per month. Company has agreed to pre-pay $15,450 prior to taking occupancy. Company has also been granted an option to continue the lease for an additional 60 days on the same terms and conditions.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, Company's lease will not be approved.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
Proposed Ordinance
Proposed Lease.

ORDINANCE NO. 10197

AN EMERGENCY ORDINANCE APPROVING A LEASE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND FRIDAY HEALTH PLANS MANAGEMENT SERVICES COMPANY, INC., A COLORADO CORPORATION, FOR SUITE 300, 317 NORTH MAIN STREET, PUEBLO, CO 81003 AND AUTHORIZING THE MAYOR TO EXECUTE SAID LEASE AND RATIFYING THE MAYOR'S PRIOR SIGNATURE THERETO

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

SECTION 1.

The Lease dated June 27, 2022, between the City of Pueblo, a Colorado municipal corporation and Friday Health Plans Management Services Company, Inc., a Colorado corporation ("Company") 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 Lease in the name of the City and the Mayor's prior signature thereto is ratified 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 Lease which are necessary or desirable to effectuate the transactions described therein.

SECTION 3.

Savings Clause: The Company is willing to sign the Lease approved hereby on the condition that Company take possession of the leased premises on July 1, 2022. Company has agreed to pre-pay $15,450 to the City prior to taking occupancy. Given these time constraints, the immediate enactment of this Ordinance is necessary in order to preserve and protect the health, safety and welfare of the residents of the City. Pursuant to Sec. 3-20 of the City Charter, 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 June 27, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

LEASE

This Lease is made as of this 27th day of June, 2022, by and between the City of Pueblo, a Colorado municipal corporation ("Landlord") and Friday Health Plans Management Services Company, Inc., a Colorado corporation ("Tenant").

ARTICLE 1
BASIC DATA

Each reference in this Lease to any of the terms contained in this Article or otherwise defined in this Lease will be construed to incorporate the definitions or data stated under that term, defined as follows:

1.1. Building: 317 N. Main Street, Pueblo, CO 81003

1.2. Leased Premises: Suite 300. Three thousand (3,000) rentable square feet (RSF)

1.3. Term: Three (3) months

1.4. Commencement date: July 1, 2022.

1.5. Termination date: September 30, 2022.

1.6. Renewal option: One (1) option for an additional sixty (60) days.

1.7. Tenant improvement allowance: None

1.8. Agency disclosure and commission: None

1.9. Landlord address:

City of Pueblo
Attn: Mayor
1 City Hall Place, 2nd Floor
Pueblo, CO 81003

1.10. Tenant address:

Friday Health Plans Management Services Company, Inc.
Attn: Sal Gentile
700 Main Street
Alamosa, CO 81101

ARTICLE 2
LEASE OF PREMISES

Leased Premises. In consideration of the mutual covenants and agreements herein contained, Landlord hereby leases to Tenant the premises of approximately 3,000 rentable square feet ("RSF") located in the Building (the "Leased Premises") together with all appurtenances.

ARTICLE 3
TERM

Term: Three (3) months.

Commencement Date: July 1, 2022.

Termination date: September 30, 2022.

ARTICLE 4
RENT

4.1. Rent. Tenant's rent and other payment obligations are as follows:

MONTH	RENT	PARKING	TOTAL
July, 2022	$ 4,250	$ 900	$ 5,150
August, 2022	4,250	900	5,150
September, 2022	4,250	900	5,150
TOTAL	$12,750	$2,700	$15,450

Tenant shall not be obligated to pay any CAM expenses. Tenant is hereby assigned 30 parking spaces at the rate of $30 per parking space per month. Tenant shall pre-pay $15,450 prior to taking occupancy. Tenant is hereby granted an option to continue the lease for an additional 60 days on the same terms and conditions, provided that Tenant gives Landlord written notice of Tenant's intent to exercise this option on or before September 23, 2022. Tenant shall pre-pay rent and parking fees applicable to the duration of the option exercised.

4.2. Tenant's Tax Obligations. Tenant shall be solely responsible for the payment of its own tax obligations and agrees that said obligations shall not be paid by Landlord. Tenant's own tax obligations include, but are not limited to, sales and use taxes, personal property taxes and possessory interest real property taxes.

ARTICLE 5
USE

5.1. Use. Tenant may use the Leased Premises as office space including any uses incidental thereto. Any change of use by the Tenant shall require the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

5.2. Compliance with Laws. During the Term of this Lease, Tenant shall comply with all applicable laws, rules, regulations and ordinances of all federal, state, county and municipal authorities having jurisdiction over the Leased Premises or the Building.

ARTICLE 6
ALTERATIONS AND SIGNS

6.1. Tenant's Alterations. Alterations, installations, improvements, additions or other physical changes to the Leases Premises shall not be made by the Tenant without the prior written consent of the Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

6.2. Signage. The size, location, color and design of any sign placed by the Tenant on the Leased Premises or Building, shall be subject to the Landlord's prior written approval, not to be unreasonably withheld, conditioned or delayed.

6.3. Liens. Tenant must keep the Leased Premises and this Lease free from any mechanic's, materialman's, or similar liens or encumbrances, and any claims therefore for labor or materials furnished Tenant. If Tenant fails to do so, Landlord may pay the amount or take such other action as Landlord deems necessary to remove such claim, lien or encumbrance, without being responsible for investigating the validity thereof. The amount so paid and costs incurred by the Landlord will be deemed additional rent under this Lease payable upon demand, without limitation as to other remedies available to Landlord.

6.4. Surrender. On the Termination Date of this Lease, Tenant shall quit and surrender the Leased Premises in substantially the same condition as they were on the Commencement Date, reasonable wear and tear excepted. Tenant shall remove all personal property from the Leased Premises, provided that Tenant repairs any damage caused by such removal. Any items of personal property not removed by Tenant on the Termination Date of this Lease may be retained or disposed of by Landlord, at Tenant's expense.

ARTICLE 7
INDEMNIFICATION AND INSURANCE

7.1. Landlord's Indemnity. Landlord shall defend, indemnify and save harmless Tenant and its agents and employees against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring in the Building, if caused by an act or omission by Landlord or its agents or employees, arising out of Landlord's operations or Landlord's use or occupancy of the Building.

7.2. Tenant's Indemnity. Tenant shall defend, indemnify and save harmless Landlord and its agents and employees against all costs (including, without limitation, reasonable attorneys' fees), damages or claims whether for personal injury, bodily injury or property damage, during the Term of this Lease, occurring in the Building, if caused by an act or omission by Tenant or its

agents or employees, arising out of Tenant's operations or Tenant's use or occupancy of the Building.

7.3. Landlord's Insurance.

7.3.1. Liability Insurance. During the Term of this Lease, Landlord must maintain insurance covering Landlord's liability for ownership, maintenance and use of the Building. Such insurance must provide limits of not less than $1 million with respect to injury to any one person, $1 million with respect to any one occurrence and $500,000 with respect to property damage arising out of any one occurrence.

7.3.2 Property Insurance. Landlord must maintain "all-risk" property insurance covering the Building against loss or damage resulting from fire or other insurable loss.

7.4. Tenant's Insurance.

7.4.1. Liability Insurance. During the Term, Tenant must maintain insurance covering Tenant's liability for occupation and use of the Leased Premises and the Building. Such insurance must provide limits of not less than $1 million with respect to injury to any one person, $1 million with respect to any one occurrence and $500,000 with respect to property damage arising out of any one occurrence.

7.4.2. Worker's Compensation Insurance. Tenant shall maintain and keep in force an "all-employees" compensation insurance policy as required under the laws of the State of Colorado.

7.5. Insurance Requirements. All insurance required to be carried by the parties hereunder shall be issued with a company or companies licensed and authorized to conduct business in the State of Colorado with an A.M. Best rating of B+ or higher, the parties further agree to provide each other with copies of certificates of insurance for all policies required.

7.6. Waiver of Subrogation. The parties to this Lease hereby release each other and their respective officers, agents, managers, directors, and employees from any and all claims and demands for loss, damages, expense or injury to any person or the Building or to personal property or improvements which are caused by or result from any risk insured against under insurance policies carried or required to be carried by the parties and in force at the time of any such loss, to the extent such loss is covered by such parties' policies. The parties shall each obtain from their respective insurers waivers of all rights of subrogation, which the insurer of one party might have against the other party and Landlord and Tenant shall each indemnify the other against any loss or expense, including reasonable attorneys' fees, resulting from the failure to obtain such waivers of subrogation.

ARTICLE 8
CASUALTY AND RESTORATION

8.1. Restoration. Upon any damage due to fire or other casualty, if such casualty results in damage to more than 5% of the gross leasable area of the Building, Landlord may, in its sole

discretion, upon thirty (30) days written notice to Tenant after such casualty, terminate this Lease. Landlord may also, in its sole discretion, undertake restoration of the Building and complete such restoration, with due diligence, after such casualty.

8.2. Equitable Adjustment. Upon any damage due to fire or other casualty, whether or not Landlord decides to undertake restoration of the Building, the parties agree that the Tenant's obligation to pay rent shall be equitably abated and apportioned from the date of such casualty until such repairs are completed or until Tenant vacates the Leased Premises.

ARTICLE 9
DEFAULT AND REMEDIES

9.1. Tenant's Default. If Tenant fails to perform or observe any agreement or condition contained in this Lease, and such failure is not corrected within thirty (30) days after Tenant receives notice from Landlord of such failure, then, in addition to all other remedies available at law or in equity, Landlord has the right to terminate this Lease and recover possession of the Leased Premises in the manner prescribed by law.

9.2. Landlord's Default: In the event Landlord defaults in the performance of its obligations hereunder, Tenant shall have the right to (i) terminate this Lease by written notice to City or (ii) treat this Agreement as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Tenant without the showing of any special damages or an inadequate remedy at law.

9.3. Disputes. In the event of an unresolved dispute between Landlord and Tenant regarding the performance by either party of an obligation or condition of this Lease, as a condition precedent to the filing of litigation, authorized representatives of Landlord and Tenant will use good faith and commercially reasonable efforts to resolve such disputes.

ARTICLE 10
RIGHT OF ENTRY

Subject to Tenant's security requirements, including, without limitation, providing no less than 24 hours' notice and Tenant's right to require escorts for any persons entering the Leased Premises, Landlord, or Landlord's officers, employees, agents and representatives, as the case may be, may enter the Leased Premises during normal business hours upon no less than 24 hours' written or verbal notice to Tenant, except notice shall not be required in case of emergency, such as fire.

ARTICLE 11
CONDITION OF PREMISES

11.1 EXCEPT AS SPECIFICALLY SET FORTH IN THIS LEASE, IT IS UNDERSTOOD AND AGREED THAT LANDLORD IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTY OR REPRESENTATION OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE LEASED PREMISES,

INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR REPRESENTATION AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE ZONING, PHYSICAL OR ENVIRONMENTAL CONDITIONS, UTILITIES, GOVERNMENTAL APPROVALS, COMPLIANCES OF THE LEASED PREMISES WITH GOVERNMENTAL LAWS, THE TRUTH, ACCURACY OR COMPLETENESS OF ANY DOCUMENT OR OTHER INFORMATION PROVIDED TO TENANT BY ANY OTHER PERSON, OR ANY OTHER MATTER OR THING REGARDING THE LEASED PREMISES.

11.2 The taking of possession of the Leased Premises, including but not limited to all building component and systems, by Tenant after the Commencement Date shall be conclusive evidence that the Tenant accepts the Leased Premises in its then present condition "As Is, Where Is, With All Faults" and that the Leased Premises are in good and satisfactory condition at the time of the commencement of this Lease.

ARTICLE 12
UTILITIES

Landlord shall pay, before delinquent, any and all charges for sewer, water, gas, electricity, telephone and all other utility services furnished to or used in or supplied to the Leased Premises.

ARTICLE 13
GENERAL PROVISIONS

13.1. Notices. Notices, consents, and demands required or permitted to be given hereunder must be in writing and be effective when received or refused, whether by hand delivery, nationally recognized overnight courier (with evidence of receipt or refusal), or U.S. Mail (return receipt requested), to the parties' respective addresses stated in Article 1 of this Lease, or to such other address as the parties designate by written notice to each other, and each party may identify additional parties to receive copies of same.

13.2. Waiver/Remedies. The failure of Landlord or Tenant to insist upon strict performance by the other of any of the provisions of this Lease or to exercise any option herein conferred will not be deemed as a waiver or relinquishment for the future of any such provision or option. Except as expressly provided otherwise herein, all rights and remedies provided for herein or otherwise existing at law or in equity are cumulative, and the exercise of one or more rights or remedies by either party shall not preclude or waive its right to the exercise of any or all the others.

13.3. Partial Invalidity. If any provision of this Lease or the application thereof to any person or circumstance is, at any time or to any extent, invalid or unenforceable, the remainder of this Lease will not be affected thereby, and each such provision will be valid and will be enforced to the fullest extent permitted by law.

13.4. Attorneys' Fees. In the case of any litigation among the parties under this Agreement, the prevailing party will be entitled to reimbursement for its reasonable costs, including reasonable attorneys' fees, incurred in any such dispute.

13.5. Entire Agreement. This Lease contains the entire and exclusive agreement between the parties relating to the Leased Premises and may not be modified except by written instrument signed by the party to be bound thereby.

13.6. Venue and Waiver of Trial by Jury. In the event of any litigation arising under this Agreement, exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District or County Court and each party submits to the personal and subject matter jurisdiction of such court. Landlord and Tenant hereby waive a trial by jury in any action, proceeding, or counterclaim brought by either against the other, upon any matters whatsoever arising out of or in any way connected with this Lease, Tenant's use or occupancy of the Premises, and/or any claim of injury or damage.

13.7. Relationship of the Parties. Neither Party shall be, or hold itself out as, agent of the other or as joint venturers or partners under this Agreement.

13.8. Drafting of Agreement. Each Party acknowledges that this Agreement was fully negotiated by the Parties and, therefore, no provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

13.9. No Monetary Damages Against Landlord. In consideration of Landlord entering into this Lease, Tenant waives and discharges Landlord, 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.

13.10. Broker. Tenant and Landlord represent and warrant that they shall each pay their respective brokers or real estate agents, if any, in connection with this transaction. Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Tenant by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Landlord. Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Landlord by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Tenant.

13.11. No Third-Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the Parties hereto and their successors and permitted assigns, and no third party shall be a beneficiary, or have any rights by virtue of this Agreement.

13.12. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed for all purposes to be an original, and all such counterparts shall together constitute but one and the same original.

13.13. Survival. Whether or not specifically noted within any section or provision of this Lease, any provision of this Lease which must survive termination of this Lease in order to be effective will so survive such termination.

IN WITNESS WHEREOF, this Lease is executed and delivered as of the date first above written.

LANDLORD
City of Pueblo, Colorado
a Colorado municipal corporation

By: _____
Name: Nicholas A. Gradisar, Mayor

Date: _____

TENANT
Friday Health Plans Management Services Company, Inc.
a Colorado corporation

By: _____
Name: Jennifer Mueller

Title: COO

Date: 6/23/22

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 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 A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEIGHBORWORKS SOUTHERN COLORADO, INC., A COLORADO NONPROFIT CORPORATION FOR THE FORECLOSURE PREVENTION PROGRAM, 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 TWENTY THOUSAND DOLLARS ($20,000) FROM PROJECT NO. CI-2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Subrecipient Agreement with NeighborWorks Southern Colorado, Inc., a Colorado nonprofit corporation ("NeighborWorks") to implement the Foreclosure Prevention Project, 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 project, in the amount of $20,000.00 will be paid out of Project No. CI-2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The attached Ordinance awards ARPA funds for the following local project:

Organization	Project	Amount of Award
NeighborWorks Southern Colorado, Inc.	Foreclosure Prevention Program	$20,000.00

FINANCIAL IMPLICATIONS:

NeighborWorks will receive $20,000.00 in ARPA funds from Project No.CI-2113 for the Foreclosure Prevention Program

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 Foreclosure Prevention Program.

RECOMMENDATION:

Approval of the Ordinance

Attachments:
Proposed Ordinance
Proposed Subrecipient Agreement.

ORDINANCE NO. 10198

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEIGHBORWORKS SOUTHERN COLORADO, INC., A COLORADO NONPROFIT CORPORATION FOR THE FORECLOSURE PREVENTION PROGRAM, 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 TWENTY THOUSAND DOLLARS ($20,000.00) FROM PROJECT NO. CI-2113 - 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 Foreclosure Prevention Program described in the attached Subrecipient Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO that:

SECTION 1.

The Subrecipient Agreement ("Agreement") between and the City of Pueblo, a Colorado municipal corporation and NeighborWorks Southern Colorado, Inc., a Colorado nonprofit corporation, dated June 27, 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 Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the amount of $20,000.00 are hereby authorized to be paid from Project No. CI-2113 – American Rescue Plan Act, for purposes of funding the Foreclosure Prevention Project described in the Agreement.

SECTION 4.

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 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 June 13, 2022.

Final adoption of Ordinance by City Council on June 27, 2022.

_____

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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 27th day of June, 2022, (hereinafter "Effective Date") by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the "City" and NeighborWorks Southern Colorado, Inc., a Colorado nonprofit corporation, hereinafter referred to as the "Subrecipient" or "NeighborWorks." City and Subrecipient are sometimes each referred to as a "Party" and collectively "Parties."

RECITALS

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

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

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

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to $36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

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

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

WHEREAS, under ARPA Section 603 (c)(1)(A) and (3) and the Final Rule 31 CFR 35.6(b)(7) recipients may use 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, Subrecipient has requested that the City use CLRF Funds for the Foreclosure Prevention Program (hereinafter "Project"); and

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

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

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

(a) NeighborWorks Southern Colorado is a 501 (c)(3) nonprofit organization dedicated to the Pueblo community. It is Subrecipient's mission to promote healthy, vibrant neighborhoods and serve as the first choice for homebuyer resources in Southern Colorado. As a part of its mission, Subrecipient offers several programs to Pueblo homeowners. Among them is NeighborWorks' foreclosure prevention program. Subrecipient has prevented the foreclosure of 304 homes over the past 10 years, with more than 100 intakes annually during the height of the housing crisis a decade ago.

(b) Over the past three months Subrecipient has observed an increased need for foreclosure mitigation and education. Currently, NeighborWorks employs two HUD certified housing counselors who handle its homebuyer education courses, individual sessions, financial fitness classes and its foreclosure program. Due to the high level of homebuyer needs in Pueblo, currently only one of Subrecipient's housing counselors is able to dedicate any time to foreclosures. NeighborWorks' Foreclosure Counselor manages these cases and diligently works to keep Pueblo homeowners in their homes. Currently, there are more than 180 foreclosure sales in queue in Pueblo County which are scheduled for sale before August, 2022. As capable as NeighborWorks' Foreclosure Counselor is, this volume is simply beyond Subrecipient's capacity to effectively address this crisis. Pending foreclosures pose the risk to the community of flooding Pueblo's already strained rental market with more renters and will also pose the risk of creating a larger homeless population. The pending foreclosures will change the course of our community's families wealth building (and community contributing) futures for decades to come. It is imperative that the City step in and assist these families in keeping their homes through foreclosure counseling.

(c) Subrecipient plans to hire an additional Foreclosure Counselor to meet the growing needs of the community and is seeking a contribution of $20,000 from ARPA funds to support this position. These funds will restore Subrecipient's capacity to counsel homeowners equal to that during the previous housing crisis and expedite the assistance to homeowners facing foreclosure this summer. NeighborWorks is in a unique position to be able to offer foreclosure mitigation and counseling services because it has been helping families with housing needs in Pueblo for the past 45 years. Subrecipient has the experience and expertise to assist families at risk of losing their homes, but lacks the staffing capacity to manage the current crisis. In order to help the greatest number of families, it is vital that Subrecipient be enabled to hire an additional Foreclosure Counselor who would be able to dedicate 100% of his or her time to foreclosure education and mitigation. With this full-time position filled, Subrecipient would have adequate staffing to continue its work in homebuyer education and still have the capacity to help families who are at risk of losing their homes. It is NeighborWorks' intention to prevent as many families as possible from losing their homes.

(d) The financial difficulties facing Pueblo families who are currently unable to make their monthly mortgage payments, have been greatly exacerbated by the COVID-19 pandemic and its negative economic consequences.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

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

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

3. RESPONSIBILITIES OF THE CITY

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

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

(a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.

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

(c) The aggregate of all payments made hereunder shall not exceed Twenty Thousand Dollars (U.S. $20,000.00). 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) 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 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, INSURANCE

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

(b) Subrecipient agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (c).

(c) The minimum insurance coverage which Subrecipient shall obtain and keep in force is Comprehensive General Liability Insurance with limits not less than Five Hundred Thousand and No/100 Dollars ($500,000) per person and One Million Dollars ($1,000,000) per occurrence for personal injury, including but not limited to death and bodily injury, and Fifty Thousand and No/100 Dollars ($50,000) per occurrence for property damage.

(d) Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

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

15. REVERSION OF ASSETS

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

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

16. PERA LIABILITY

The Subrecipient shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

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

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

19. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, the court shall award to the prevailing Party its costs and reasonable attorney fees. Exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado, and each Party submits to the personal and subject matter jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

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

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

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

24. NO MONETARY DAMAGES AGAINST CITY. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from

any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts and each such counterpart shall be deemed for all purposes to be an original and all such counterparts shall together constitute but one and the same original.

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

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

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

_____
City Clerk

By_____
Nicholas A Gradisar, Mayor

[S E A L]

Subrecipient:
NeighborWorks Southern Colorado, Inc.
A Colorado nonprofit corporation

ATTEST:

By_____
Signature

Name_____

Title_____

By_____
Signature

Name_____

Title_____

EXHIBIT A
SCOPE OF SERVICES

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

A. Performance Monitoring:

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

SUBRECIPIENT'S SCOPE OF SERVICES

A. Principal Tasks

The Subrecipient will be responsible for administering the Project for low-income individuals who are experiencing housing insecurity due to pending foreclosures. The Subrecipient will administer all tasks encompassed in the aforesaid Project in compliance with all applicable federal, state and local rules and regulations governing the Project, in a manner satisfactory to the City.

The components of the Subrecipient's work plan under this Agreement shall be as follows:

1. Subrecipient shall administer the Foreclosure Prevention Project in collaboration with the Pueblo County Department of Social Services and Emergency Financial Assistance Programs to help low-income families, at risk of eviction caused by pending foreclosures, by providing accurate and timely legal information and education, emergency financial assistance applications, and by providing other assistance necessary to maintain a low-income person's or family's housing stability. The Subrecipient will employ a dedicated full-time Foreclosure Counselor who will provide outreach, legal information and education, and assistance to low-income residents in the City of Pueblo at risk of losing their housing due to foreclosures.

2. During the term of this Agreement, Subrecipient shall focus on community outreach informing agencies and the public of the resources available to prevent foreclosures. NeighborWorks shall focus on early intervention assisting low-income individuals and families before a foreclosure is completed and an entry of judgment is made by the court. The Foreclosure Counselor shall be responsible for establishing outreach partnerships with Pueblo County social service agencies and other public and non-profit agencies. The Foreclosure Counselor shall develop outreach materials and referral information for residents in Pueblo who are at risk of losing their housing due to foreclosures. Individuals shall be encouraged to contact the Subrecipient if they are at risk of eviction as a result of a foreclosure or if they have received any legal papers (notices or pleadings) concerning a foreclosure.

3. The Foreclosure Counselor shall work closely with the Pueblo County Department of Social Services to coordinate social service referrals for Subrecipient's clients in need of

additional resources at the time the client receives a notice of foreclosure. Early and integrated community services for the prevention of eviction (due to a foreclosure) and homelessness will be the focus of the Project partnerships. The Foreclosure Counselor shall provide timely information and access to eligible individuals and families for government programs that help cover the cost of necessities and help navigate the application process for financial assistance.

4. Subrecipient is hereby issued funding for one Foreclosure Counselor who will work with other Subrecipient housing staff during the term of this grant.

C. Budget.

The aggregate of all payments made hereunder shall not exceed Twenty Thousand Dollars (U.S. $20,000.00). The grant funds shall be available to be distributed in a lump sum 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. Thereafter, Subrecipient shall provide the City with quarterly reports itemizing how the grant funds were spent and for whose benefit until all grant funds have been exhausted or the end of the Project or the termination of this Agreement, whichever first occurs.

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 municipal, state and federal statutes and regulations, including but not limited to the following:

Municipal and State

(1) The Charter, Municipal Code and the Rules and Regulations of the City of Pueblo, including but not limited to, the legal obligation to obtain all required licenses and permits from the City of Pueblo.

(2) The Constitution, Colorado Revised Statutes and the Rules and Regulations of the State of Colorado, including, but not limited to, the legal obligation to obtain all required licenses and permits from the State of Colorado.

Federal

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et.seq.) as amended; particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)];

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et.seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et.seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et.seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et.seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act (29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this contract document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed (24 CFR Part 87).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal,

amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

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

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

EXHIBIT D

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

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

a) Are you, or do you employ or engage in any capacity, including an independent contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes___, No___.

b) If you answered "yes" to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? Yes ____, No____.
If you answered "yes" please state which of the above entities best describes your business:
_____

c) If you answered "yes" to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Social Security Number	Social Security Number

(If more than two, please attach a supplemental list)

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

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

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an "affiliated party" includes (1) any person who is the named beneficiary or co-beneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse's parents, stepparents, stepchildren, stepsiblings, and spouse's siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree's regular salary or compensation.

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nick Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Benjamin Valdez, Director of Transit

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF OPERATING ARP GRANT APRIL 26, 2022, RELATING TO AWARD NO. CO-2022-013-00 BETWEEN THE CITY OF PUEBLO AND THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, IN THE AMOUNT OF $307,724; BUDGETING AND APPROPRIATING $75,000 INTO PROJECT PT2201, BUDGETING AND APPROPRIATING $102,724 INTO PROJECT PT2202, AND BUDGETING AND APPROPRIATING $130,000 INTO PROJECT PT2203

SUMMARY:

Attached is a Grant Agreement between the City of Pueblo and the Federal Transit Administration for FY2021 Section 5307 Arp Act Grant for $307,724.00 allocation.

PREVIOUS COUNCIL ACTION:

No previous Council actions

BACKGROUND:

This is a FY2021 Section 5307 ARP Act Grant for $307,724.00 allocation. Per the ARP Act, the grant provided is 100% federal share. This grant utilizes ARP Act funding to prevent, prepare for, and respond to COVID-19. The grant scope of work includes the following projects:

$205,000 – Bus; Support Equipment and Facilities; and
$102,724 – Operating Assistance.
$307,724 Total Grant

FINANCIAL IMPLICATIONS:

The anticipated total project cost is $307,724. The Federal share is 100% with no City match requirement.

BOARD/COMMISSION RECOMMENDATION:

Pueblo Transit Board recommends approval.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

The alternative, should this Ordinance not pass, is for the City of Pueblo to not receive their 2021 ARP Act Grant Apportionment.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
2022 ARP Grant Agreement CO-2022-013-00
AngelTrax Quote ATXQ45072-01
Amendment to Collective Bargaining Agreement

ORDINANCE NO. 10199

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF OPERATING ARP GRANT APRIL 26, 2022, RELATING TO AWARD NO. CO-2022-013-00 BETWEEN THE CITY OF PUEBLO AND THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, IN THE AMOUNT OF $307,724; BUDGETING AND APPROPRIATING $75,000 INTO PROJECT PT2201, BUDGETING AND APPROPRIATING $102,724 INTO PROJECT PT2202, AND BUDGETING AND APPROPRIATING $130,000 INTO PROJECT PT2203

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

SECTION 1.

The ARP Grant Agreement FTA Section 5307, dated April 26, 2022, relating to Award No. CO-2022-013-00 between the City of Pueblo and the United States of America, Department of Transportation, Federal Transit Administration, 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 authorized to execute and deliver the Grant 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 3.

Project Numbers PT2202 and PT2203 are hereby established, and with respect to the grant funds received under the Grant Agreement, $75,000 is budgeted and appropriated into Project PT2201, $102,724 is budgeted and appropriated into Project PT2202, and #130,000 is budgeted and appropriated into project PT2203.

SECTION 4.

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

SECTION 5.

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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

DOT FTA

U.S. Department of Transportation **Federal Transit Administration**

Award

Federal Award Identification Number (FAIN)	CO-2022-013-00
Temporary Application Number	1140-2022-1
Award Name	ARP Section 5307 Pueblo Transit - Support Vehicle, Surveillance Equipment and Operating Assistance
Award Status	Active (Executed)
Award Budget Number	0

Period of Performance Start Date	4/26/2022	
Original Period of Performance End Date	9/30/2023	
Current Period of Performance End Date	9/30/2023	Revision #: 0

Part 1: Recipient Information

Name: CITY OF PUEBLO

Recipient ID	Recipient OST Type	Recipient Alias	UEI	DUNS
1140	City	Pueblo, City of		010620284

Location Type	Address	City	State	Zip
Headquarters	1 CITY HALL PL	PUEBLO	CO	810034201
Physical Address	1 CITY HALL PL	PUEBLO	CO	81003
Mailing Address	DEPARTMENT OF FINANCE	PUEBLO	CO	81002

Union Information

Union Name	**ATU LOCAL 662**
Address 1	29213 Gale Rd
Address 2	
City	Pueblo

State	CO
Zipcode	81006
Contact Name	Jerry Ballard
Telephone	(719) 248-0176
Fax	7195532724
E-mail	jballard.atu@gmail.com
Website	

Part 2: Award Information

Title: ARP Section 5307 Pueblo Transit - Support Vehicle, Surveillance Equipment and Operating Assistance

FAIN	Award Status	Award Type	Date Created	Last Updated Date	From TEAM?
CO-2022-013-00	Active (Executed)	Grant	3/9/2022	3/9/2022	No

Award Executive Summary
This application requests FY21 ARP Section 5307 funds apportioned to Pueblo Transit for the amount of $307,724 (partial apportionment), representing 100% federal share of the total eligible amount. The remaining balance of $297,737 will be requested in a future grant application or amendment. This application utilizes ARP funding to prevent, prepare for and respond to coronavirus.

Purpose: Pueblo Transit will utilize ARP funds to purchase replacement equipment and assist with operating expenses.

Activities to be Performed: This application includes one project to provide operating assistance and purchase a replacement support vehicle and replace surveillance cameras. Details are included in the Program of Projects (POP) in the application documents.

Expected Outcomes: The selected projects will support Pueblo Transit as they continue to recover from the impacts of the COVID-19 pandemic.

Intended Beneficiaries: Transit riders in Pueblo.

Subrecipient Activities: N/A

Pueblo Transit agrees that if it receives federal funding from the Federal Emergency Management Agency (FEMA) or through a pass-through entity through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a different federal agency, or insurance proceeds for any portion of a project activity approved for FTA funding under this Grant Agreement, it will provide written notification to FTA, and reimburse FTA for any federal share that duplicates funding provided by FEMA, another federal agency, or an insurance company.

The Recipient certifies that it, and its subrecipients and contractors that are providers of public transportation, have not furloughed any employees since March 27, 2020 (the enactment date of the CARES Act).

This grant uses pre-award authority and will note $205,000 as an unliquidated obligation balance in the initial FFR.

Frequency of Milestone Progress Reports (MPR)
Annual

Frequency of Federal Financial Reports (FFR)
Annual

Does this application include funds for research and/or development activities?
This award does not include research and development activities.

Pre-Award Authority
This award is using Pre-Award Authority.

Does this application include suballocation funds?
Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Will this Grant be using Lapsing Funds?
No, this Grant does not use Lapsing Funds.

Will indirect costs be applied to this application?
This award does not include an indirect cost rate.

Indirect Rate Details: N/A

Requires E.O. 12372 Review
No, this application does not require E.O. 12372 Review.

Delinquent Federal Debt
No, my organization does not have delinquent federal debt.

Award Point of Contact Information

First Name	Last Name	Title	E-mail Address	Phone
Luann	Martinez	City of Pueblo Grant Coordinator	lmartinez@pueblo.us	(719) 553-2706
	emma.belmont@dot.gov	Transportation Program Specialist		
	callion.maddox@dot.gov	Transportation Program Specialist		

Award Budget Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$307,724
Local			$0
Local/In-Kind			$0
State			$0
State/In-Kind			$0
Other Federal			$0
Transportation Development Credit			$0
Adjustment			$0

Total Eligible Cost	$307,724

Award Budget

Project Number	Budget Item		FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
CO-2022-013-01-00	114-00 (114-A2)	BUS: SUPPORT EQUIP AND FACILITIES	$205,000.00	$0.00	$205,000.00	2
CO-2022-013-01-00	11.42.09	Acquire security/ surveillance cameras	$130,000.00	$0.00	$130,000.00	1
CO-2022-013-01-00	11.42.11	Acquire Service Truck	$75,000.00	$0.00	$75,000.00	1
CO-2022-013-01-00	300-00 (300-A1)	OPERATING ASSISTANCE	$102,724.00	$0.00	$102,724.00	1
CO-2022-013-01-00	30.09.08	Operating assistance	$102,724.00	$0.00	$102,724.00	1

Discretionary Allocations

This application does not contain discretionary allocations.

Sources of Federal Financial Assistance

PO Number	Project Number	Scope Name	Scope Number	Scope Suffix	UZA Code	Area Name	Account Class Code	FPC	Description	Amendment Amount	Cumulative Amount
CO-90-X269	CO-2022-013-01-00	OPERATING ASSISTANCE	300-00 (300)	A1	080000	Colorado	2021.32.90.PV.1	04	Urbanized Area Formula Grants (ARPA)	$102,724	$102,724
CO-90-X269	CO-2022-013-01-00	BUS: SUPPORT EQUIP AND FACILITIES	114-00 (114)	A2	080000	Colorado	2021.32.90.PV.1	00	Urbanized Area Formula Grants (ARPA)	$205,000	$205,000

Part 3: Project Information

Project Title: Project 1

Project Number	Temporary Project Number	Date Created	Start Date	End Date
CO-2022-013-01-00	1140-2022-1-P1	3/9/2022	1/1/2022	9/30/2023

Project Description

FFY21 ARPA 5307 funds are used to fund operating assistance for Pueblo Transit, and the purchase of a replacement support vehicle and replacement surveillance cameras, at a total FTA amount of $307,724 using pre-award authority.

The federal share is 100%. Please see POP for the detailed information.

Operating activities qualify as a C-list categorical exclusion, C-4. Equipment purchases qualify as a C-list categorical exclusion, C-7.

Project Benefits
Maintain a state of good repair for Pueblo Transit fleet and camera system.

Additional Information
None provided.

Location Description
Pueblo is a city of 110,841 residents located in south central Colorado. Pueblo is the 8th largest city in the state and is the heart of the Pueblo Metropolitan Statistical Area (MSA) - the 6th largest in the state with a population of 168,424 (2019 US Census Bureau American Community Survey (ACS) 5-year Estimates). Pueblo Transit provides fixed route bus and paratransit services throughout a 55-square-mile service area in Pueblo, Colorado, and in the Salt Creek neighborhood in unincorporated Pueblo County.

Project Location (Urbanized Areas)

UZA Code	Area Name
081760	Pueblo, CO

Congressional District Information

State	District	Representative
Colorado	3	Scott R Tipton

Program Plan Information

STIP/TIP
Date: 1/1/2022
Description: TIP amended to include ARP funds for projects in this grant.

UPWP
Date: N/A
Description: N/A

Long Range Plan
Date: N/A
Description: N/A

Project Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$307,724
Local			$0

Local/In-Kind	$0
State	$0
State/In-Kind	$0
Other Federal	$0
Transportation Development Credit	$0
Adjustment	$0
Total Eligible Cost	**$307,724**

Project Budget

Project Number	Budget Item		FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
CO-2022-013-01-00	114-00 (114-A2)	BUS: SUPPORT EQUIP AND FACILITIES	$205,000.00	$0.00	$205,000.00	2
CO-2022-013-01-00	11.42.09	Acquire security/ surveillance cameras	$130,000.00	$0.00	$130,000.00	1
CO-2022-013-01-00	11.42.11	Acquire Service Truck	$75,000.00	$0.00	$75,000.00	1
CO-2022-013-01-00	300-00 (300-A1)	OPERATING ASSISTANCE	$102,724.00	$0.00	$102,724.00	1
CO-2022-013-01-00	30.09.08	Operating assistance	$102,724.00	$0.00	$102,724.00	1

Project Budget Activity Line Items

Budget Activity Line Item: 11.42.11 - Acquire Service Truck

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
BUS: SUPPORT EQUIP AND FACILITIES (114-00)	11.42.11	ACQUIRE - SUPPORT VEHICLES	ACQUISITION OF BUS SUPPORT EQUIP/FACILITIES	1

Extended Budget Description
Purchase a 2022 Ford 350 service truck, to replace a totaled support vehicle (vehicle was fully locally funding and had no federal interest). The useful life of the new vehicle is 4 years/100,000 mi.

Federal share is 100%.

Will 3rd Party contractors be used to fulfill this activity line item?
Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$75,000
Local			$0
Local/In-Kind			$0
State			$0
State/In-Kind			$0
Other Federal			$0
Transportation Development Credit			$0
Adjustment			$0
Total Eligible Cost			**$75,000**

Milestone Name	Est. Completion Date	Description
Quote	5/1/2022	
Contract	6/1/2022	Anticipated contract date
City Possession Date	6/1/2023	Estimated date of possession.
Equipment Installation	7/31/2023	Anticipated date of transfer from City Fleet to Transit Department
Contract Closure	9/30/2023	

Budget Activity Line Item: 11.42.09 - Acquire security/surveillance cameras

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
BUS: SUPPORT EQUIP AND FACILITIES (114-00)	11.42.09	ACQUIRE - MOBILE SURV/SECURITY EQUIP	ACQUISITION OF BUS SUPPORT EQUIP/FACILITIES	1

Extended Budget Description
Purchasing replacement cameras, six per bus, for 22 busses, which have met their useful life of five years. The cameras replace out of date cameras and require replacement. Sole source procurement is being done to maintain the same vendor for security cameras. A sole source justification is on file.

This purchase qualifies for minimum 1% of apportionment for security purposes. 1% is $6,055.

Federal share is 100%.

Will 3rd Party contractors be used to fulfill this activity line item?
Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$130,000
Local			$0
Local/In-Kind			$0
State			$0
State/In-Kind			$0
Other Federal			$0

Transportation Development Credit	$0
Adjustment	$0
Total Eligible Cost	**$130,000**

Milestone Name	Est. Completion Date	Description
Sole source justification	4/1/2022	
Contract Date	6/1/2022	Anticipated contract date
Delivery Date	8/1/2022	Anticipated date of delivery
Installation Date	8/15/2022	Anticipated date of installation.
Contract Close	12/31/2022	

Budget Activity Line Item: 30.09.08 - Operating assistance

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OPERATING ASSISTANCE (300-00)	30.09.08	EMER RELIEF - OPERATING ASSIST - 100% Fed Share	OPERATING ASSISTANCE	1

Extended Budget Description
Operating funds to assist unionized drivers to recover from COVID-19 pandemic, for January 1, 2022 through December 31, 2022. Through negotiations with the Drivers Union, Pueblo Transit agreed to pay drivers quarterly bonuses related to working throughout the pandemic. Pueblo Transit has a policy on file documenting this. Payments will be made on a quarterly basis.

Federal share is 100%.

Will 3rd Party contractors be used to fulfill this activity line item?
No, 3rd Party Contractors will not be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$102,724
Local			$0
Local/In-Kind			$0
State			$0
State/In-Kind			$0
Other Federal			$0
Transportation Development Credit			$0
Adjustment			$0
Total Eligible Cost			**$102,724**

Milestone Name	Est. Completion Date	Description
Operating Start Date	1/1/2022	Begin Operating Timeframe
Operating End date	7/1/2022	End operating timeframe
Final payment	1/1/2023	Date of fourth payment, after Q4 concludes

Project Environmental Findings

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description
Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 04: Planning and administrative activities which do not involve or lead directly to construction, such as: training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.

Date Description	Date
Class IIc CE Approved	4/8/2022

Scope Name / Code	Line Item Number	Line Item Name	Quantity	FTA Amount	Total Eligible Cost
OPERATING ASSISTANCE (300-00)	30.09.08	Operating assistance	1	$102,724.00	$102,724.00

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description
Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 07: Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.

Date Description	Date
Class IIc CE Approved	4/8/2022

Scope Name / Code	Line Item Number	Line Item Name	Quantity	FTA Amount	Total Eligible Cost
BUS: SUPPORT EQUIP AND FACILITIES (114-00)	11.42.09	Acquire security/ surveillance cameras	1	$130,000.00	$130,000.00

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description
Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 07: Acquisition, installation, rehabilitation, replacement, and maintenance of vehicles or equipment, within or accommodated by existing facilities, that does not result in a change in functional use of the facilities, such as: equipment to be located within existing facilities and with no substantial off-site impacts; and vehicles, including buses, rail cars, trolley cars, ferry boats and people movers that can be accommodated by existing facilities or by new facilities that qualify for a categorical exclusion.

Date Description	Date
Class IIc CE Approved	4/8/2022

Scope Name / Code	Line Item Number	Line Item Name	Quantity	FTA Amount	Total Eligible Cost
BUS: SUPPORT EQUIP AND FACILITIES (114-00)	11.42.11	Acquire Service Truck	1	$75,000.00	$75,000.00

Part 4: Fleet Details

No fleet data exists for this application.

Part 5: FTA Review Comments

Application Review Comments

Comment By	Morgan Hecht
Comment Type	Application Details
Date	4/7/2022
Comment	Requirements to Remember for: FTA-assisted vehicle purchases: Effective November 2014, FTA recipients are required to submit, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract. Remember, only eligible TVMs may bid on FTA-assisted transit vehicle procurements. Recipients must report these vehicle purchases on the form on FTA's website: https://www.surveymonkey.com/r/vehicleawardreportsurvey As your agency undergoes the procurement process for vehicles, please ensure that you are in compliance with these requirements and verifying that any manufacturers bidding on the contract have so complied. Please find linked here a list of transit

vehicle manufacturers (TVMs) that have DBE programs and goals which are FTA-approved:

https://www.transit.dot.gov/TVM

These TVMs are approved to bid on and be awarded FTA-assisted vehicle contracts. This list is regularly updated by FTA and should be used as reference for your upcoming vehicle purchases, but if you do not see a TVM on the list and are under the impression that it had an FTA-approved program, please contact FTA to confirm.

Requirements to Remember for: Remanufacture or Rebuilt Vehicles:

Your agency must comply with all applicable Federal laws and regulations related to this project, including the accessibility specifications for transportation vehicles.

Specifically, your agency must comply with the ADA Standards for rehabilitating vans and cutaway buses. If altering or rebuilding vehicles, the vehicles must be readily accessible. (DOT ADA Regulation 49 C.F.R. 37.75; DOT ADA Regulation 49 C.F.R. 37.83; and DOT ADA Regulation 49 C.F.R. 37.89.)

If a remanufactured or rebuilt vehicle will not be accessible, the grantee must submit information to FTA demonstrating that the structural integrity of the vehicle would be significantly compromised if it is made accessible. Include an appropriate structural engineering analysis. (DOT ADA Regulation 49 C.F.R. 37.75 (c); DOT ADA Regulation 49 C.F.R. 37.83(c) and DOT ADA Regulation 49 C.F.R. 37.89(c).)

The information provided above is intended as technical assistance and applies only to the project as described. Should the project scope change or new information on the project be provided, FTA may require a re-evaluation of the project information and require additional information. This confirmation is not an express or implied promise of project compliance with the ADA or other civil rights requirements.

Application Review Comments

Comment By	**Robyn Kullas**
Comment Type	Environmental Findings
Date	4/8/2022
Project Title	Project 1
Project Number	CO-2022-013-01-00
Comment	Equipment purchase for this project meet the requirements of CE List C type 7 Acquisition, Maintenance of Vehicles/Equipment. No additional documentation is required for NEPA clearance.

Comment By	**Robyn Kullas**
Comment Type	Environmental Findings
Date	4/8/2022
Project Title	Project 1

Project Number	CO-2022-013-01-00
Comment	Equipment purchase for this project meet the requirements of CE List C type 7 Acquisition, Maintenance of Vehicles/Equipment. No additional documentation is required for NEPA clearance.

Comment By	**Robyn Kullas**
Comment Type	Environmental Findings
Date	4/8/2022
Project Title	Project 1
Project Number	CO-2022-013-01-00
Comment	The operating tasks of this project meeting the requirements of CE List C Type 4 for planning and administrative activity. No additional documentation for NEPA clearance is required.

Part 6: Agreement

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT
(FTA G-29, October 1, 2021)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official signs this Grant Agreement, FTA has obligated and awarded federal assistance as provided below. Upon execution of this Grant Agreement by the Recipient named below, the Recipient affirms this FTA Award, enters into this Grant Agreement with FTA, and binds its compliance with the terms of this Grant Agreement.

The following documents are incorporated by reference and made part of this Grant Agreement:
(1) "Federal Transit Administration Master Agreement," FTA MA(29), http://www.transit.dot.gov,
(2) The Certifications and Assurances applicable to the FTA Award that the Recipient has selected and provided to FTA, and
(3) Any Award notification containing special conditions or requirements, if issued.

WHEN THE TERM "FTA AWARD" OR "AWARD" IS USED, EITHER IN THIS GRANT AGREEMENT OR THE APPLICABLE MASTER AGREEMENT, "AWARD" ALSO INCLUDES ALL TERMS AND CONDITIONS SET FORTH IN THIS GRANT AGREEMENT.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE RECIPIENT DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING FTA's AWARD DATE SET FORTH HEREIN.

FTA AWARD

Federal Transit Administration (FTA) hereby awards a Federal Grant as follows:

Recipient Information

Recipient Name: CITY OF PUEBLO

Recipient ID: 1140

UEI:

DUNS: 010620284

Award Information

Federal Award Identification Number: CO-2022-013-00

Award Name: ARP Section 5307 Pueblo Transit - Support Vehicle, Surveillance Equipment and Operating Assistance

Award Start Date: 4/26/2022

Original Award End Date: 9/30/2023

Current Award End Date: 9/30/2023

Award Executive Summary: This application requests FY21 ARP Section 5307 funds apportioned to Pueblo Transit for the amount of $307,724 (partial apportionment), representing 100% federal share of the total eligible amount. The remaining balance of $297,737 will be requested in a future grant application or amendment. This application utilizes ARP funding to prevent, prepare for and respond to coronavirus.

Purpose: Pueblo Transit will utilize ARP funds to purchase replacement equipment and assist with operating expenses.

Activities to be Performed: This application includes one project to provide operating assistance and purchase a replacement support vehicle and replace surveillance cameras. Details are included in the Program of Projects (POP) in the application documents.

Expected Outcomes: The selected projects will support Pueblo Transit as they continue to recover from the impacts of the COVID-19 pandemic.

Intended Beneficiaries: Transit riders in Pueblo.

Subrecipient Activities: N/A

Pueblo Transit agrees that if it receives federal funding from the Federal Emergency Management Agency (FEMA) or through a pass-through entity through the Robert T. Stafford Disaster Relief and Emergency Assistance Act, a different federal agency, or insurance proceeds for any portion of a project activity approved for FTA funding under this Grant Agreement, it will provide written notification to FTA, and reimburse FTA for any federal share that duplicates funding provided by FEMA, another federal agency, or an insurance company.

The Recipient certifies that it, and its subrecipients and contractors that are providers of public transportation, have not furloughed any employees since March 27, 2020 (the enactment date of the CARES Act).

This grant uses pre-award authority and will note $205,000 as an unliquidated obligation balance in the initial FFR.

Research and Development: This award does not include research and development activities.

Indirect Costs: This award does not include an indirect cost rate.

Suballocation Funds: Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Pre-Award Authority: This award is using Pre-Award Authority.

Award Budget

Total Award Budget: $307,724.00

Amount of Federal Assistance Obligated for This FTA Action (in U.S. Dollars): $307,724.00

Amount of Non-Federal Funds Committed to This FTA Action (in U.S. Dollars): $0.00

Total FTA Amount Awarded and Obligated (in U.S. Dollars): $307,724.00

Total Non-Federal Funds Committed to the Overall Award (in U.S. Dollars): $0.00

Award Budget Control Totals

(The Budget includes the individual Project Budgets (Scopes and Activity Line Items) or as attached)

Funding Source	Section of Statute	CFDA Number	Amount
5307 - Urbanized Area Formula Grants (ARPA)	5307-9	20507	$307,724
Local			$0
Local/In-Kind			$0
State			$0
State/In-Kind			$0
Other Federal			$0
Transportation Development Credit			$0
Adjustment			$0
Total Eligible Cost			**$307,724**

(The Transportation Development Credits are not added to the amount of the Total Award Budget.)

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Review Decision: DOL Concurs - Certified
Original Certification Date: 4/25/2022

Special Conditions

There are no special conditions.

FINDINGS AND DETERMINATIONS

By signing this Award on behalf of FTA, I am making all the determinations and findings required by federal law and regulations before this Award may be made.

FTA AWARD OF THE GRANT AGREEMENT

Awarded By:
Cindy Terwilliger
Regional Administrator
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
Contact Info: cindy.terwilliger@dot.gov
Award Date: 4/26/2022

EXECUTION OF THE GRANT AGREEMENT

Upon full execution of this Grant Agreement by the Recipient, the Effective Date will be the date FTA or the Federal Government awarded Federal assistance for this Grant Agreement.

By executing this Grant Agreement, the Recipient intends to enter into a legally binding agreement in which the Recipient:
(1) Affirms this FTA Award,
(2) Adopts and ratifies all of the following information it has submitted to FTA:
    (a) Statements,
    (b) Representations,
    (c) Warranties,
    (d) Covenants, and
    (e) Materials,
(3) Consents to comply with the requirements of this FTA Award, and
(4) Agrees to all terms and conditions set forth in this Grant Agreement.

Executed By:
Benjamin Valdez
Maintenance/Facilities Supervisor
CITY OF PUEBLO
4/26/2022

High-Definition Mobile Video Surveillance Solutions

Wednesday, December 1, 2021

Tom Cummings
Maintenance/Facilities Supervisor
Pueblo Transit
350 Alan Hamel Avenue
Pueblo, CO 81003

Dear Tom Cummings:

Thank you for allowing AngelTrax to customize a proposal to suit your mobile surveillance needs. We pride ourselves on our workmanship and the expertise put forth into our research, development and manufacturing process. At AngelTrax, we believe that surveillance, service and reliability matter.

Please see a summary of proposed AngelTrax equipment attached. Contact me at my cellular number or email below for answers to any questions you may have, or if you need immediate assistance and I am not available, please contact our AngelTrax corporate office at 1.800.673.1788.

Our business depends solely upon our loyal partners. Through you and companies like yours, we earn the satisfaction of producing and supporting some of the finest mobile surveillance equipment on the market today. AngelTrax is committed to ensuring that your experience with our products and our people exceeds your expectations. Once again, thank you for your consideration.

Best Regards,

AngelTrax Mobile Video Surveillance

tina.parker@angeltrax.com
334.692.4600
334.692.4606 (F)

GSA Advantage!®

Search "AngelTrax" on ***www.gsaadvantage.gov*** to see our products available for direct purchase, without the bidding process.

QUOTE #: ATXQ45072-01

ISSUE DATE.: 12/01/2021

EXPIRY DATE.: 02/28/2022

PREPARED FOR:

BILLING DETAILS	SHIPPING DETAILS
Pueblo Transit Tom Cummings 350 Alan Hamel Avenue Pueblo, CO 81003 USA 719-553-2721 tcummings@pueblo.us	Pueblo Transit Tom Cummings 350 Alan Hamel Avenue Pueblo, CO 81003 USA 719-553-2721 tcummings@pueblo.us

PREPARED BY:

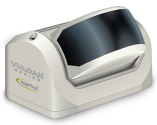
AngelTrax Mobile Video Surveillance

119 South Woodburn Drive
Dothan, AL 36305
Cell: 334.692.4600

Corporate Office: 1.800.673.1788
tina.parker@angeltrax.com

QUOTED PRODUCTS

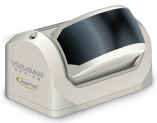
MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
AngelTrax VULCANV8HC Mobile Network Video Recording System (System Contents and Product Descriptions Listed Below)	19	$4,156.68	$78,976.92
 **V8HCMB** Eight (8) A/V Channel Main Board for V8HCNVR	1		
 **V812HOU** Hybrid Component Housing for V8HCNVR and V12HCNVR	1		
 **SD64GB** 64GB SD Solid-State Memory Card We recommend the use of storage media provided only by AngelTrax for our recording devices. AngelTrax hard drives and SD cards are optimized for around-the-clock video surveillance and are designed to withstand extreme temperatures. Standard hard drives and SD cards purchased through consumer resellers are not made for surveillance devices and have been known to stop functioning at any time without warning, causing a loss of video.	1		
HDD2TB-UPGRADE 2TB Platter Hard Drive REQUIRES PURCHASE OF HARD DRIVE TRAY We recommend the use of storage media provided only by AngelTrax for our recording devices. AngelTrax hard drives and SD cards are optimized for around-the-clock video surveillance and are designed to withstand extreme temperatures. Standard hard drives and SD cards purchased through consumer resellers are not made for surveillance devices and have been known to stop functioning at any time without warning, causing a loss of video.	1		

QUOTED PRODUCTS			
MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
 **VULPBH** Vulcan Series Panic Button Housing PC color	1		
 **IPWS4000** Vulcan HC Series IPWS4000 IP Windshield Camera • 4.0mm Lens with Anti-Glare Housing Mounted to Interior Surface of Windshield for Exterior View • Lens Casing Adjustable at Installation for Ideal Angle • Windshield Mounted for Exterior View • 1080P HD • 2 Megapixels • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover	1		
 **PARLX4K** (4) Vulcan HC Series Parallax 4K IP Camera - interior views • 2.8mm, 4MP Lens • 210-Degree Horizontal Field of View • Parallax View (Horizontal Resolution Exceeds Cinema 4K) • Interior Camera • Rated IP65 and IK08 • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant, Steel Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	4		
 **IPI2500** Vulcan HC Series Anvil 2500 IP Camera - driver to door • 2.5mm Lens with Fully Articulated Lens Casing • Interior Camera • 1080P HD • 2 Megapixels • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	1		
 **IPSMB2800** Vulcan HC Series Anvil 2800 IP Backing Camera • 2.8mm Lens • IP67 Rated Waterproof Exterior Camera • 1920 x 1080 Resolution • 2 Megapixels • Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	1		
 **CAT615CBL** (2) CAT6 Shielded Camera Cable, 15 ft • Compatible only with Vulcan Series HCNVRs	2		
 **CAT625CBL** (2) CAT6 Shielded Camera Cable, 25 ft • Compatible only with Vulcan Series HCNVRs	2		

QUOTED PRODUCTS

MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
 **CAT650CBL** (3) CAT6 Shielded Camera Cable, 50 ft • Compatible only with Vulcan Series HCNVRs	3		
MISC1 (2) HC TRIMDANT Adapters	2		
 **TRIMDANT** Tri-Mode Roof-Mounted Antenna • Wi-Fi, Cellular and Passive GPS Antenna • Roof-Mounted	1		
MISC1 Cat 5 Cable for existing cellular modem	1		
HDD2TB 2TB Platter Hard Drive REQUIRES PURCHASE OF HARD DRIVE TRAY We recommend the use of storage media provided only by AngelTrax for our recording devices. AngelTrax hard drives and SD cards are optimized for around-the-clock video surveillance and are designed to withstand extreme temperatures. Standard hard drives and SD cards purchased through consumer resellers are not made for surveillance devices and have been known to stop functioning at any time without warning, causing a loss of video.	2	$239.90	$479.80
 **HCHDDTRAY** Hard Drive Tray for Vulcan Hybrid Component Series HDD TRAY REQUIRED FOR ALL VULCAN HC SERIES SPARE HARD DRIVES REQUIRES PURCHASE OF HARD DRIVE	1	$125.93	$125.93
 **IPWS4000** Vulcan HC Series IPWS4000 IP Windshield Camera • 4.0mm Lens with Anti-Glare Housing Mounted to Interior Surface of Windshield for Exterior View • Lens Casing Adjustable at Installation for Ideal Angle • Windshield Mounted for Exterior View • 1080P HD • 2 Megapixels • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover	1	$223.93	$223.93

QUOTED PRODUCTS

MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
 **PARLX4K** Vulcan HC Series Parallax 4K IP Camera • 2.8mm, 4MP Lens • 210-Degree Horizontal Field of View • Parallax View (Horizontal Resolution Exceeds Cinema 4K) • Interior Camera • Rated IP65 and IK08 • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant, Steel Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	1	$405.93	$405.93
 **IPI2500** Vulcan HC Series Anvil 2500 IP Camera • 2.5mm Lens with Fully Articulated Lens Casing • Interior Camera • 1080P HD • 2 Megapixels • Noise-Gated Microphone • Anti-Vibration, Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	1	$223.93	$223.93
 **IPSMB2800** Vulcan HC Series Anvil 2800 IP Backing Camera • 2.8mm Lens • IP67 Rated Waterproof Exterior Camera • 1920 x 1080 Resolution • 2 Megapixels • Vandal-Resistant Casing • Scratch-Resistant, Anti-Glare Glass Lens Cover • Infrared	1	$244.93	$244.93
 **CP4** Vulcan Series Touchscreen Backing & Firmware Control Monitor with Bracket *Required for programming and diagnostics of Vulcan systems	1	$188.93	$188.93
PRO8CMSLCFEE-1 Pro 8 Central Management System Annual Licensing Fee • Annual License Fee Per Year (1-25 Vehicles) • 1 YEAR CONTRACT	1	$1,000.00	$1,000.00
HOSTEDSERVER-1 Hosted Server - 1-25 Vehicles Remote storage of audio, video and data secured on a hosted server Remote storage protection with the following security features: • 256-bit encryption • ISP line with a minimum of 1GB • Redundancy on all equipment, including firewalls, switches and servers • Triple redundancy on all storage, including on site and off site backups • Server facility secured with two-factor authentication for restricted access by only authorized personnel of storage provider • Data segregation to restrict each client's audio, video and data from being accessed by any other client • Requires PRO8CMS • $84 Annual Fee Per Vehicle • 1 Year Contract	19	$84.00	$1,596.00
 **VULPWRKEY** Security Key USB 3.0 for Vulcan Series HCNVRs and V16-35 MDVR • Includes DC Power Supply for Reader	1	$0.00	$0.00

QUOTED PRODUCTS			
MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
CONTLABOR-Wireless Contract Labor for Configuration of Wireless Components • Configuration of AngelTrax wireless components purchased for use with Vulcan Series MDVR/HCNVR systems • NOTE: Wireless components must be configured by a Certified AngelTrax IT Professional. • Price is per system. • Price is determined by type of wireless service (cellular or Wi-Fi) and software/tracking system purchased. • This quote does not include charges for the removal of any existing camera systems or equipment. • *If quote is for multiple systems, pricing is based upon the configuration of (# of systems) AngelTrax Wireless Components at the same time and location. Cellular • Contact cellular carrier to activate service to Vulcan component(s). • Program unit to connect to PRO8CMS or MotoTrax. • Set up each unit's ID and assigned vehicle number to be recognized in PRO8CMS or MotoTrax. • Program unit to connect with customer's server or AngelTrax server. Wi-Fi • Contact customer's IT department for customer's Wi-Fi login at vehicle parking facility. • Program unit to connect to PRO8CMS or MotoTrax per customer's requirements: scheduled downloads or downloads upon connection to customer's Wi-Fi access point. • Set up each unit's ID and assigned vehicle number to be recognized in PRO8CMS or MotoTrax.	19	$150.00	$2,850.00
CONTLABOR Installation of AngelTrax Camera System, per system. This quote does not include the upcharge for removal of any existing Camera Systems or equipment. *If quote is for multiple cameras/systems, installation price is based upon the installation of the total quantity quoted at the same time and location.	19	$825.00	$15,675.00
SHIPPING/HANDLING Shipping and Handling Charges - 19 boxes 1 bulk box * Optional items are not included in the calculation.*	1	$870.00	$870.00
		TOTAL	**$102,861.30**

You may be eligible for lower pricing!

Ask us about purchasing through a local, state or national contract for competitive pricing without the bid process.

QUOTED PRODUCTS - OPTIONAL ITEMS	NOTE: OPTIONAL ITEMS BELOW ARE NOT INCLUDED IN TOTAL PRICING ABOVE.		
MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
MotoTrax-CD MotoTrax Online Surveillance Management Software • Data Plan Provided by Customer • Annual Charge per Vehicle • 1 Year Contract (Optional)	19	$300.00	$5,700.00

QUOTED PRODUCTS			
MODEL & DESCRIPTION	QTY	UNIT PRICE	TOTAL PRICE
 **MotoTrax-SETUP** MotoTrax Online Surveillance Management Software • One-Time Setup Fee per Vehicle (Optional)	19	$25.00	$475.00
CONTLABOR Uninstall of Existing Camera System, per system. *If quote is for multiple cameras/systems, installation price is based upon the installation of the total quantity quoted at the same time and location. (Optional)	19	$100.00	$1,900.00

Signed and endorsed by:

Printed Name

CORPORATE & FREIGHT POLICIES

The information in this document is to be held confidential by the receiving party. Disclosure of this information is permitted only to persons with the need to know the information for the intended purpose of this document, for the sole and exclusive benefit of the disclosing party. Specifications and prices are subject to change without notice. Please allow three to four weeks for delivery on special order items. Net 30 days from date of invoice to approved accounts. A handling fee is charged for customers who request third party billing freight. Items will be shipped UPS or FedEx, ground delivery, unless otherwise requested. No returns will be accepted after 30 days from invoice date. A 15% restocking fee will be added to all returned items. All items returned will be subject to inspection by IVS, Inc. Items deemed used or "B" goods will be returned to customer freight collect.

This price quote is good for 90 days or for the agreed upon contract date; after which, products and pricing are subject to change.

The customer will be responsible for all applicable taxes.

Warranty Notice: Technical support, warranty parts and services are contingent on your account being current and up to date.

License Notice: All AngelTrax and VizuCop software is used by license agreement only and is not for sale.

TITLE & OWNERSHIP POLICY

"Title/Ownership" of any item described in the quote or invoice does not pass to purchaser until such time as the invoice is paid in full. Seller has no duty to provide back office software support, warranty support or any monitoring for any item described in the unpaid invoice. Seller has the right to immediate possession of all items not paid for. Purchaser agrees to deliver to seller each item described in the invoice upon demand of seller at purchaser's expense. Delivery of the product described in the invoice shall not in any way terminate purchaser's obligation to pay for products ordered by purchaser and delivered to purchaser by seller. By accepting the product described on the invoice, buyer agrees that, should civil litigation arise due to non-payment, buyer expressly consents to jurisdiction in the State of Alabama and venue in Houston County, Alabama.

BID TERMS & CONDITIONS

If this quote is for a bid, the terms and conditions of the bid shall take the place of any applicable terms, conditions and disclaimers included in this quote.

AMENDMENT TO THE COLLECTIVE
BARGAINING AGREEMENT

This amendment to the collective bargaining agreement ("Amendment") is executed this _ day of _____, 2022, by and between Pueblo Transit, a Colorado non-profit corporation ("Transit"), and Amalgamated Transit Union Division No. 662 ("Union") (collectively the "Parties").

WHEREAS, Transit and Union are parties to a collective bargaining agreement commencing January 1, 2020 and ending December 31, 2022 ("Labor Agreement");

WHEREAS, Transit desires to implement a quarterly recognition/incentive pay for calendar year 2022 only relating to the COVID-19 pandemic and subject to the terms and conditions herein provided ("2022 Bonus Plan"); and

WHEREAS, Union is in agreement with such implementation subject to terms and conditions herein provided.

NOW THEREFOR, in consideration of the foregoing and the mutual covenants herein contained, the Parties stipulate, acknowledge and agree as follows:

1. The 2022 Bonus Plan shall provide for and be subject to the following requirements and limitations:

Amount: $800 per active employee, per quarter.

Term: The incentive will be paid at the same time the first regularly scheduled pay period that concludes at the end of the quarter for which the incentive applies. Applicable quarters will include Q2, Q3, and Q4 of 2022. The incentive shall discontinue after the Q4 2022 payment.

Eligibility Conditions (all must be met):

a. Must be assigned to a position within the collective bargaining agreement.
b. Must be a full-time, active employee. Employees on modified work schedules that amount to less than full-time hours and status are ineligible to receive the incentive.
c. Hire date must be no later than the first working day of the quarter in order to be eligible.
d. Must be actively employed through the last date of the quarter **and** on the date on which the incentive would be paid. Please note that this is a benefit for full-time, employed Pueblo Transit employees. Those who may have worked hours during the quarter but separate from employment prior to the end of the quarter and before the incentive pay-out date are **NOT** eligible to receive the incentive.
e. Must accumulate zero unpaid absences during the quarter due to insufficient leave balances to cover the entire duration of the absence(s). This does not include unpaid

absence(s) covered by federally protected leave under the Family and Medical Leave Act (FMLA).

f. Employees receiving discipline in the form of a suspension or demotion during the quarter shall not be eligible for the incentive that quarter.

2. This Amendment and the implementation of the 2022 Bonus Plan shall be subject to and conditioned upon the passage and approval by the City Council of Pueblo, a Colorado municipal corporation, of ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF OPERATING ARP GRANT APRIL 26, 2022, RELATING TO AWARD NO. CO-2022-013-00 BETWEEN THE CITY OF PUEBLO AND THE UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION, IN THE AMOUNT OF $307,724; BUDGETING AND APPROPRIATING $75,000 INTO PROJECT PT2201, BUDGETING AND APPROPRIATING $102,724.00 INTO PROJECT PT2202, AND BUDGETING AND APROPRIATING $130,000.00 INTO PROJECT PT2203 on or before June 30, 2022.

3. It is expressly stipulated, acknowledged and agreed that 2022 Bonus Plan is an isolated and unique wage payment based upon factors relating to the COVID-19 pandemic including available funds and employment incentive and is not intended nor expected to be reoccurring after 2022.

4. This Memorandum of Understanding shall have no precedential value with respect to establishing any past practice between the parties and shall not be construed in any manner as limiting or affecting the management rights of City.

5. The person signing this Amendment on behalf of Union represent and warrant that they have the requisite power and authority to enter into, execute, and deliver this Amendment and that this Amendment is a valid and legally binding obligation of Union enforceable against Union in accordance with its terms.

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

DIVISION NO. 662 AMALGAMATED TRANSIT UNION	PUEBLO TRANSIT
_____	_____
By _____ President	By _____ President

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE APPROVING AND ACCEPTING ADDITIONAL FUNDS FROM THE COLORADO STATE FOREST SERVICE IN THE AMOUNT OF $7,272.52 PURSUANT TO THE TEAMING UP FOR TREES GRANT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT NO. PL1903

SUMMARY:

This Ordinance budgets and appropriates additional funds received from the Colorado State Forest Service pursuant to the "Teaming Up for Trees" grant into Project No. PL1903, which is used for reimbursement costs associated with the removal and replacement of trees within the City of Pueblo parks system.

PREVIOUS COUNCIL ACTION:

On May 13, 2019, City Council approved Ordinance 9455, which approved and accepted the Colorado State Forest Service's "Teaming Up for Trees" project grant in the amount of $27,900.00., established Project No. PL1903, and budgeted and appropriated the funds into said project.

On April 12, 2021, City Council approved Ordinance 9905, which approved and accepted additional funds from the Colorado State Forest Service in the amount of $5,371.07 pursuant to the "Teaming Up for Trees" project grant, and budgeted and appropriated the funds into Project No. PL1903.

BACKGROUND:

In 2017, the Colorado State Forest Service (CSFS) secured approximately $200,000.00 for replacing dead and dying trees with new transplanted stock in Southeastern Colorado. Specifically, this funding was secured by CSFS to help replace trees that were severely damaged as a result of the spring snowstorm in April 2017.

The grant specified that the funding would not be solely for tree removal, but also for planting new trees. The grant funds were divided between three Southern Colorado State Forest Service districts and each district funded projects within their respective TREE CITY USA communities. Pueblo City Parks staff took advantage of this grant fund opportunity and have to date removed and replaced numerous trees within the City's 650 plus acres of maintained parks and streetscapes. This past spring, the City of Pueblo was recognized as a TREE CITY USA community for forty-one (41) consecutive years for its commitment and appreciation of trees in the community.

FINANCIAL IMPLICATIONS:

The additional grant award funds will be utilized to replace trees within the City of Pueblo's park system.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

If this Ordinance is not approved, the City will be required to return the additional funds to the Colorado State Forest Service, and the number of additional trees to be planted throughout the City of Pueblo's park system will be reduced accordingly.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:
CSFS Grant Reimbursement Document

ORDINANCE NO. 10200

AN ORDINANCE APPROVING AND ACCEPTING ADDITIONAL FUNDS FROM THE COLORADO STATE FOREST SERVICE IN THE AMOUNT OF $7,272.52 PURSUANT TO THE TEAMING UP FOR TREES GRANT, AND BUDGETING AND APPROPRIATING SAID FUNDS TO PROJECT NO. PL1903

WHEREAS, on May 13, 2019, the City of Pueblo accepted a Colorado State Forest Service “Teaming Up for Trees” project grant award in the amount of $27,900.00; and

WHEREAS, on April 12, 2021, the City of Pueblo accepted additional funds from the Colorado State Forest Service “Teaming Up for Trees” project grant in the amount of $5,371.07; and

WHEREAS additional grant funds in the amount of $7,272.52 have been made available; NOW, THEREFORE,

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

SECTION 1.

Funds in the amount of $7,272.52 are hereby accepted from the Colorado State Forest Service. Said funds shall be budgeted and appropriated to Project No. PL 1903 – “Teaming Up for Trees” Grant.

SECTION 2.

Grant funds shall be used in accordance with the Project Award Notification approved on May 13, 2019, through Ordinance No. 9455.

SECTION 3.

Matching funds in the amount of $7,272.52 from the operating budget of the City Parks and Recreation Department have been expended for the purposes authorized by the Project Award Notification.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policy 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

CSFS GRANT REIMBURSEMENT REQUEST PACKAGE

Form 1 of 3

In order for the recipient to receive reimbursement, they **must** provide documentation supporting their costs and corresponding match. Reimbursement requests must be **typed** and contain Forms 1-3, receipts for actual costs (out of pocket expenses) incurred by the recipient, and any additional supporting documentation. Other costs and matching funds incurred by the recipient and/or donated by other resources must also be itemized and receipts provided when possible.

1. ***Make Payment To:***

Name: City of Pueblo
Attn: Mike Sexton
Address: 800 Goodnight
City, State, Zip: Pueblo, CO 91004

2. ***CSFS Account Number(s):*** 5314414 CCTT1
3. ***CSFS Account Title(s):*** 17CPG LSR Teaming up for Trees
4. ***Payment Amount Requested:*** $7,272.52 ***Account Number:***
Account Number:
5. ***Project Name:*** Teaming up for Trees - City of Pueblo
6. ***Project Number (if applicable):***
7. ***Total Award Amount:*** $40,543.59 ***Account Number:***
Account Number:
8. ***Reimbursed Amount to Date:*** $33,271.07 ***Account Number:***
Account Number:
9. ***Award Beginning Date:*** September 15, 2017
Award End Date: May 31, 2022

Payment number	***1st***	***2nd***	***3rd***	***4th***	***Final***

10. ***a) Reimbursement Request amount cannot exceed Total Award Amount.***
b) Reimbursement will only be made if match requirement is met.
c) Reimbursement cannot exceed total project costs incurred by recipient.

A. Remaining Award Amount	B. Reimbursement Requested Amount (recipient cost)	C. Match Recipient and non-recipient (reimbursable costs that exceed the award amount and meet the scope of work or non-recipient cost donated and used as match)	D. Total Project Cost	E. Recipient Match Rate (%)
			B+C	C/D
$7,272.52	$7,272.52	$19,919.96	$27,192.48	73.26%

*** Results from Form 3 CSFS Cost Documentation Worksheet will auto populate the table above. Please review in detail and include all documentation supporting the recipient's costs and corresponding match.**

FOR STATE OFFICE USE ONLY

Checked for Federal suspension and debarment (State Office) https://www.sam.gov/portal/public/SAM/

Date: _____ KFS Document Number: _____

Vendor Number: _____ Approved for Payment: _____

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

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

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $680,890.75 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves an Intergovernmental Agreement ("IGA") between Pueblo, A Municipal Corporation ("City") and Pueblo County ("County") relating to the use of 2016 Ballot Question 1A Capital Improvement Program funds for the design of the City of Pueblo Downton Multimodal Safety Improvements (Union Avenue and Main Street Master Plan) and budgets and appropriates funds from Pueblo County totaling $680,890.75 for the Project.

PREVIOUS COUNCIL ACTION:

Ordinance 9564, dated October 15, 2019, approved an IGA between the City of Pueblo and Pueblo County relating to the use of 2016 Ballot Question 1A Capital Improvement Program funds, established the Main Street Pedestrian, Parking and Streetscape Project CI1913 and budgeted and appropriated $100,000 for the design phase of the Project.

Ordinance 9565, dated October 15, 2019, approved an IGA between the City of Pueblo and Pueblo County relating to the use of 2016 Ballot Question 1A Capital Improvement Program funds, established the Union Avenue Pedestrian, Parking, and Streetscape Project CI1912 and budgeted and appropriated $100,000 for the design phase of the Project.

Resolution 14378, dated March 9, 2020, approved an agreement for Professional Design Consulting Services with Bohannan Huston, Inc., (BHI) for $184,995 ($89,230 for Union Avenue paid from CI1912 and $95,765 for Main Street paid from CI1913).

Ordinance 10015, dated September 27, 2021, approved the master plan design for Union Avenue and Main Street.

BACKGROUND:

This Ordinance approves an IGA between the City and the County relating to the use of 2016 Ballot Question 1A Capital Improvement Program Project funds for the design of the City of Pueblo Downtown Multimodal Safety Improvements Project based on the approved Master Plan Design for Union Avenue and Main Street. The funding provided from the County is $680.890.75.

The Master Plan Design for Union Avenue and Main Street (Master Plan) was funded by the 2016 Pueblo County 1A Fund and approved by City Council in September 2021. The Project consultant, Bohannan Huston, was contracted by the City to engage with elected officials, City and County Staff, stakeholders, and the public to create a plan which addresses pedestrian access, parking options, and streetscape improvements. The final plan incorporates all elements into a well-defined recommendation for complete street buildout of Union Avenue and Main Street, with the master plan for the Union Avenue and Main Street complete, sub-projects have been selected for final design.

The funding to the City authorized in the IGA will provide $680,890.75 dollars for the design portion of the Project. The County will provide an additional $2,119,109.25 for construction of improvements. There are no matching funds required from the City, although the City staff will participate as part of the Project planning and design team. In addition, the project was recently awarded a $2 million dollar grant from CDOT for Revitalizing Main Streets.

FINANCIAL IMPLICATIONS:

Funds in the amount of $680,890.75 will be provided by Pueblo County and shall be budgeted and appropriated for the Project CI2120.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the design without the funding from the 2016 Ballot Question 1A Capital Improvement Program Project funds.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
City-County IGA for the Pueblo Downtown Multimodal Safety Improvements Project

ORDINANCE NO. 10201

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY RELATING TO THE USE OF 2016 BALLOT QUESTION 1A CAPITAL IMPROVEMENT PROGRAM, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF $680,890.75 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Intergovernmental Agreement ("IGA") between Pueblo, A Colorado Municipal Corporation, and Pueblo County relating to Pueblo Downtown Multimodal Safety Improvements Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Subject to encumbrances by Pueblo County, funds from the Pueblo Downtown Multimodal Safety Improvements Project in the amount of $680,890.75 are hereby budgeted and appropriated for the Pueblo Downtown Multimodal Safety Improvements Project No. CI2120.

SECTION 3.

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 4.

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 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

INTERGOVERNMENTAL AGREEMENT

(Pueblo Downtown Multi-Modal Safety Improvements Project)

THIS AGREEMENT is entered and is effective this ___ day of June, 2022 ("Effective Date") between Pueblo County, a political subdivision of the State of Colorado, ("County") and the City of Pueblo, a Colorado municipal corporation and a home-rule municipality ("City") (collectively, the "Parties").

WITNESSETH:

WHEREAS, on November 8, 2016 Pueblo County ("County") voters passed Ballot Question 1A, which allows the County to collect, retain and spend all revenue from all sources notwithstanding the limitations of Article X, Section 20 of the Colorado Constitution ("TABOR") or other law and to utilize revenues from expiring Tax Incentive Agreements.("TIA") to fund all or any portion of an initial list of 20 specific community improvement projects, and a list of projects as modified or supplemented from time to time, now formally known as the Capital Improvement Program ("CIP"); and

WHEREAS, Pueblo County caused the issuance of the Certificates of Participation, Series 2019 (the "Certificates"), the proceeds of which together with available TIA revenues are being utilized to support funding of approximately 15 specific community improvement Projects in the CIP, including: **1)** the Union Avenue Pedestrian, Parking and Streetscape Project which consists of a research and planning study to identify specific improvements that support pedestrian activity, parking and enhances streetscaping for the section of Union Avenue which runs parallel to Main St. from Southwest of the Arkansas River and running Northeast to City Center Drive, a design phase, and thereafter the construction of specific improvements identified in the planning study and the design; and **2)** the Main Street Pedestrian, Parking and Streetscape Project which consists of a research and planning study to identify specific improvements that support pedestrian activity, parking and enhance streetscaping for the section of Main Street between D Street and City Center Drive, and possibly extending further north as the project budget allows, a design phase, and thereafter the construction of specific improvements identified in the planning study and the design; and

WHEREAS, this Board entered into an Intergovernmental Agreement dated October 17, 2019, with the City of Pueblo for the Union Avenue Pedestrian, Parking and Streetscape Improvements Project with the total fee estimated for the planning and design phase project is $100,000; the estimated cost of the construction improvements for the Project is $900,000 resulting in a total estimated cost for the entire project of $1,000,000; and

WHEREAS, this Board entered into an Intergovernmental Agreement dated October 17, 2019, with the City of Pueblo for the Main Street Pedestrian, Parking and Streetscape Improvements Project with the total fee estimated for the planning and design phase project is $100,000; the estimated cost of the construction improvements for the Project is $1,900,000 resulting in a total estimated cost for the entire project of $2,000,000; and,

WHEREAS, Pueblo County provided $100,000 from the 1A funds for the Planning and Design Phase Project for both City's Union Avenue and Main Street Pedestrian, Parking and Streetscape Projects; and

WHEREAS, both Intergovernmental Agreements for the Planning and Design Phase expired on December 31, 2021, and the City of Pueblo has combined the Union Avenue Pedestrian, Parking and Streetscape Improvements Project and the Main Street Pedestrian, Parking and Streetscape Improvements Project into one (1) project called the Pueblo Downtown Multi-Modal Safety Improvements Project (also " Project"); and

WHEREAS, the City of Pueblo has requested additional funding in the amount of $680,890.75 to complete the Final Design and Construction Documents for the Pueblo Downtown Multi-Modal Safety Improvements Project; and

WHEREAS, Pueblo County desires to provide $680,890.75 from the 1A funds for preparation of the Final Design and Construction Documents for the Pueblo Downtown Multi-Modal Safety Improvements Project subject to and in accordance with the provisions of this written Agreement.

NOW THEREFORE, in consideration of the promises, conditions and covenants set forth herein the Parties mutually agree as follows:

1. **SPECIFIC PROVISIONS**:

1.1 The County agrees to provide the City a grant award in the amount of $680,890.75 (the "Grant") for the purpose of preparing the Final Design and Construction Documents for the Pueblo Downtown Multi-Modal Safety Improvements Project, as further described in the attached Scope of Work which is attached hereto and incorporated herein as Exhibit A. County shall pay to the City the Grant within 10 days of the execution of this Agreement. The City is under no obligation to repay the money so granted to it by the County, unless the City fails to apply the proceeds of the Grant to the completion of portions of the Pueblo Downtown Multi-Modal Safety Improvements Project described herein as provided in paragraph 2.1 hereof.

1.2 The Parties understand that the County's obligation under this Agreement is only to fund portions of the Pueblo Downtown Multi-Modal Safety Improvements Project described herein and it is the City's obligation to complete the Project. The City shall bear all risk and responsibility related to completing the same.

1.3 The City will act as the sole manager of the Pueblo Downtown Multi-Modal Safety Improvements Project on behalf of the Parties. As such, the City will determine the method and manner in which the Project is completed, in accordance with its internal policies and procedures. The City hereby represents and warrants to County that it will commit the human and other resources necessary to undertake

and perform its obligations under this Agreement. The City further acknowledges and intends that County rely upon this representation and warranty.

1.3 The City shall provide written quarterly updates to the County regarding the progress of the Pueblo Downtown Multi-Modal Safety Improvements Project. The reports shall include, but not be limited to, agreements between the City and vendors to perform services related to the Project, invoices for services, amounts paid by the City for services rendered related to the Project, narrative regarding the progress of the Project. The City will publicly promote the Project and periodically inform the public about the Project. County, at its expense, shall be allowed to post a sign(s) at the project site indicating that the improvements are funded by County Ballot Question 1A Funds.

1.4. Title to all work product related to the Project shall vest in the City.

2. CONDITIONS:

2.1 As a condition of receiving the Grant from the County, the City agrees that Grant proceeds it receives will be spent in accordance with the purposes set forth in this Agreement. In the event that the City breaches this Agreement, the County reserves the right to pursue all remedies which are or may be available to the County for the City's breach of any covenant, term, or condition of this Agreement. All rights and remedies under this Agreement shall be cumulative and shall be in addition to those rights which the Parties may have under applicable law, statute, regulation or otherwise.

3. <u>TERM AND TERMINATION:</u>

3.1 The term of this Agreement shall begin on the Effective Date and, unless sooner terminated as provided herein, it will terminate on April 30, 2023.

4. <u>CITY CONTRIBUTIONS:</u>

4.1 City agrees that the funds committed by County pursuant to this Agreement are intended by County to be in addition to, and not in substitution or replacement of, any monies previously committed by the City or any other entity to the Project.

5. <u>OTHER:</u>

5.1 The City shall bear all risk and responsibility related to compliance with Article X, Section 20 of the Colorado Constitution ("TABOR") or other law which is applicable to the transactions described in this Agreement.

5.2 This Agreement constitutes the entire Agreement between the Parties and supersedes all prior and contemporaneous agreements, representations and understandings between them. This Agreement shall be construed and enforced according to the laws of the State of Colorado. No alterations, amendments,

changes or modifications to this Agreement shall be valid unless they are contained in writing and executed by all Parties.

5.3 This Agreement shall be binding and inure to the benefit of the Parties to it and their respective legal representatives, successors and assigns. Any delegation or assignment of this Agreement by either Party without the prior written consent of the other Party shall be void. The subject headings of the paragraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of its provisions.

5.4 Except as set forth elsewhere in this paragraph, all notices to be given in this Agreement shall be made in writing and shall be sufficient if delivered personally due to the need for timely transmission of information or by Certified Mail to the other party at the following addresses:

Pueblo County Department of Budget and Finance
Pueblo County Courthouse
215 West 10th Street
Pueblo, CO 81003

With a copy to:
Pueblo County Attorney's Office
Pueblo County Courthouse
215 West 10th Street, Room 312
Pueblo, CO 81003

And

Mayor's Office
#1 City Hall Place, 2nd Floor
Pueblo, CO 81003

With a copy to:
Director of Planning and Development
211 East D Street
Pueblo, CO 81003
With an additional copy to:
City Attorney's Office
#1 City Hall Place, 3rd Floor
Pueblo, CO 81003

5.5 GOOD FAITH: The Parties shall implement this Agreement in good faith including acting in good faith in all matters that require joint or coordinated action.

5.6 STATUS OF PARTIES: The Parties will perform their duties under this Agreement independent from each other. Neither Party, nor any employee, officer or agent thereof, will be considered to be an agent or employee of the other Party for any purpose whatsoever.

5.7 NO THIRD-PARTY BENEFICIARY**:** Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity.

5.8 LEGAL AUTHORITY: The Parties assure that they possess the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. The person or persons signing and executing this Agreement do hereby warrant that he/she or they have been fully authorized to execute this Agreement and to validly and legally bind their principals to all the terms, performances and provisions herein set forth.

5.9 SURVIVAL OF CERTAIN CONTRACT TERMS: Notwithstanding anything to the contrary, the Parties understand and agree that all terms and conditions of this Agreement which may require continued performance or compliance beyond the termination date of this Agreement and shall survive such termination date and shall be enforceable by the Parties.

5.10 LIABILITY AND INSURANCE: As between the City and County, City (as the owner of the Project work product) agrees to assume the risk of 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 use of the project elements funded by County 1A dollars or by the conditions created thereby; provided, however, that nothing in this paragraph is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* City shall provide and maintain Workers' Compensation insurance coverage or self-insurance on its employees complying with the requirements of State law.

[This space is intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement the day and year first written above.

ATTEST:

By:

_____
Clerk to the Board

COUNTY OF PUEBLO

_____
Chair, Board of County Commissioners

Date: _____

ATTEST:

By: _____
City Clerk-
Brenda Armijo

[S E A L]

CITY OF PUEBLO

By: _____
Mayor
Nicholas A. Gradisar

Date: _____

APPROVED AS TO FORM:

By: _____
County Attorney
Cynthia Mitchell

APPROVED AS TO FORM:

By: _____
City Attorney-
Daniel C. Kogovsek

EXHIBIT A – SCOPE OF WORK

Bohannan Huston

Meridian One
9785 Maroon Circle
Suite 140
Englewood, CO
80112-5928

www.bhinc.com

voice: 303.799.5103
facsimile: 303.799.5104
toll free: 877.799.5103

January 7, 2022

Kelly Grisham
City of Pueblo Public Works
Senior Planner
211 East D Street
Pueblo CO 81003

Re: Final Design and Construction Documents for Union Avenue and Main Street (Pueblo Downtown Multi-Modal Safety Improvements) - Scope of Work

Dear Ms. Grisham,

Per your request, Bohannan Huston, Inc. (BHI) has prepared the following scope and fee for the referenced project. The project includes Final Design and Construction Documents based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts. Design will include streetscape improvements including entire master plan project lists as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application. This scope of work will consist of survey and mapping, final design plans and construction documents, and bidding and construction management support. The attached Scope of Work defines the work, deliverables, schedule, and fees for each of the tasks described in detail below.

We look forward to working with you on this project and ask that if you have any questions on scope, level of effort, or schedule to please call us to discuss. We want to ensure that your expectations are met in the most efficient and effective way possible.

Thank you again for the opportunity to submit these materials. Should you have any questions, please do not hesitate to contact us.

Sincerely,

Jared M Lee, P.E., LEED AP
Senior Vice President

cc: Denise Aten, BHI

ACCEPTED

BY_____
(Signature)

_____
(Printed Name)

TITLE_____

DATE_____

Bohannan Huston

City of Pueblo

Final Design and Construction Documents for Union Avenue and Main Street

(Pueblo Downtown Multi-Modal Safety Improvements)

SCOPE OF WORK
BOHANNAN HUSTON, INC.

January 7, 2022

A. PROJECT DESCRIPTION

Purpose: The BHI Team will complete Final Design and Construction Documents based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts, including entire master plan project lists, including sub projects, as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application, approximately $7.66 million construction budget.

Project Location: S Union Ave, from City Center Drive to Abriendo Ave, and S Main Street, from City Center Drive to Arkansas River, in Pueblo, CO. Also, C Street and D Street between Union and Main.

B. SCOPE OF SERVICES

This Scope of Services defines the work, deliverables, and schedule for each of the tasks described in detail below.

BHI will request written authorization prior to proceeding to each Phase defined below

Project Control

Approach:

BHI will provide continued Project Administration and Management for each Phase below through the remainder of the project, including:

1. Project Administration
    a. Initial client kick-off meeting
        i. Prepare Project Management Plan
        ii. Finalize project scope
        iii. Finalize project schedule
            1. Identify milestone and critical path elements

   b. Subconsultant management
   c. Monthly progress reports
   d. Monthly invoicing
2. Monthly Project Meetings (virtual)
   a. Prepare agendas
   b. Progress report and schedule update
   c. Prepare meeting notes
3. Project Website Management
   a. Provide project updates during design and construction.

Assumptions:

1. Assumes a 12-month project design schedule and 12 monthly meetings. Progress meetings may be combined with review meetings.
2. Project progress/team meetings are assumed to be on Zoom or Conference Calls. Review meeting will be conducted in person.

Deliverables:

1. Project Management Plan
   a. Detailed project schedule
   b. Project Contact list
2. Monthly project meeting notes
3. Project website updates

Final Design Phase

Task 1: Data Acquisition and Survey

Approach:

BHI will provide field work in order to support design, including:

1. Design Survey and Mapping
   a. BHI will provide design surveying including:
      i. Prepare Survey Control, including a project benchmark

ii. Provide a Control Diagram and report.

iii. Perform Right-of-Way (ROW) Research and Mapping based upon record document research and review, field investigations to obtain boundary evidence, and collective evaluation of evidence to arrive at a defendable right-of-way determination.

iv. Topographic Design Surveying include features of interest such as pavement markings, edge of pavement, curb & gutter, curb cuts, sidewalks, signage, pedestrian access points, arterial streets, retaining walls, existing trees, and marked and visible evidence of utilities, within the roadway corridor per the attached project boundary map. Aerial mapping and/or field survey may be utilized to obtain the above data.

v. MIG will perform field investigation of irrigation system to determine existing irrigation points of connection, mainline, and equipment.

vi. The City will coordinate with design consultant on tree locations for removal if required.

2. Utility Location: BHI subconsultant UCS will provide field locating of existing utilities and preparation of a certified utility map, in accordance with Senate Bill (SB) 18-167

a. Notify CO 811 of engineering required project and perform records research of existing subsurface within the project limits by contacting each utility owner and obtaining their available facility records (QL'D' designating)

b. Perform QL'C' survey of existing gravity fed systems includes utility type, ownership, size and material composition based on available record information.

c. Perform geophysical investigation (QL'B' designating) of existing traceable (metallic or nonmetallic buried with trace wire) subsurface utilities

d. Perform survey of utility markings placed by our designators

e. Complete utility mapping with depictions as outlined in the ASCE 38 standard.

f. Survey in utility marks and structure appurtenances

i. This portion of the project will be completed by BHI Survey as part of Design Survey and Mapping to ensure that the final utility drawing is completed in conformance with Senate Bill 167 requirements.

g. QA/QC of investigative findings based on existing records, maps and as-built information.

h. Determine locations for test holes (QL'A') based on proposed design and client coordination.

i. Provide vacuum excavation test holes for the project, on existing subsurface utilities

j. Provide mapping of the completed utility investigation findings

Assumptions:

1. Existing ROW documents exist, and adjacent individual deeds are not required to define the existing ROW. ROW monuments/property corners along the corridor of interest are existent. No title work will be required or provided.
2. Survey will be performed within public ROW. This scope of work does not include any right-of-entry requests or coordination of right-of-way corner monumentation. These services can be provided separately if determined to be necessary.
3. Traffic Control during field investigation is included.
4. Utility Test Holes will be completed as an additional service based on the number of holes determined during Final Design Phase.
5. The City will provide Geotechnical Investigation and Pavement Design as necessary for roadway rehabilitation and replacement.
6. Environmental field work and research will be completed by the City or CDOT.

Deliverables:

1. Survey control diagram and report
2. Right-of-way/Ownership map
3. ACAD Civil 3D topographic survey drawing, with an .xml surface in BHI engineering standards, 1"= 30' scale
4. ASCE 38 certified utility mapping sealed by a Colorado Registered Professional attesting to the utility depictions based on the ASCE 38 standard and electronic 2D CAD format.

Task 2: Final Design

Approach:

BHI, along with MIG landscape architects, will prepare final design of the streetscape improvements along S Union Ave and S Main Street based on recommendations from the Master Plan Design for Union Avenue and Main Street planning efforts, including entire master plan project lists as presented and approved by City and County and in compliance with recent Revitalizing Main Streets (RMS) grant funding application.

1. Preliminary design package (30%) for the City and CDOT review.
2. Coordinate and facilitate the FIR meeting with City and CDOT. (Including minutes and revisions to plans)
3. Conduct public information meeting to present final design.
4. Project Website management and updates

Assumptions:

1. Final design will be based on conceptual design as reviewed and approved by the City and County as part of Preliminary Planning phase – see supporting documents attached for additional details.
2. Design will extend up to and include existing sidewalk. Modification to existing buildings, entryways, private property, or utility services are not included. Modification to bridge structures is not included.
3. BHI Subconsultant MIG will provide pedestrian streetscape design drawings, specifications, and quantities to a 30% level of completion, which will address: materials, color and finish information for pedestrian paving areas, as well as the dimensional location of site furnishings (e.g. seating, tree grates, planters, bike racks, trash receptacles, and wayfinding). MIG will also provide planting design drawings, specifications, and quantities.
4. Streetscape Design shall be based on Pueblo's City Center Streetscape Standards.
5. The project has received funding of $2 million for construction and therefore, coordination and approval by CDOT will be necessary. Design funding is being provided by the City.
6. Design and Construction of Gateway Features will be completed by the City. BHI will coordinate and indicate location placeholders for these features on plans.
7. City will provide public meeting advertisement and venue.
8. Individual Stakeholder/Property Owner meetings or coordination of design improvements has been excluded but can be included for an additional fee.

Deliverables:

1. Design Drawings (drawings shall be developed in CDOT format)
2. Draft specifications
3. Engineers Opinion of Probable Cost

Construction Documents and Bidding Phase

Task 1: Construction Documents

Approach:

BHI, and our team, will prepare construction documents for submittal and review with the City for purpose of construction bidding including:

1. Construction Drawings including, (Includes 90% / FOR & 100% / For Construction Plans)
    a. Title Sheet, Project Data, Plans Index

b. General Notes
c. Typical Sections
d. Project Control and Survey Sheet
e. Removal Plan
f. Grading Plans
g. Intersection and Curb Ramp Detail Sheets (1"=20')
h. Grading, Erosion and Sediment Control Plans and Details
i. Signage and Striping Plan
j. Landscape and Irrigation Plan and Construction Details
k. Lighting Plan
l. Signal Plans
m. Miscellaneous Construction Details
n. Standard Plans List

2. Technical Specifications
3. CDOT standard project provisions and project special provisions
4. Engineer's Estimate of Construction Cost
5. Attendance at FOR/Final Review (90%) meeting – in person
6. Provide all documents for City to coordinate with CDOT specialty units. Assist City in preparation of Utility, Right-of-Way and Environmental Clearance Letters.
7. Conduct public information meeting to provide update on final design and construction schedule.

Assumptions:

1. Standard Drawings and Specifications will be referenced where applicable, including City of Pueblo and CDOT Standard Drawings and Specifications and Black Hills Energy Standards for lighting.
2. BHI Subconsultant MIG will provide pedestrian streetscape design drawings, specifications, and quantities to a 90% and 100% level of completion, which will address elements listed in Task 2: Final Design.
3. Irrigation design shall be per City of Pueblo standards and requirements. CSI Standard Specifications may be utilized for landscape and irrigation. Owner to provide sleeving locations for lighting and irrigation equipment and point of connection for irrigation.
4. BHI and MIG will coordinate layout of street and pedestrian lighting. Electrical Engineering and photometrics are excluded.

5. Tree Removal and Replacement will be included in landscape plans based on recommendation by the City. Mitigation Plans or documentation are not included.
6. Traffic impact study or additional analysis of intersections or adjacent roadways is not included. New traffic signals are not anticipated or included; modification based on Master Plan recommendations only.
7. BHI will review/perform drainage analysis to comply with the current City of Pueblo Storm Drainage Design Criteria and Drainage Policies. Drainage improvements within the project area will be included. It is assumed that the overall run-off quantity and drainage patterns will remain relatively unchanged. Regional drainage management or offsite improvements are not included.
8. All improvements will be within City property and easements or ROW. Acquisition is not necessary.
9. Environmental documentation will be provided by CDOT or City for use in preparing permit and clearance letter.
10. Field locating of existing trolley tracks is not included. Location will be based on as-built plan drawings and mitigation standard specification, bid item and quantity will be included in contract documents if removal is needed.

Deliverables:

1. Final (90%) Construction Drawings for FOR review
2. Technical Specifications in Word (.doc) and Adobe PDF format
3. Engineer's Estimate of Construction Cost in Excel (.xcl) and Adobe PDF format.
4. Stamped final (100%) Construction Documents in AutoCAD 2016 or newer, Word (.doc), and Adobe PDF format.

Task 2: Bidding Assistance

Approach:

BHI will assist City staff on an on-call basis to provide specification and drawing clarifications. City Purchasing Department staff will complete advertisement, on-line distribution and bid receiving. BHI will provide the following services:

1. Attend and participate in pre-bid meeting.
2. Provide clarification of the contract document's intent during the bidding process and determine the need for issuance of addenda.
3. Prepare addenda when required.

Assumptions:

1. City to handle overall bidding and procurement process
2. City shall be responsible for placing bid advertisement.

3. City to maintain bidder's log and addenda distribution log.
4. City to schedule and conduct Pre-Bid and Bid Opening.

Deliverables:

1. Original documents for advertisement and distribution

Construction Phase

Task 1: Post Construction Award Services (PCAS):

Approach:

BHI will assist City staff on an on-call basis to provide construction administration services from contract award to close out and support of final payment to the contractor. BHI will perform services throughout this period as follows:

1. Provide "As-awarded" construction documents, reflecting any bid addendum
2. Attend a pre-construction meeting and identify critical observation points and coordination items necessary prior to and during construction.
3. Review shop drawings, material submittals and other submittals of the contractor
4. Respond to Request for Information (RFI) and render interpretations of Documents as necessary for Contractor and Inspection staff.
5. Prepare record drawings.

Assumptions:

1. Overall construction administration and inspection to be provided by City staff. BHI will support on an on-call basis.
2. Record drawings will be prepared based on actual as-builts provided by the construction contractor.

Deliverables:

1. As-awarded construction documents
2. Project related documentation as needed
3. Record drawings in AutoCAD 2016 or newer and Adobe PDF format.

Bohannan Huston

Fee:

The table below contains the estimated fees to provide these services:

The lump sum fees are the following:

Final Design:	
Task 1: Data Acquisition and Survey	$139,408.75
Task 2: Final Design	$204,544.00
Construction Documents and Bidding:	
Task 1: Construction Documents	$271,938.00
Task 2: Bidding Assistance (T&M)	$ 15,000.00
Construction:	
Task 1: Post Construction Award Services (PCAS): (T&M)	$ 50,000.00
Total	**$680,890.75**

**Time and Materials (T&M) phases will be billed at hourly rates per attached fee schedule

Schedule:

Project schedule is included in the following pages

EXCLUSIONS

1. Title Work, vesting documents, Right-of-way appraisal, negotiations and acquisition.
2. Geotechnical engineering or pavement design – to be provided City.
3. Environmental investigation or documentation are not included in this scope of work – to be completed by the City or CDOT or provided as an additional service if determined to be needed.
4. Construction Phasing, Jointing and Traffic Control Plans.
5. Structural Design - City/Black Hills standard details will be used for lighting foundation design, etc.
6. Photometrics or Electrical Engineering. City of Pueblo and Black Hills Energy Standard Fixtures, Details, and Engineering will be referenced.
7. Illustrative Drawings/additional renderings beyond those provide in the master plan are excluded but can be included for an additional fee.
8. Design of wayfinding elements, bus shelters, and graphic design.
9. Coordination of unknown field conditions to be encountered during construction in a Downtown setting (e.g. basements, historical findings, and unknown utility findings during excavation) will be included in PCAS services. Additional design that be required

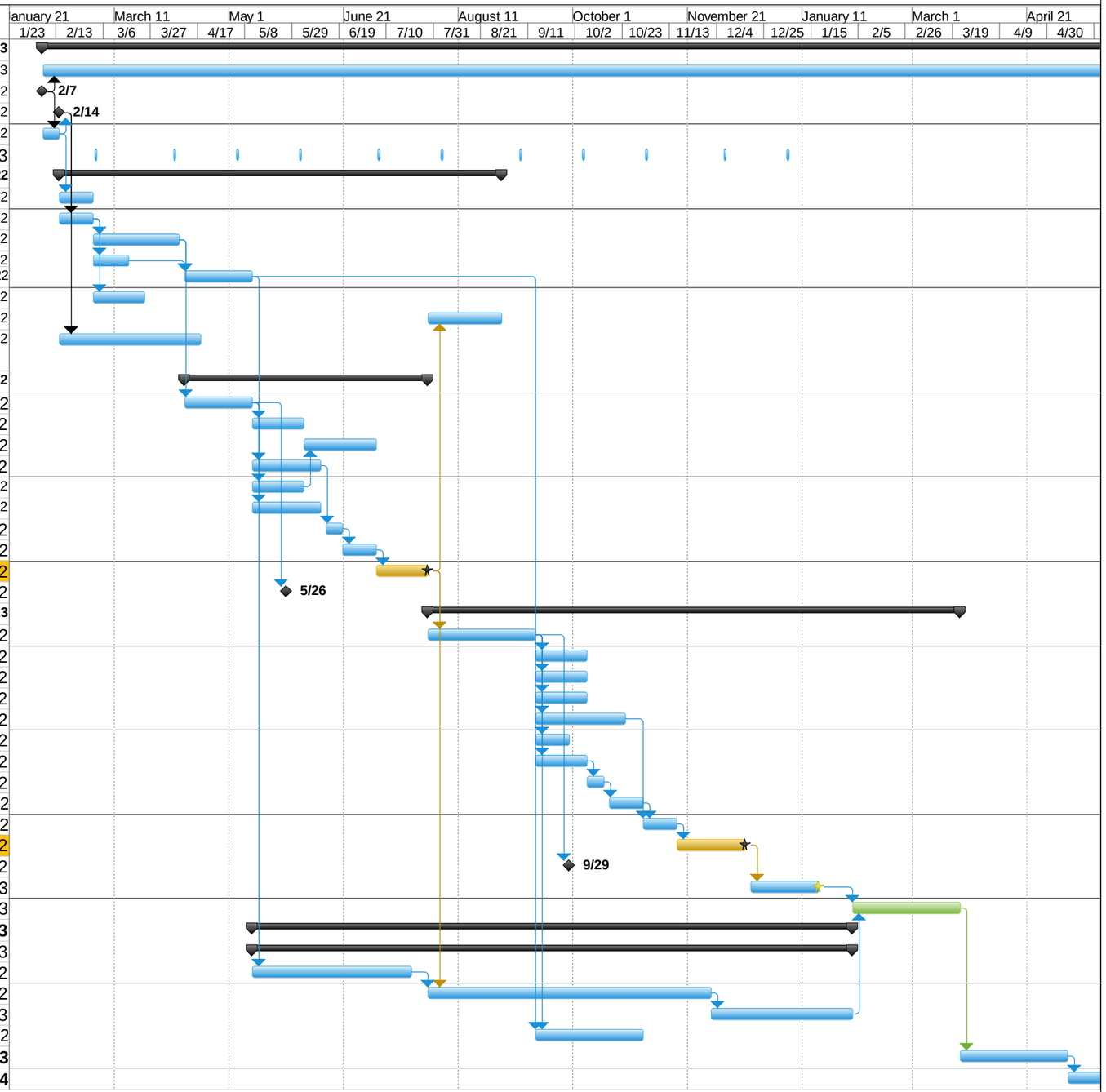
will be scoped with the City first or billed at hourly rates as an Additional Service.

10. Utility design – conflict identification only.
11. Easement preparation or acquisition.
12. Permitting or associated fees.
13. Providing any services requiring the preparation of multiple construction plan sets for multiple phases of development is not included.
14. Full time construction management or observation.
15. Performing construction staking, or materials testing is not included.

Final Design and Construction Documents for Union Avenue and Main Street

Bohannan Huston

ID	Task Name	Duration	Start	Finish
1	**Project Control**	**305.78 days**	**Mon 2/7/22**	**Thu 6/1/23**
2	Project Management	305.78 days	Mon 2/7/22	Thu 6/1/23
3	Notice to proceed	0 days	Mon 2/7/22	Mon 2/7/22
4	Kickoff and Site Review Meeting	0 days	Mon 2/14/22	Mon 2/14/22
5	Project Management Plan/Schedule	5 days	Mon 2/7/22	Mon 2/14/22
6	Monthly Project Meetings	.96.56 days	Wed 3/2/22	Thu 1/5/23
18	**Data Acquisition and Survey**	**125 days**	**Mon 2/14/22**	**Tue 8/30/22**
19	Engineering Research	10 days	Mon 2/14/22	Tue 3/1/22
20	ROW Research and Survey Control (BHI Survey)	10 days	Mon 2/14/22	Tue 3/1/22
21	Design Survey and Mapping (BHI Survey)	25 days	Tue 3/1/22	Fri 4/8/22
22	ROW Survey	10 days	Tue 3/1/22	Thu 3/17/22
23	Ownership Map	20 days	Mon 4/11/22	Wed 5/11/22
24	Utility Location Survey (UCS)	15 days	Tue 3/1/22	Thu 3/24/22
25	Utility Potholes (if needed)	20 days	Thu 7/28/22	Tue 8/30/22
26	Geotechnical Investigation/Pavement Design (City)	40 days	Mon 2/14/22	Mon 4/18/22
27	**Final Design (FIR)**	**70 days**	**Mon 4/11/22**	**Thu 7/28/22**
28	Layout	20 days	Mon 4/11/22	Wed 5/11/22
29	Preliminary Drainage Analysis/Plan	15 days	Wed 5/11/22	Fri 6/3/22
30	Preliminary Utility Coordination	20 days	Fri 6/3/22	Tue 7/5/22
31	Preliminary Signage and Striping Plan	20 days	Wed 5/11/22	Fri 6/10/22
32	Preliminary Lighting Plan	15 days	Wed 5/11/22	Fri 6/3/22
33	Preliminary Landscape/Irrigation Plan (MIG)	20 days	Wed 5/11/22	Fri 6/10/22
34	Preliminary Cost Estimate	5 days	Mon 6/13/22	Mon 6/20/22
35	Quality Control Review and Address Comments	10 days	Mon 6/20/22	Tue 7/5/22
36	FIR Submittal/Review Meeting	15 days	Tue 7/5/22	Thu 7/28/22
37	Public Meeting #1	0 days	Thu 5/26/22	Thu 5/26/22
38	**Construction Documents (FOR)**	**150 days**	**Thu 7/28/22**	**Wed 3/22/23**
39	Final Roadway Design	30 days	Thu 7/28/22	Wed 9/14/22
40	Final Utility Coordination	15 days	Wed 9/14/22	Fri 10/7/22
41	Final Drainage Report	15 days	Wed 9/14/22	Fri 10/7/22
42	Final Lighting Plan	15 days	Wed 9/14/22	Fri 10/7/22
43	Final Landscape and Irrigation Plan (MIG)	25 days	Wed 9/14/22	Mon 10/24/22
44	Traffic Control Plans	10 days	Wed 9/14/22	Thu 9/29/22
45	Final Signage and Striping Plan	15 days	Wed 9/14/22	Fri 10/7/22
46	Final Cost Estimate	5 days	Fri 10/7/22	Fri 10/14/22
47	Technical Specifications	10 days	Mon 10/17/22	Tue 11/1/22
48	Quality Control Review and Address Comments	10 days	Tue 11/1/22	Wed 11/16/22
49	FOR Submittal/Review Meeting	20 days	Wed 11/16/22	Fri 12/16/22
50	Public Meeting #2	0 days	Thu 9/29/22	Thu 9/29/22
51	PS&E/Final Plans/Bid Documents	20 days	Mon 12/19/22	Wed 1/18/23
52	Authorization to Bid	30 days	Thu 2/2/23	Wed 3/22/23
53	**Permitting**	**170 days**	**Wed 5/11/22**	**Thu 2/2/23**
54	Environmental	170 days	Wed 5/11/22	Thu 2/2/23
55	Field	45 days	Wed 5/11/22	Thu 7/21/22
56	Clearance	80 days	Thu 7/28/22	Thu 12/1/22
57	Permitting	40 days	Thu 12/1/22	Thu 2/2/23
58	ROW/Review	30 days	Wed 9/14/22	Tue 11/1/22
59	**Bidding**	**30 days**	**Wed 3/22/23**	**Tue 5/9/23**
60	**Construction**	**200 days**	**Tue 5/9/23**	**Tue 3/19/24**

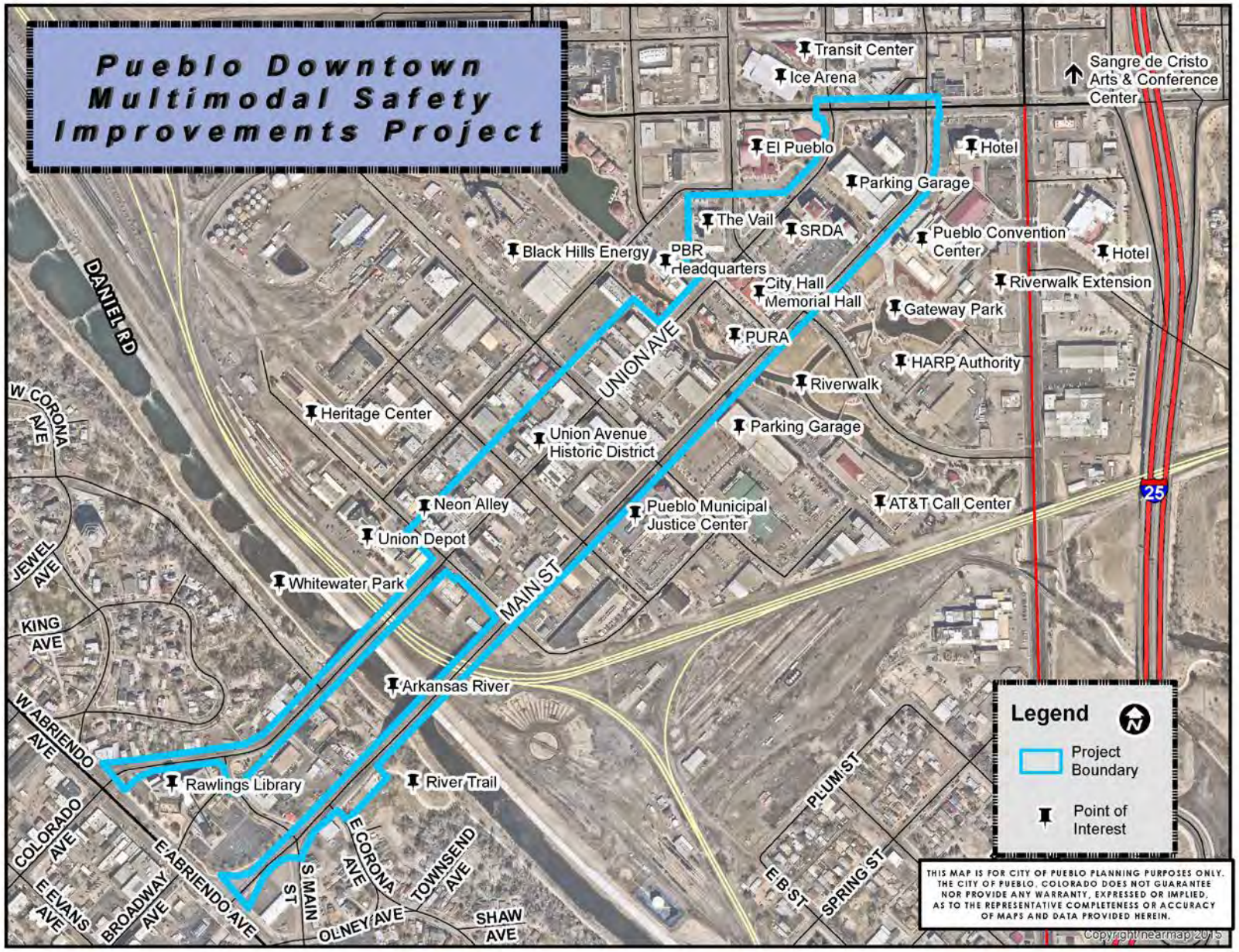


Project: Union-Main_Final Design Sche
Date: Fri 1/7/22

Task | Split | Project Summary | External Tasks | Inactive Milestone | Inactive Summary | Manual Summary Rollup | Manual Summary | Start-only | Finish-only | Progress | Deadline

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ATTACHMENT A - PROJECT MAP



UNION AVE.

ABRIENDO AVE. TO B STREET

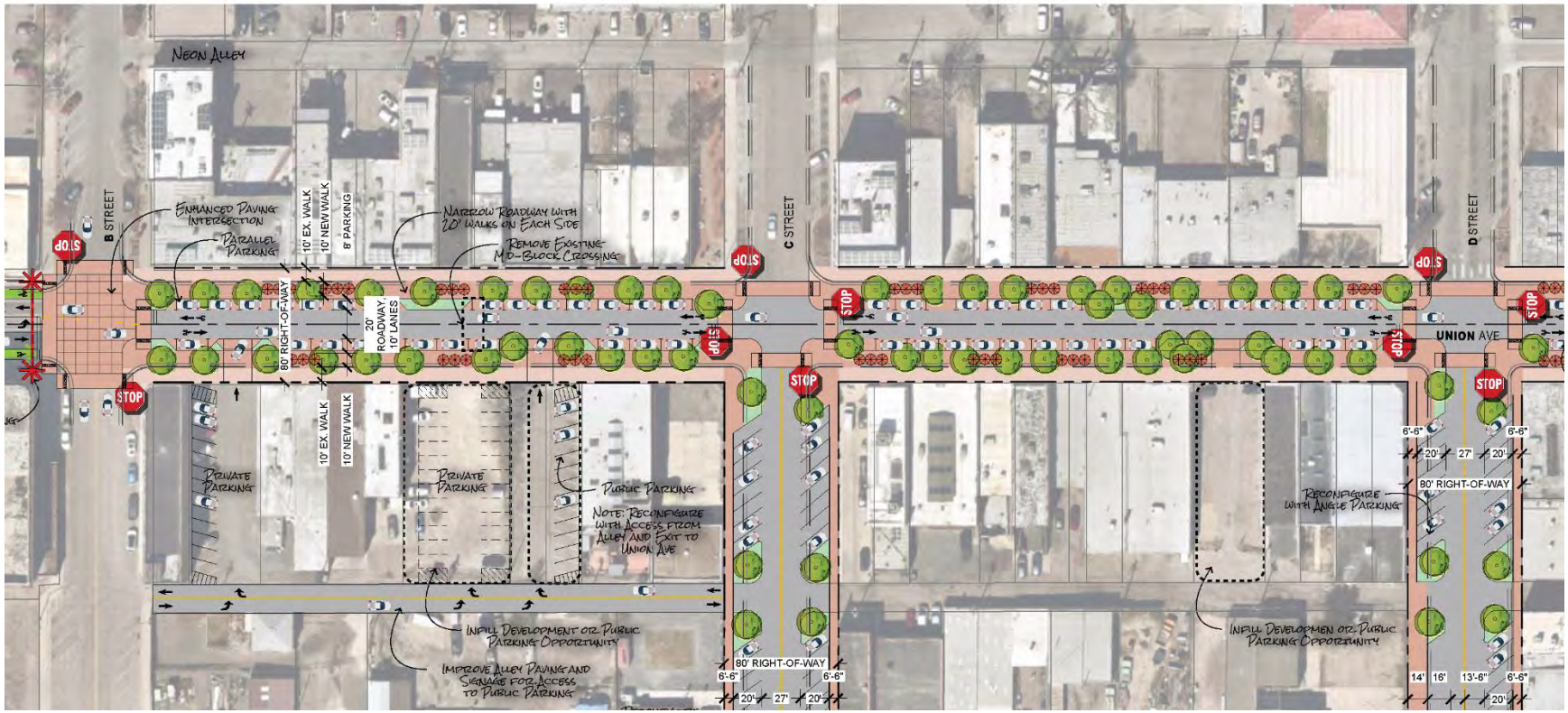




UNION AVE.

B STREET TO D STREET

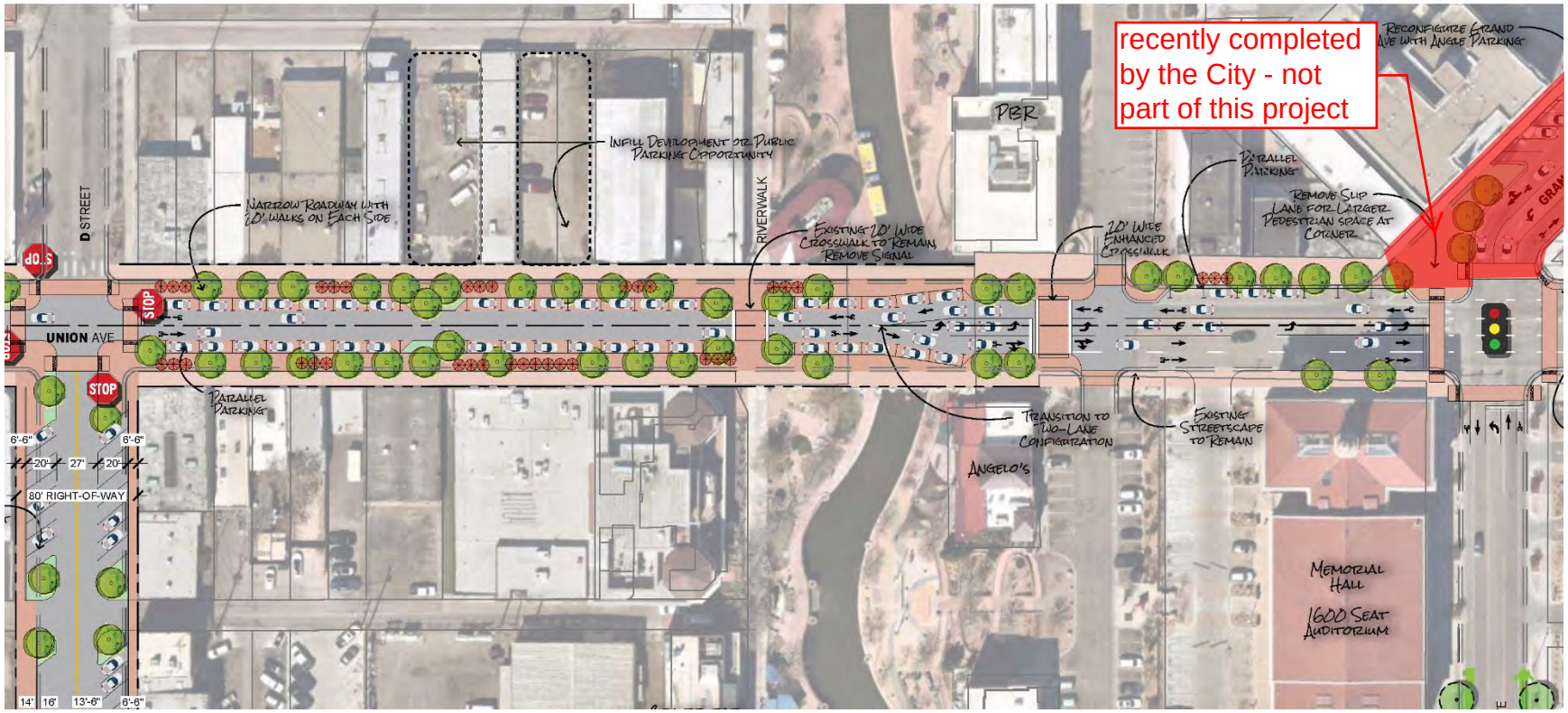




UNION AVE.

D STREET TO GRAND AVE.

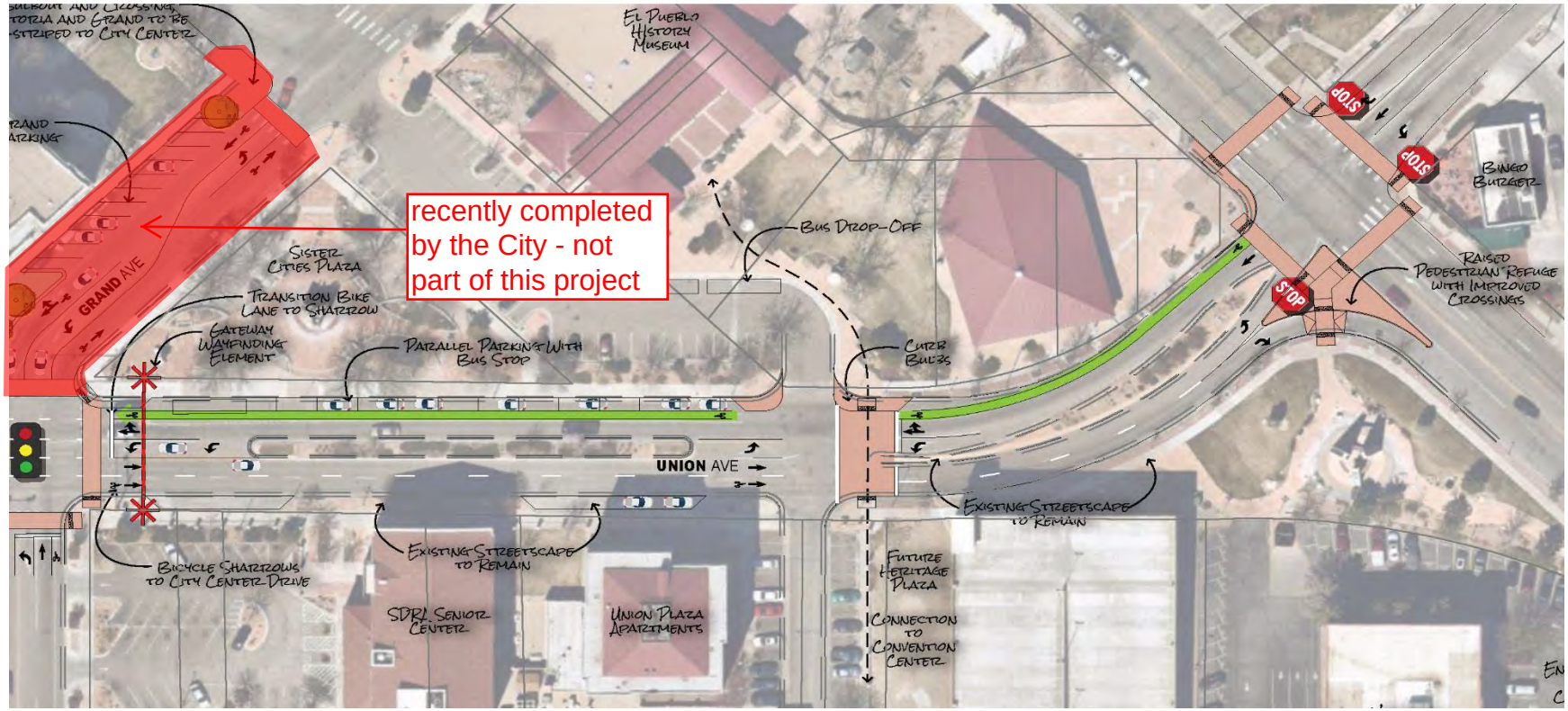




UNION AVE.

GRAND AVE. TO CITY CENTER





UNION AVE. (FROM B ST. TO C ST.) – EXISTING CONDITION



UNION AVE. (FROM B ST. TO C ST.) – FULL BUILDOUT



UNION AVE. (FROM B ST. TO C ST.) – EXISTING CONDITON



UNION AVE. (FROM B ST. TO C ST.) – FULL BUILDOUT



POTENTIAL SUB-PROJECTS FOR UNION AVENUE

As stated previously, the overall cost associated with the full buildout of the Master Plan may be daunting. Therefore, several potential sub-projects have been identified to help advance the build-out of the Master Plan for Union Avenue over time. The primary set of sub-projects align with the County 1-A funding requirements and range from striping and landscaping to roadway reconstruction. A list of other potential projects were also identified for supplemental funding sources, as they expand beyond the scope of the County 1-A funds but were determined to bring value to the overall Master Plan for Union Avenue. Sub-projects can be implemented as appropriate funds become available.

The list below provides a general overview of potential sub-projects for Union Avenue, with more detail including preliminary costs, found in Chapter 4: Implementation and Appendix 2.

Union Avenue Potential Sub-Projects	Location
Master Plan Improvements from B Street to Grand Avenue	
Four way stops at intersections	C Street and D Street
Bulb outs at intersections	B Street, D Street, C Street, Grand Avenue
Reconstruct curb-Line	B Street to Grand Avenue
Stripe roadway to two lanes with sharrows	B Street to Grand Avenue
Streetscape elements	B Street to Grand Avenue
Redesign of the corner slip lane and pork chop and remove right turn lane	Grand Avenue - SW corner
Mid-block crossings (2)	Riverwalk
Gateways	One at B Street and one at Grand Avenue
Master Plan Improvements from Abriendo Avenue to B Street	
Striping of Bicycle Lanes	Abriendo to B Steet
Master Plan Improvements from Grand Avenue to City Center Drive	
Pedestrian improvements - pork chop crosswalk	Southside of City Center/Union Intersection
Other Potential Projects	
Add diagonal parking on C & D Street	C Street and D Street between Union & Main
Add diagonal parking on Grand Avenue	Union Ave to Victoria
Encourage use of alleys	B Street to Riverwalk

MAIN STREET

ARKANSAS TRAIL TO C STREET

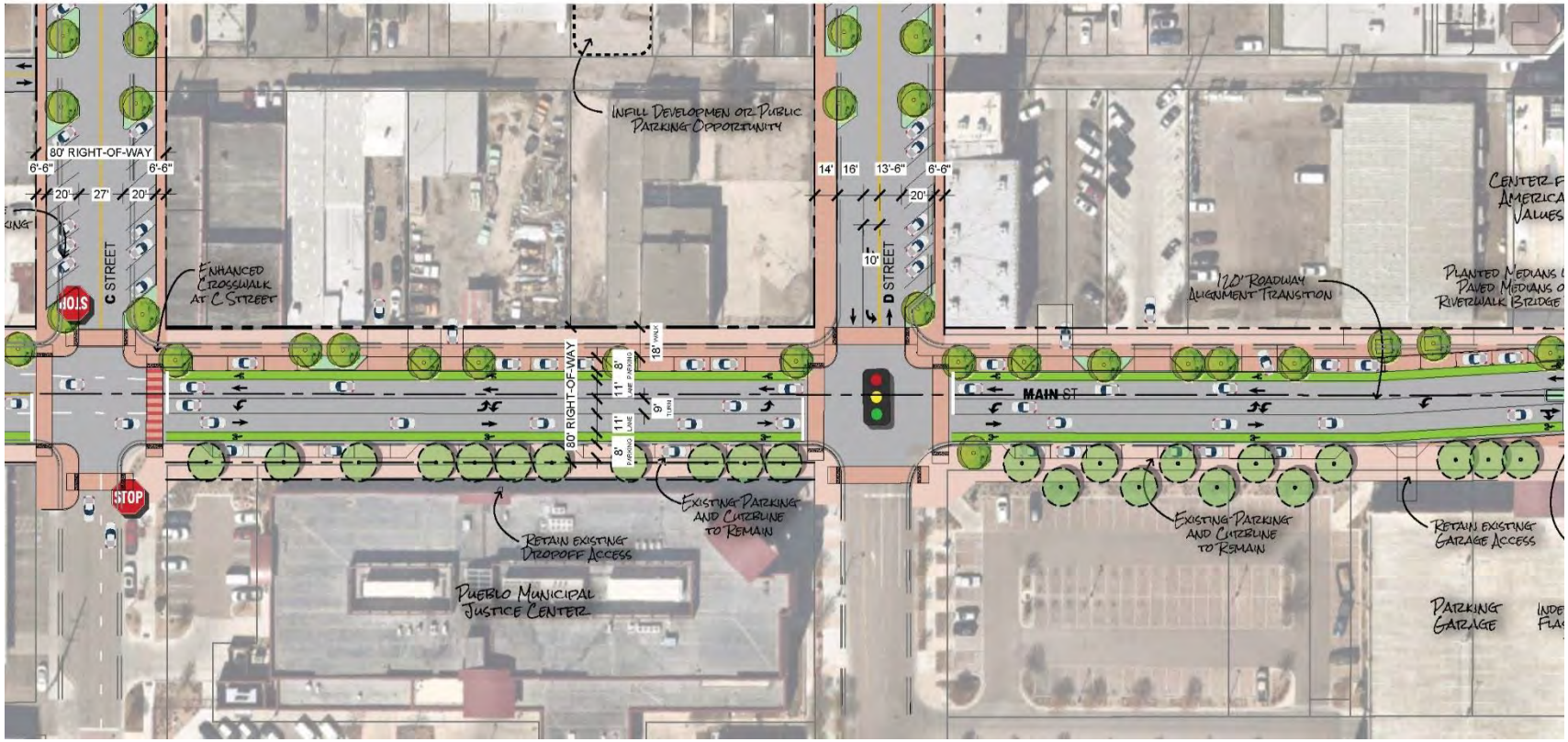




MAIN STREET

C STREET TO PARKING GARAGE

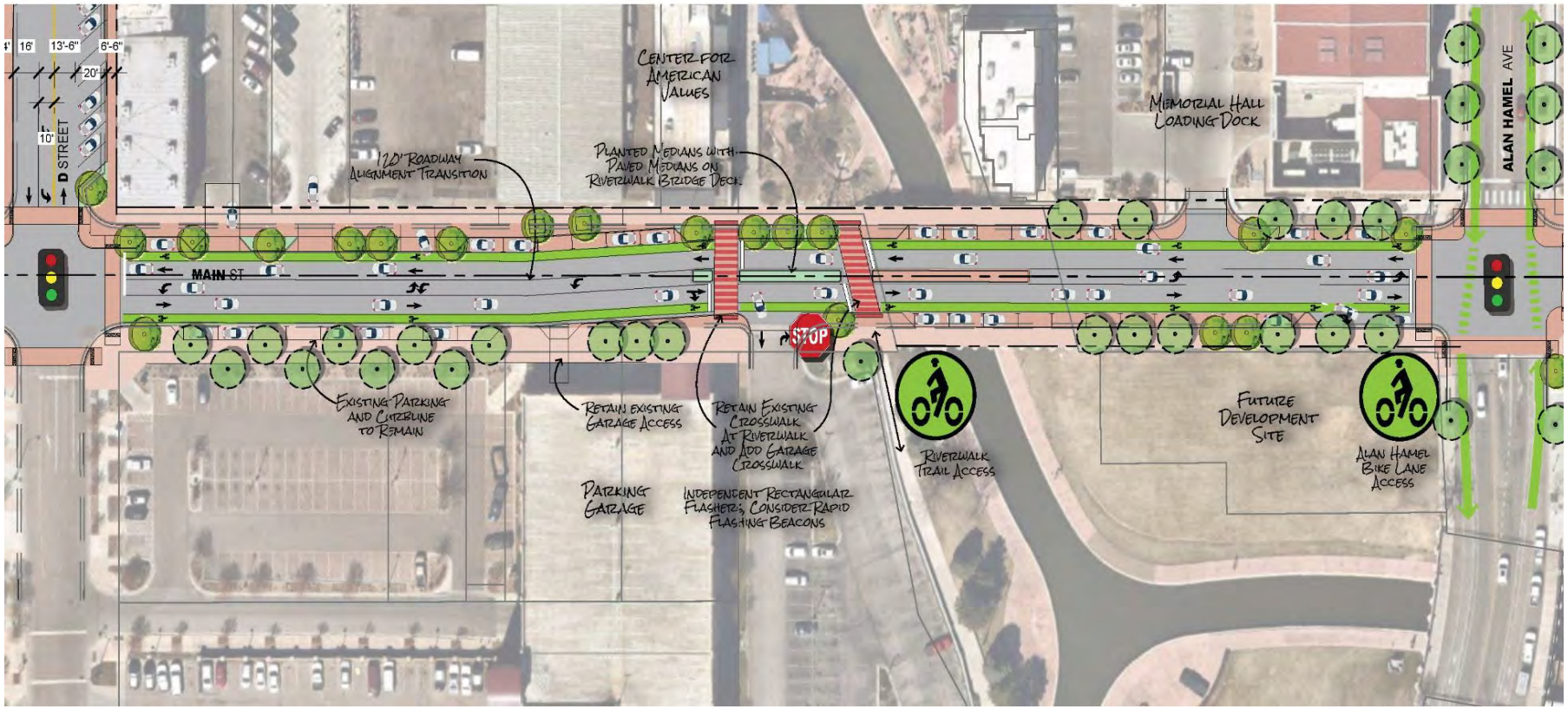




MAIN STREET

PARKING GARAGE TO ALAN HAMEL

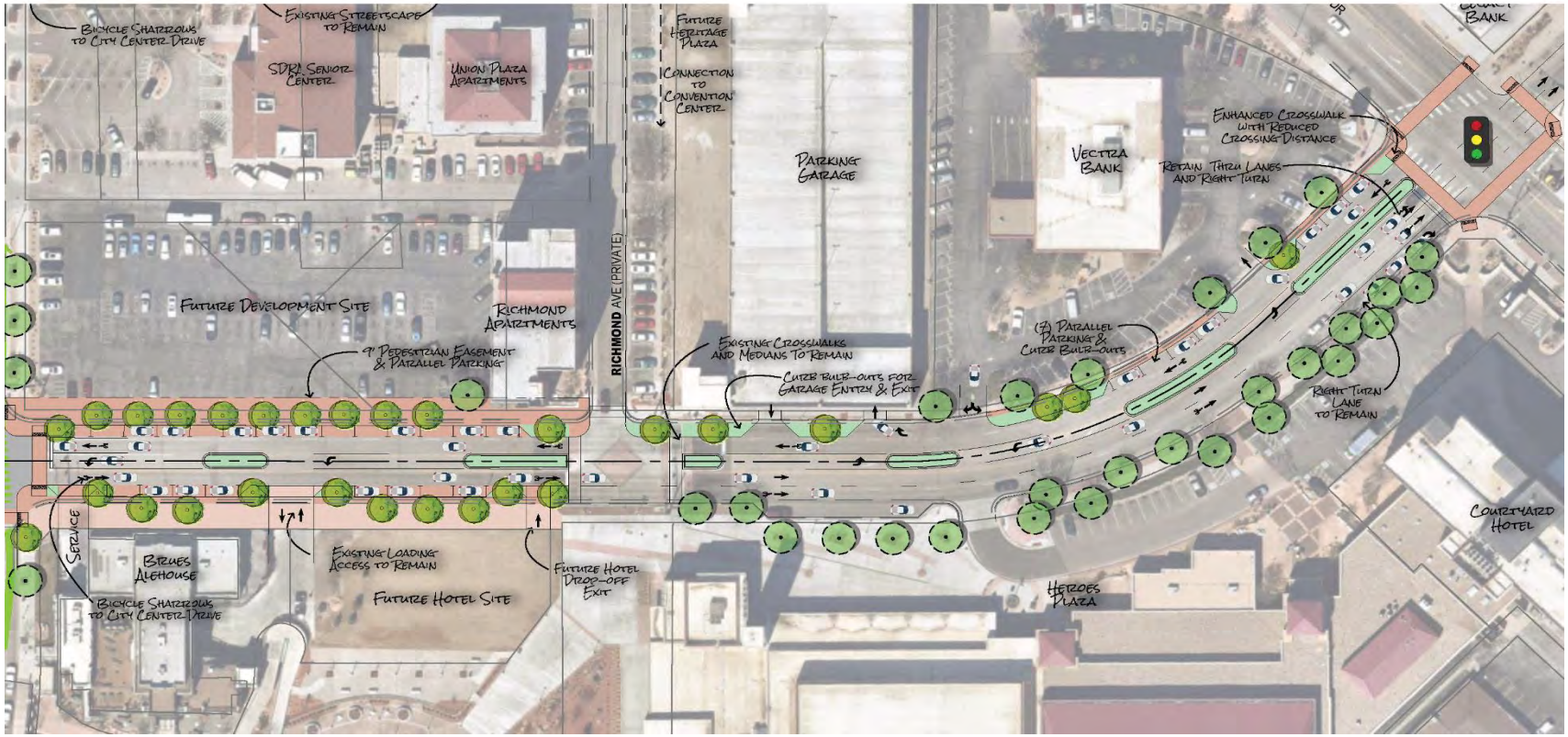




MAIN STREET

ALAN HAMEL TO CITY CENTER





MAIN ST. (FROM C ST. TO D ST.) – EXISTING CONDITION



MAIN ST. (FROM C ST. TO D ST.) – FULL BUILDOUT



POTENTIAL SUB-PROJECTS FOR MAIN STREET

As stated previously, the overall cost associated with the full buildout of the Master Plan may be daunting. Therefore, several potential sub-projects have been identified to help advance the build-out of the Master Plan for Main Street over time. The primary set of sub-projects align with the County 1-A funding requirements and range from crosswalks and landscaping to curbline reconstruction. A list of other potential projects was also identified for supplemental funding sources, as they expand beyond the scope of the County 1-A funds but were determined to bring value to the overall Master Plan for Main Street. Any and all sub-projects can be implemented as appropriate funds become available.

The list below provides a general overview of potential sub-projects for Main Street, with more detail including preliminary costs, found in Chapter 4: Implementation and Appendix 3.

Main Street Potential Sub-Projects	Location
Riverwalk (AT&T) Crosswalk	
Crosswalk improvements	Riverwalk crossing / AT&T parking lot
Signal modification	Riverwalk crossing / AT&T parking lot
Patterned concrete crosswalk (optional)	Riverwalk crossing / AT&T parking lot
Corridor Improvements from Richmond to City Center	
Parking (on-street striping)	Richmond to City Center
Adjust lanes at City Center	City Center
Bulb outs at intersections	Richmond to City Center
Landscape medians	Richmond to City Center (as noted on Plan)
Other Potential Projects	
Corridor Improvements from C Street to Richmond	
Bulb-outs	C Street to Richmond
Alan Hamel crosswalk	Alan Hamel
Stripe directional bicycle lanes	Arkansas River Trail to Alan Hamel
Stripe roadway to two lanes with a center turn lane	C Street to City Center

APPENDIX 2: UNION AVENUE MASTER PLAN PRELIMINARY COSTS

UNION AVE PROPOSED PROJECTS	Location	Cost Estimate - Infrastructure	Infrastructure Notes	Cost Estimate - Streetscape	Streetscape Notes
Master Plan	**Full Build-Out on Union Avenue**	**$3,406,000.00**		**$1,524,765.00**	**$4,903,985.00**
Priority Sub-Projects					
Master Plan Improvements from B Street to Grand Ave		**$3,134,000.00**		**$1,524,765.00**	
Four way stops at intersections	C Street and D Street	$17,000.00	*Sign installation, removal of 4 signal poles.		No Landscaping.
Bulb outs at intersections	B Street, D Street, C Street	$315,000.00	*12 Bulb-outs. ~$27,000.00 each.	$94,400.00	(22) Street Trees with Imported Soil, 3,065 Square Feet of Shrub Planting, Irrigation.
Reconstruct Curb-Line	B Street to Grand Avenue	$720,000.00	12' Sidewalk widening Approx 1900 LF.	$360,965.00	Decorative Finish Concrete Sidewalk with 7' Clay Brick Amenity Zone.
Repaving	B Street to Grande Avenue	$1,100,000.00	Repaving to acount for extended sidewalks. Assumed 8" HMA over 6" Base Course.		No Landscaping
Drainage Improvements	B Street to Grande Avenue	$500,000.00	Removal and replacement of 13 inlets, and storm sewer pipe to account for new flowline locations associated with sidewalk widening.		No Landscaping
Stripe roadway to two lanes with sharrows	B Street to Grand Avenue	$27,000.00	*Striping, and striping removals.		No Landscaping
Mid-Block Streetscape elements	B Street to Grand Avenue	$60,000.00	400 LF of Landsacping Bulb-Outs, and associated driveway cuts.	$1,069,400.00	(74) Street Trees in Raised Planters, Imported Soil, Shrub Planting, Irrigation, Site Furniture (Bike Racks, Trash Bins, Benches), Refurbishment and Re-setting of Existing Pedestrian Lights
Mid-block crossings (2)	Riverwalk	$145,000.00	Includes colored patterned concrete pavement.		No Landscaping
Gateways	One at B Street and one at Grand Avenue	$250,000.00	Per cost estimate from the City - for 2 gateway features		Included in Gateway Cost
			TOTAL for Priority Sub-Project Bstreet to Grand Ave		**$4,658,765.00**
Master Plan Improvements from Abriendo to B Street		**$205,000.00**	1700' Restriping, 6 ramps, 2 bulbouts, Relocation of concrete barrier along bridge.		No Landscaping
			TOTAL for Priority Sub-Project Abriendo to B Street		**$205,000.00**
Master Plan Improvements from Grand Ave to City Center		**$67,000.00**	750' restriping, 2 bulbouts		No Landscaping
			TOTAL for Priority Sub-Project Grand Ave to City Center		**$67,000.00**
Master Plan			**TOTAL for Master Plan Projects along the entire Union Ave corridor**		**$4,930,765.00**
Additional Projects Beyond the Scope of the County 1A Funds					
Pedestrian improvements - pork chop crosswalk	Southside of City Center/Union Intersection	$125,000.00			No Landscaping
Add diagonal parking on C & D Street	C Street and D Street between Union & Main	$193,000.00	C Street: $113,000.00 (130 LF, 13' Widening, 4' gutter pans to maintain existing flowlines, 2 Bulb-outs) / D Street: $80,000.00 (130 LF, 5' Widening, 4' gutter pan to maintain existing flowline, 2 Bulb-outs)	$180,400.00	Per Block Estimate, (8) Street Trees in 300 Square Foot Shrub Planters, Imported Soil, Irrigation, and Pedestrian Lighting at 60' On Center Spacing
Encourage use of alleys (minor improvements, restripe public lots, signage for parking)	B Street to Riverwalk	$20,000.00	Restriping and signage		No Landscaping

Infrastructure costs *do not include landscaping, lighting, signal improvements, utility relocations/adjustments, design costs. All costs include a contingency.*

APPENDIX 3: MAIN STREET MASTER PLAN PRELIMINARY COSTS

MAIN ST PROPOSED PROJECTS	Location	Cost Estimate - Infrastructure	Infrastructure Notes	Cost Estimate - Streetscape	Streetscape Notes
Master Plan	**Full Build-Out on Main Street**	**$1,335,000.00**		**$458,485.00**	**$1,793,485.00**
Priority Sub-Projects					
Riverwalk (AT&T) crosswalk		**$323,000.00**		**$31,290.00**	
Crosswalk Improvements	Riverwalk crossing /AT&T parking lot	$156,000.00	*4 Bulb outs on each side, restripe 2 cross walk, signs. 175 LF Median installation	$31,290.00	(4) Street Trees in 1333 Square Feet of Shrub Planting with Imported Soil, Irrigation
Signal modification	Riverwalk crossing /AT&T parking lot	$95,000.00	*Replace current signal with Rapid Flashing Beacon signal for crosswalk (confirm cost)		No Landscaping
Patterned Concrete Crosswalk	Riverwalk crossing /AT&T parking lot	$72,000.00	*Asphalt removal and patterned concrete only.		No Landscaping
			TOTAL for Priority Sub-Project Riverwalk (AT&T Crosswalk)		**$354,290.00**
Corridor Improvements from Richmond to City Center		**$312,000.00**		**$100,135.00**	
Parking (on-street striping)	Richmond to City Center	$11,000.00			No Landscaping
Adjust lanes at City Center	City Center	$20,000.00	*Restriping, signal head removal/modification		No Landscaping
Bulb outs at intersections	Richmond to City Center	$157,000.00	*6 Bulb-outs	$63,030.00	(10) Street Trees in 2,665 Square Feet of Shrub Planting with Imported Soil, Irrigation
Landscape medians	Richmond to City Center (as noted on layout)	$124,000.00	*375 LF of median installation	$37,105.00	1,885 Square Feet of Shrub Planting with Imported Soil, Irrigation
			TOTAL for Priority Sub-Project Richmond To City Center		**$412,135.00**
Corridor Improvements from C Street to Richmond		**$630,000.00**		**$327,060.00**	
Corridor improvements	C Street to Richmond	$505,000.00	13 Bulb outs, 1900' restriping. Landscape bulb-outs, adjust driveway cuts on north/west side, 110' of Landscaped Median.	$312,640.00	(20) Street Trees in 3,335 Square Feet of Shrub Planting with Imported Soil, Irrigation, decorative concrete sidewalk expansion and parking lanes (Does not include Alan Hamel Xwalk)
Alan Hamel crosswalk	Alan Hamel	$98,000.00	*4 Bulb-outs. Does not include potential signal modifications	$14,420.00	(4) Street Trees in 480 Square Feet of Shrub Planting with Imported Soil, Irrigation
Stripe roadway to two lanes with a center turn lane	C Street to City Center	$27,000.00	*Striping, and striping removals		No Landscaping
			TOTAL for Priority Sub-Project C Street to Richmond		**$957,060.00**
Stripe directional bicycle lanes	C Street to Alan Hamel	**$70,000.00**	Restriping		No Landscaping
				TOTAL for Priority Sub-Project Bicycle Lanes	**$70,000.00**
Master Plan			**TOTAL for Master Plan Projects along the entire Main St corridor**		**$1,793,485.00**
Additional Projects Beyond the Scope of the County 1A Funds					
Stripe directional bicycle lanes	Arkansas River to C Street	$50,000.00	Restriping		No Landcaping

**Infrastructure costs do not include landscaping, lighting, signal improvements, full roadway reconstruction, drainage modifications, utility relocations/adjustments, design costs. All costs include contigency.*

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

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

SUBJECT: AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT

SUMMARY:

This Ordinance transfers $270,000 from the 2022 fund balance of the General Fund for professional services, and budgets and appropriates $270,000 to project CI2205 Fire Station 6, 8, and 11 Project.

PREVIOUS COUNCIL ACTION:

Ordinance 10110, dated January 24, 2021, established the Fire Station 6, 8, and 11 Project, Project No. CI2205 and transferred, budgeted, and appropriated $600,000.

Proposed Ordinance transfers, budgets and appropriates additional funding in the amount of $609,245, at the June 13, 2022, City Council meeting. This funding plus the $600,000 transferred, budgeted, and appropriated by City Council at the January 24, 2021, meeting will be used to pay for the professional services contract being awarded to Allred and Associates at the June 13, 2022, City Council meeting.

BACKGROUND:

The project is part of infrastructure and response improvements for the City of Pueblo and it's Fire Department.

This Ordinance transfers additional funds in the amount of $270,000 from the 2022 fund unappropriated balance of the General Fund to project CI2205. The funds are for an owner's representative for the design, construction, and post-construction of Fire Stations 6, 8, and 11.

FINANCIAL IMPLICATIONS:

Funds in the amount of $270,000 will be transferred from the 2022 unappropriated fund balance of the General Fund to Project CI2205

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

The Fire Station project will be negatively impacted by the denial of this Ordinance and will not allow the City of Pueblo to hire an owner's representative to manage this project. Current City staffing levels do not have the capacity to manage this large of a project.

RECOMMENDATION:

Approve the Ordinance.

Attachments:
Proposed Ordinance

ORDINANCE NO. 10202

AN ORDINANCE TRANSFERRING $270,000 FROM THE 2022 UNAPPROPRIATED FUND BALANCE OF THE GENERAL FUND TO PROJECT CI2205 FIRE STATION 6, 8, AND 11, AND BUDGETING AND APPROPRIATING $270,000 FOR SAID PROJECT

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

SECTION 1.

Funds in the amount of $270,000 are hereby transferred from the 2022 unappropriated fund balance of the General Fund into Project No. CI2205, and budgeted, and appropriated for said Project.

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 therein.

SECTION 3.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director of Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 179.38-ACRES OF THE WILDHORSE CROSSING ANNEXATION SITE FROM COUNTY A-1 TO CITY A-1, AGRICULTURAL ONE

SUMMARY:

The property owner, Warren Dean, Manager of Wildhorse Land and Holdings, LLC, is requesting to zone the 179.38-acre Wildhorse Crossing Annexation Site from County A-1 to City A-1, Agricultural One as agreed upon the in the Annexation Agreement, Case No. A-20-03 Wildhorse Annexation.

PREVIOUS COUNCIL ACTION:

City Council approved Ordinance No. 10103 on January 24, 2022.
City Council approved Ordinance No. 10104 on January 24, 2022.

BACKGROUND:

The proposed rezoning is for the entire Wildhorse Crossings, LLC property containing 179.38-acres, which was annexed into the City by Ordinances 10103 and 10104, approved by City Council on January 21, 2022. The applicant, Mr. Dean, is proposing to zone the property A-1, Agricultural One according to the Annexation Agreement, January 31, 2022. Prior to development of uses, that are not allowed within the A-1 Zone District, the property must be rezoned to a land use classification most nearly corresponding to the land use classification identified in the Pueblo Regional Comprehensive Plan, as amended. Wildhorse Crossing is designated as a Special Development Area by the Pueblo Regional Comprehensive Plan, 2002. Special Development areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further establishes that a Master Plan must be prepared prior to development in Special Development Areas. An Overall Development Plan (ODP), establishing a land use plan that includes provisions for a mixture of commercial, office, business park, and

multifamily residential uses, was approved by the Planning and Zoning Commission on March 9, 2022. The ODP conforms with the Comprehensive Plan designation of Special Development Area. When applications to establish the uses approved in the ODP land use plan are requested, the property must be rezoned prior to development.

FINANCIAL IMPLICATIONS:

There are no financial implications for the City.

BOARD/COMMISSION RECOMMENDATION:

The Planning and Zoning Commission, at their May 11, 2022 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 May 11, 2022 Public Hearing
Planning and Zoning Commission Staff Report with Attachments and Exhibits

ORDINANCE NO. 10203

AN ORDINANCE AMENDING ZONING RESTRICTIONS TO REZONE 179.38-ACRES OF THE WILDHORSE CROSSING ANNEXATION SITE FROM COUNTY A-1 TO CITY A-1, AGRICULTURAL ONE

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 County A-1 to City A-1, Agricultural One Zone District:

A parcel of land located in section 9 and the SW ¼ of Section 10, Township 20 South, Range 65 West, of the 6th Principal Meridian, EXCEPT that portion conveyed to the State Department of Highways in rule and order recorded May 8, 1975, in Book 1813 at Page 36, said parcel being more particularly described as follows:
Basis of Bearings to be the east line of the W ½ of the E ½ of the SW ¼ of Section 10, Township 20 South, Range 65 West of the 6th Principal Meridian to bear N 01 degrees 40 minutes 27 seconds monumented on both ends with ad 3 ¼" diameter aluminum cap stamped with PLS 33200, all bearings contained herein to be relative thereto.
Beginning at the Southeast corner of the of the W ½ of the E ½ of SW ¼ of said Section 10; thence S 89 degrees 10 minutes 16 seconds W, along the south line of the SW ¼ of said Section 10, a distance of 612.25 feet; thence along the north line of the State Highway No. 50 right-of-way and Lot 1, Block 1 of Hwy 50 West CDOT Maintenance Facility No. 1, as presently located, the following nine (9) courses:

1. thence N 55 degrees 35 minutes 35 seconds W, a distance of 166.17 feet;
2. thence N 23 degrees 35 minutes 46 seconds W, a distance of 141.19 feet;
3. thence N 06 degrees 04 minutes 05 seconds W, a distance of 385.19 feet;
4. thence N 74 degrees 30 minutes 12 seconds W, a distance of 441.31 feet;
5. thence S 10 degrees 48 minutes 11 seconds W, a distance of 460.12 feet;
6. thence S 67 degrees 53 minutes 08 seconds W, a distance of 309.71 feet;
7. thence S 77 degrees 32 minutes 17 seconds W, a distance of 312.70 feet;
8. thence S 77 degrees 48 minutes 53 seconds W, a distance of 152.37 feet;
9. thence N 88 degrees 08 minutes 38 seconds W, a distance of 178.88 feet;

thence N 29 degrees 39 minutes 59 seconds W, a distance of 1,269.12 feet; thence N 45 degrees 34 minutes 43 seconds W, a distance of 1,107.74 feet; thence N 74 degrees 06 minutes 44 seconds W, a distance of 738.34 feet; thence N 25 degrees 46 minutes 43 seconds W, a distance of 494.36 feet; thence N 11 degrees 18 minutes 19 seconds W, a distance of 290.71 feet; thence N 02 degrees 50 minutes 55 seconds E, a distance

of 379.17 feet; thence S 31 degrees 39 minutes 05 seconds E, a distance of 26.62 feet; thence along a curve to the left whose radius is 2,864.93 feet and whose center bears N 58 degrees 44 minutes 59 seconds, on the east right-of-way line of Wildhorse Road as presently located; thence S 36 degrees 19 minutes 40 seconds E along said east right-of-way line of Wildhorse Road, a distance of 1,258.29 feet; thence continuing along the said east right-of-way line of Wildhorse Road along a curve to the left whose radius is 1,019.00 feet and whose center bears N 53 degrees 42 minutes 09 seconds, a distance of 255.96 feet; thence N 00 degrees 40 minutes 42 seconds E, a distance of 1,198.59 feet to the north line of said SE ¼ of Section 9; thence N 89 degrees 58 minutes 22 seconds E along the said north line of the SE ¼ of Section 9, a distance of 328.94 feet to the northeast corner of the said SE ¼ of Section 9; thence N 88 degrees 54 minutes 17 seconds E along the north line of the SW ¼ of said Section 10, a distance of 1,331.50 feet to the northwest corner of the W ½ of the E ½ of the SW ¼ of said Section 10; thence N 88 degrees 57 minutes 11 seconds E along the north line of the said W ½ of the E ½ of the SW ¼ of Section 10, a distance of 665.40 feet to the northeast corner of the said W ½ of the E ½ of the SW ¼ of Section 10; thence S 01 degrees 40 minutes 27 seconds W along the east line of the said W ½ of the E ½ of the SW ¼ of Section 10, a distance of 2,661.69 feet to the southeast corner of the said W ½ of the E ½ of the SW ¼ of Section 10 and the Point of Beginninga distance of 574.22 feet; thence S 42 degrees 46 minutes 50 seconds E, a distance of 187.77 feet to the north line of the SE ¼ of the said Section 9; thence S 89 degrees 58 minutes 03 seconds E along the north line of the SE ¼ of said Section 9, a distance of 991.15 feet to a point.

Containing 179.38 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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.

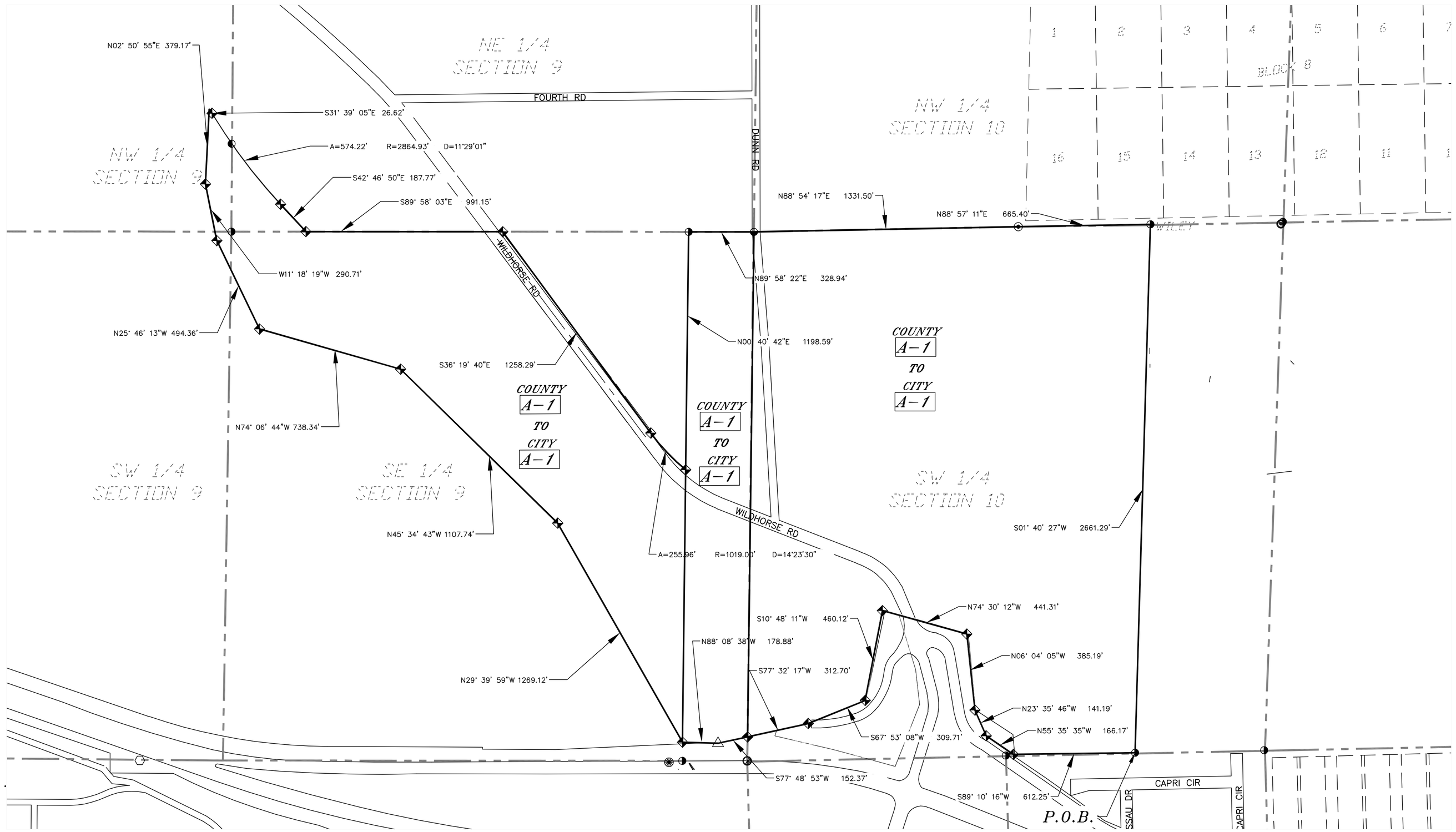
_____
President of City Council

ATTEST

_____
City Clerk

EXHIBIT "B"
ZONING EXHIBIT

A PORTION OF THE SE 1/4 OF THE NW 1/4, A PORTION OF THE NE ¼ OF THE SW ¼ AND A PORTION OF THE E ½ OF SECTION 9 AND A PORTION OF THE W ½ OF THE SW ¼, A PORTION OF THE W ½ OF THE E ½ OF THE SW ¼ OF SECTION 10, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO.



PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

SCALE: 1" = 300'

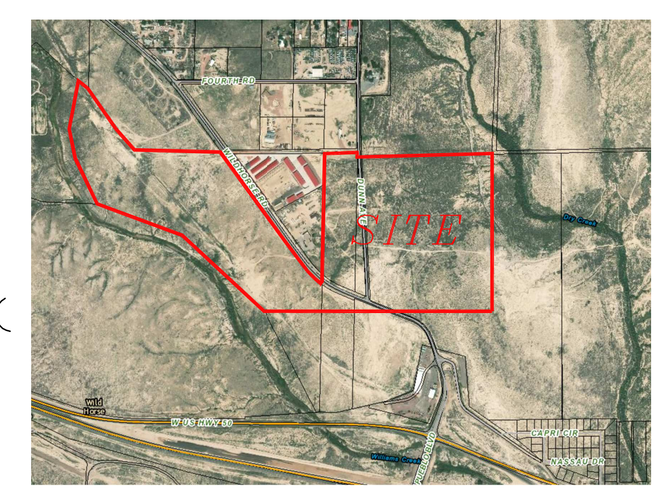
0 150' 300' 600'

LEGEND

	PROPOSED ZONING BOUNDARY
COUNTY A-1	EXISTING ZONING
CITY A-1	PROPOSED ZONING

BASIS OF BEARINGS

BEARINGS BASED ON THE EAST LINE OF THE W ½ OF THE E ½ OF THE SW ¼ OF SECTION 10, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN TO BEAR N 01 DEGREES 40 MINUTES 27 SECONDS MONUMENTED ON BOTH ENDS WITH AD 3 ¼" DIAMETER ALUMINUM CAP STAMPED WITH PLS 33200



VICINITY MAP
NOT TO SCALE

JN 18 044 00

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, May 11, 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 3:35 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; and Joe Martellaro, Associate Engineer II.

PUBLIC MEETING AGENDA AND ACTION

Regular Agenda

2b. PUD-22-01: PUD Site Plan Review – Crawford Townhomes – 2601 Crawford St., 12 multifamily residential structures totaling 49 dwelling units (Uplands Townhomes Phase 2B) in the Uplands Townhomes Phase 2, Planned Unit Development (PUD).

Staff report by Beritt Odom.

SYNOPSIS:

The Housing Authority of the City of Pueblo is seeking approval of a PUD Site Plan for the Crawford Townhomes, 12 multifamily residential structures, providing 49 dwelling units within Phase 2B of the Uplands Townhomes Phase 2 PUD. Phase 2B will replace 11 of the existing Sangre de Cristo apartments. The elevation plans for the new multifamily structures indicate nine building types; however, the site plan shows only seven different building types proposed for construction. One multifamily structure, D2, will be a single story, the remaining structures are two stories. The proposed multifamily units will be constructed on Lots 1 and 2, Uplands Townhomes, Filing No. 3.

BACKGROUND AND ANALYSIS:

The Uplands Townhomes, Phase 2, PUD Zoning was approved in November of 2018. Phase 2 redevelopment of the Sangre de Cristo Apartments is divided into three subphases for development, Phase 2A, Phase 2B, and Phase 2C. Phase 2A of the multifamily development was completed in August of 2021 totaling 17 multifamily residential structures. Phase 2B, is further divided into three phases of construction within the Uplands Townhomes, Filing No. 3 Subdivision.

Construction Phase 1

The first phase of construction is located north of Tribal Nations Ave. and will include four multifamily structures, buildings A3, E4, D2 and F1, which is a mixture of single- and two-story structures. Construction Phase 1 area will be accessed by Tribal Nations Ave.

Construction Phase 2

The second phase of construction will occur within Lot 2, Uplands Townhomes, Filing No. 3 adjacent to the east side of Prairie Avenue. Four multifamily structures will be constructed, buildings A11, A10, A9, and G12, all are two story structures. The proposed development schedule and access plan indicates that access for this second phase of construction will be provided from Prairie Ave.; it appears that this access point is planned to be a permanent intersection. According to the PUD, the only access point to Prairie Avenue is at the intersection of Tribal Nations Ave., located at the mid-point of development. The proposed intersection of the private access drive with Prairie is also not supported by the Uplands Townhomes, Filing No. 3 Subdivision. The subdivision does not provide an access easement or private drive at the intersection.

Construction Phase 3

The third phase of construction will consist of four multifamily residential structures, buildings C5, B6, A8, and H7, all structures are two stories and will be accessed from Alma Ave. and Ponica Lane.

The Housing Authority of Pueblo is proposing a “blocky modern style” as requested by the investor for the Phase 2B, multifamily structures. Façade materials for the proposed structures consist of three different stucco colors, steel siding with a cedar wood appearance, Berridge Steel siding, and metal trim. The colors for the stucco, steel sidings, and trim have not been finalized. Phase 2A multifamily structures are a more traditional cottage architectural style with standard gables, dormers, stucco, brick accents, and lap siding façade materials. The proposed modern style architecture will provide a distinct contrast from Phase 2A. The Housing Authority is proposing to orient the front doors of the residential structures towards the interior green space for safety

reasons and to promote walkability within the neighborhood. The front doors of Phase 2A are also oriented to the internal green space.

ANALYSIS:
The PUD Development Guide provides the standards for the entire development. The Pueblo Municipal Code (PMC) provides additional requirements not specifically addressed by the Development Guide.

RECOMMENDED MOTION: Staff recommends the Planning and Zoning Commission **APPROVE** the proposed PUD Site Plan with the following noted:

1. Remove the southern intersection of the access drive with Prairie Ave. The 40-foot Public Access and Public Utility Easement on the Uplands Townhomes, Filing No. 3 Subdivision Plat does not connect to Prairie Avenue. Section I., 3., of the Uplands Townhomes Phase 2, Planned Unit Development Guide states that the development will only have one access point to Prairie Avenue. Sheet 4, Phasing Plan of the Development Guide indicates the intersection with Prairie Avenue will occur mid-block at Tribal Nations Ave. during the future Phase 2C of the development.

CHARACTER AND COMPATIBILITY:

- **Performance Standards:**
  The PUD Development Guide and the PMC outlines the Performance Standards and are described in detail below:

  Architectural Standards.
  The architecture of the buildings must comply with Section 7. of the PUD Development Guide. However, section 7 of the Uplands Townhomes Phase 2, Planned Unit Development Guide, requires almost all the required architectural features to be parallel with or visible from the "front lot line." Multiple residential units are located within one large lot; therefore it is not feasible for the architectural elements to be parallel or visible from the "front lot line" as the PUD requires.

  Buildings:

  All Townhomes shall:

  1. The front of the dwelling shall be parallel (within 30 degrees) to the front lot line.
     - The front doors of the multifamily residential structures are planned to face the internal greenspace. Current development trends, in cluster housing, orient front doors and porches toward open green space and trails. Facing the dwelling units and porch areas towards the common green space is intended to promote pedestrian activity creating an interconnected neighborhood. Additionally, orienting the front doors towards the common green space, as opposed to the interior streets and parking, will promote resident safety within the Uplands Townhome development; it is not possible.
     - The Planning Department does not object to the front doors of the dwelling units facing the interior green space.

2. Have masonry or other contrasting material that project from the wall plane on the building façade;

    - According to Amy Hurtig-Smith, project architect, the architectural metal siding, that looks like Cedar Wood, projects from the wall plane beyond the stucco wall plane with a one-inch trim. The metal siding projections will be visible from the internal streets and greenspace.

2. One (1) or more dormers;

    - All seven building models include modern dormers. According to the project architect, Amy Hurtig-Smith, "a dormer is a roof structure that projects vertically beyond the plane of a pitched roof." Hurtig-Smith states that "a dormer can have many shapes: rounded, single-pitch, horizontal, triangular, or gable shaped. All proposed buildings have a single pitch dormer, which creates the modern look.

4. Three (3) or more gables;

    - All seven building models include modern gables, some of which are one sided. According to Hurtig-Smith, "the definition of gable is a triangular wall formed at the sloping roof. All structures have triangular shaped walls.

5. Building face or roof offsets (minimum twelve-inch offset);

    - All seven structures provide a minimum amount of building face offsets.

6. Two (2) or more windows, with a combined minimum of twenty [20] square feet of glazed area, at least one of which has minimum operable opening of 20" wide × 24" high;

    - All seven structures provide a combined minimum of 20 square feet of glazed area, with at least one having an operable opening of 20" wide by 24" high.
    - Project Architect, Hurtig-Smith, explained that the smaller slot windows on the second floors were included in the previous 2A Phase. These windows are above the shower and bath units; therefore, they can only provide the slot windows or completely remove the windows. Additional architectural features within this central portion of the structure would compromise the modern design that was requested by the investor.

7. Minimum ten-inch eaves (all eaves);

    - All seven structures provide ten-inch eaves.

8. One (1) or more of the following types of exterior siding:

    a) Horizontal lap siding, including simulated horizontal lap siding;

    b) Vertical siding, with a pattern repeat of less than twelve (12) inches;

    c) Beveled siding; or

    d) Stucco;

- All seven structures provide steel lap siding, stucco, and steel siding that looks like Cedar Wood.

9. A covered porch entry (minimum five-foot depth) for the front entrance. When the front entrance is not parallel to the front lot line, the porch shall be visible from the street;
    - All buildings provide a covered porch entry (minimum five-foot depth) for the front entrance; however, on all buildings the front porch does not face the street (front lot line).
    - The front porches are visible from the interior courtyards.

10. Have wood or composition trim, nominal four-inch for exterior siding;
    - All seven structures have front facades provide contrasting trim around the windows and doors. Trim width is between two to four inches.

11. Have more than one (1) exterior material or contrasting color (not including trim material).
    - All seven structures have three or more colors on front, rear, and side facades.

Fence Materials:

- Fences shall be provided for privacy to rear yards with either 6-ft tall faux stone vinyl fences or 6-ft tall privacy wood fences or approved equal.
    - The applicant has requested a modification from the height of the fences provided for rear yards to allow 4-ft to 6-ft tall fences.
    - Staff supports this request as reducing the height of the fences along the street frontage will allow greater visibility to the streets and reduce the amount of fencing that obstructs the view of the rear façade of the buildings.

Landscape Standards.

- The Development Guide requires landscaping to comply with Section 17-4-7 of the PMC except where it specifically allowed for an amendment in the requirements.
- The submitted landscape plan complies with the Development Guide.

Parking Standards.

- The PUD requires a minimum of 1.25 parking spaces per dwelling unit. The proposed Crawford Townhomes will include 49 dwelling units, which requires 61.25 parking spaces.
    - Parking space count:
        - Standard parking spaces-64
        - ADA parking spaces-8
        - Total parking spaces-74

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

Municipal Code specifies four (4) criteria to be evaluated in conjunction with a PUD Site Plan application. The Planning and Zoning Commission, before a PUD Site Plan may be approved, shall make the findings concerning the following:

1. **The Site Plan conforms to the concepts of the approved PUD zone district and meets the Design Standards and Guidelines for PUDs adopted by City Council.**

   Staff Analysis of Finding #1

   Staff has determined that the proposed Site Plan generally conforms to the concepts of the Development Guide.

2. **Areas designated as recreation, parks and open space are accessible, available and usable for the purpose to which they are intended.**

   Staff Analysis of Finding #2

   Areas for recreation, parks and open space are accessible, available and usable. All residential structures will front a common green space for passive recreation and pedestrian circulation. A playground is located approximately 600-feet from the furthest residential structure.

3. **The continued use, maintenance, protection and development of all parks, recreation, open space and common areas are assured. The City Attorney's office shall, in writing to the Planning and Zoning Commission, attest that the proposed covenants, restrictions, conveyances, special agreements, homeowner association contracts and other documents will secure continued use maintenance, protection and development of all park, recreation, open space and common areas.**

   Staff Analysis of Finding #3

   The continued use, maintenance, protection and development of all common areas will be provided by the Housing Authority of Pueblo.

4. **Proper notification to adjacent property owners within three hundred (300) feet of the exterior boundary of the PUD Site Plan has been sent and the required public hearing has been held.**

   Staff Analysis of Finding #4

   Notice has been sent by the Department of Planning & Community Development to surrounding property owners and the public hearing will be held during a regularly scheduled Planning and Zoning Commission meeting.

QUESTIONS OF STAFF:

Cheryl Spinuzzi – Is there access from the back doors to their parking? Ms. Odom indicted that all units would have back doors that access a back patio areas and trash receptacles.

Mike Castellucci – Was anything worked regarding the small windows in the middle of the structures. Ms. Odom indicated that the windows above the showers which did not allow for larger windows, so they either could leave them as is or remove them all together.

HEARING: Amy Hurtig-Smith, HGF Architects was sworn in and testified on behalf of the applicant. There is a back door through the kitchen area in the units with the living rooms facing and accessing the greenery area. Castellucci asked there is reason for the variation of style with this phase compared to the other phases. Ms. Hurtig-Smith indicated that each investor likes to have their own style to know which buildings they are investing. Mr. Castellucci asked if they looked into how to modify the small windows in the shower areas with other treatments? Ms. Hurtig-Smith indicated they were using a modern style of architecture that have different styles of windows incorporated into the modern design.

MOTION: Motion to approve PUD 22-01 to City Council with the one staff condition and standard conditions was made by Bailey, second by Aznar.

MOTION PASSED 7-0

3. **V-22-02: Vacation:** Vacate a 16' by 105' long portion of an unimproved public alley in the Wiley and Chamberlin Subdivision, Block 362.

Staff Report by Wade Broadhead

BACKGROUND:
The applicant is proposing to vacate the remaining alley (1,111 sq ft) in Block 362 of the Wiley and Chamberlin Subdivision. After the vacation of the alley the applicant will rearrange the vacated alley area with existing lots to form a new building parcel. The proposed alley right of way runs from west to east and dead ends into the right-of-way for Portland Avenue and provides no access to any properties other than the applicants. This vacation will create a more buildable parcel and eliminate residual slivers of land.

The purpose of this vacation request is to create a new single lot for the commercial development of a business site. The applicant has already submitted the lot line rearrangement application pending this action and has been working with staff on the development of this property. Staff did not receive any comments or objections to the applications from any city department or utilities.

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

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

QUESTIONS OF STAFF:

Cheryl Spinuzzi – Once the alley is vacated does the City deed title? Md. Broadhead responded that the applicant has submitted a lot line rearrangement that will vacate the easement and adjust the existing property boundaries of their ownership.

Sara Martinez – Is this property within the newly established urban renewal district on the east side? Mr. Hobson responded that this property is south of 4th Street along Portland Street and is not within the new urban renewal area.

HEARING: Nathaniel Evans, 904 S. Ogden, applicant, was sworn in and testified on behalf of the application. Ms. Martinez asked what type of commercial will be developed. Mr. Evans responded that the property will be used for a retail marijuana cultivation facility.

No one else spoke in support or opposition for the application.

MOTION: Motion to recommend approval of V-22-02 to City Council was made by Bailey, second by Martinez.

MOTION PASSED 7-0

1. **Z-22-03: Rezone:** approximately 179.38 acres generally located north of West U.S. Hwy 50 and North Pueblo Blvd. from Pueblo County A-1 and A-3 to City A-1, for not more than a 10-year period

Staff Report by Beritt Odom.

BACKGROUND AND ANALYSIS:
The proposed rezoning is for the entire Wildhorse Crossing Annexation Site 179.38 acres, which was approved by City Council January 21, 2022 (Ordinances 10103 and 10104). The applicant, Mr. Dean, is proposing to zone the property A-1, Agricultural One according to the Annexation Agreement, January 31, 2022. Prior to development of uses, that are not allowed within the A-1 Zone District, the property must be rezoned to a land use classification most nearly corresponding to the land use classification identified in the Pueblo Regional Comprehensive Plan, as amended.

STAFF REVIEW AND FINDINGS:
The 179.38 acre parcel meets the area of the A-1 Zone District.

CHARACTER AND COMPATIBILITY:

Site Character:
The property is currently undeveloped.

Neighborhood Compatibility:

North	County A-1, undeveloped; County A-2, outdoor storage; County PUD, self-storage; and County A-3, undeveloped and contractors' yard
East	County A-1, Agricultural One, undeveloped
South	County A-3, undeveloped; County A-1, undeveloped; and City S-1, CDOT Highway Maintenance Facility.
West	County A-1, undeveloped

Comprehensive Plan Compliance:
Wildhorse Crossing is designated as a Special Development Area by the Pueblo Regional Comprehensive Plan, 2002. Special Development areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further contends that a Master Plan must be prepared prior to development in Special Development Areas. An Overall Development Plan (ODP), establishing a land use plan that includes provisions for a mixture of commercial, office, business park, and multifamily residential uses, was approved by the Planning and Zoning Commission on March 9, 2022. The ODP conforms with the Comprehensive Plan designation of Special Development Area. When applications to establish the uses approved in the ODP land use plan are requested, the property must be rezoned prior to development.

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

HEARING: Drew Brice, NorthStar Engineering, representing the applicant, was sworn in and testified on behalf of the application.

No one else testified in support of the application.

Bonifacio Cosyleon, 1700 Wildhorse Road, testified not necessarily against the rezoning but had questions about the project. He wondered whether the applicant had contacted PEDCO to see if there were any incentives that could be provided? Mr. Castellucci indicated that this hearing was to change the zoning of the property and was not within the authority of the board. Mr. Castellucci indicated that any PEDCO incentives be addressed with City Council. Mr. Cosyleon indicated that he felt this development and potential incentives were pertinent to this hearing.

Mr. Cosyleon stated that there are a lot of little steps in the development process and a lot of other entities would like to have more information as to what is going on with this development. Ms. Odom indicated that the planning department could provide Mr. Cosyleon with a copy of the overall development plan that shows the future land uses for the property. Mr. Castellucci indicated that the overall development plan was previously approved by the board when the property was annexed into the City. Mr. Avalos indicated that the annexation was noticed in the newspaper prior to any hearings before the board hearing. Mr. Hobson stated that the overall development plan was reviewed in a previous public hearing held by the board and adjacent property owners were notified of the application and hearing date. Mr. Hobson further stated that according to the City's zoning requirements, a property annexed into the City has to zone the property within 90 days following the annexation into a City zone district. Prior to any subdivision of the property, the area being proposed for development would need to be rezoned from the A-1 district into a compatible zone district that would be heard by this commission, as well as through a public hearing at City Council.

Mr. Cosyleon asked whether the residents in the surrounding area have the ability to question to proposed zoning of the property, even if it is not necessarily positive or negative? Mr. Castellucci added that any zoning changes would be through public hearings with this board and through City Council.

Mr. Cosyleon asked about a timeline for the development and if any of the infrastructure will be completed by the City or if that was solely at the cost of the developer and if impact to adjacent properties to the south and further east toward the railroad are taken into account. Ms. Odom indicated the rezoning requests need to be in accordance with the Pueblo Regional Comprehensive Plan. The current Comprehensive Plan designates this area as a "Special Development Area", so every property is required to prepare a master plan before any zoning action can happen. She noted that the City will soon be adopting a new Comprehensive Plan and this area will no longer be in a "Special Development Area", however the land uses have not drastically changed from the current plan.

No one else testified in regard to this application.

Mr. Brice, responded to the testimony of Mr. Cosyleon by stating that most the information that was being questioned is in the overall development plan, including a traffic plan and all the different segments of the plan will provide him with other information. The property owner will need to subdivide to create the lots prior to development and rezone. He will be able to testify when those additional applications have public hearings.

MOTION: Motion to recommend approval of Z-22-03 to City Council was made by Bailey, second by Avalos.

MOTION PASSED 7-0

NEW/OLD BUSINESS:
None

ADJOURN

There being no further business the Regular Meeting was adjourned at 4:20 p.m.

Respectfully submitted,

Mike Castellucci
Chairperson

Attest:

Scott Hobson
Executive Secretary

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

Mike Castellucci
Chair

Patrick Avalos
Vice Chair

Sarah Martinez
City Council Representative

city of PUEBLO colorado
Planning & Zoning Commission

Christopher Pasternak

Alexandra Aznar

Elizabeth Bailey

Cheryl Spinuzzi

Z-22-03

TO:	City of Pueblo, Planning and Zoning Commission
FROM:	Beritt Odom, Principal Planner
THROUGH:	Scott Hobson, Acting Director of Planning and Community Development
DATE:	May 11, 2022
SUBJECT:	Wildhorse Annexation Zoning
APPLICANT:	Warren Dean, Wildhorse Land and Holdings, LLC
PROPERTY OWNER:	Same
LOCATION:	Generally located north of U.S. Highway 50 West and N. Pueblo Blvd. intersection.
EXISTING ZONE:	County A-1
PROPOSED ZONE:	City A-1, Agricultural One
CONCURRENT REQUESTS:	None

REQUEST:
The property owner, Warren Dean, Manager of Wildhorse Land and Holdings, LLC, is requesting to zone the 179.38-acre Wildhorse Crossing Annexation Site from County A-1 to City A-1, Agricultural One as agreed upon the in the Annexation Agreement, Case No. A-20-03 Wildhorse Annexation.

BACKGROUND AND ANALYSIS:

The proposed rezoning is for the entire Wildhorse Crossing Annexation Site 179.38 acres, which was approved by City Council January 21, 2022 (Ordinances 10103 and 10104). The applicant, Mr. Dean, is proposing to zone the property A-1, Agricultural One according to the Annexation Agreement, January 31, 2022. Prior to development of uses, that are not allowed within the A-1 Zone District, the property must be rezoned to a land use classification most nearly corresponding to the land use classification identified in the Pueblo Regional Comprehensive Plan, as amended.

STAFF REVIEW AND FINDINGS:

The 179.38 acre parcel meets the area of the A-1 Zone District.

CHARACTER AND COMPATIBILITY:

- **Site Character:**
  The property is currently undeveloped.

- **Neighborhood Compatibility:**

North	County A-1, undeveloped; County A-2, outdoor storage; County PUD, self-storage; and County A-3, undeveloped and contractors' yard
East	County A-1, Agricultural One, undeveloped
South	County A-3, undeveloped; County A-1, undeveloped; and City S-1, CDOT Highway Maintenance Facility.
West	County A-1, undeveloped

- **Comprehensive Plan Compliance:**

Wildhorse Crossing is designated as a Special Development Area by the Pueblo Regional Comprehensive Plan, 2002. Special Development areas call for the careful planning of undeveloped lands due to significant development and/or open space potential in strategic locations. The Comprehensive Plan further contends that a Master Plan must be prepared prior to development in Special Development Areas. An Overall Development Plan (ODP), establishing a land use plan that includes provisions for a mixture of commercial, office, business park, and multifamily residential uses, was approved by the Planning and Zoning Commission on March 9, 2022. The ODP conforms with the Comprehensive Plan designation of Special Development Area. When applications to establish the uses approved in the ODP land use plan are requested, the property must be rezoned prior to development.

REFERRAL AGENCIES AND COMMENTS:

- City Public Works-No comment
- City Transportation-No comment
- City Law Department-No comment
- Pueblo Regional Building Department-No comment
- City Fire Department-No comment
- City Wastewater-No comment
- City Stormwater-No comment
- City Parks and Recreation Department-No comment
- Xcel Energy-No Comment
- Black Hills Energy-No comment
- CDOT-No comment

RECOMMENDED ACTION:

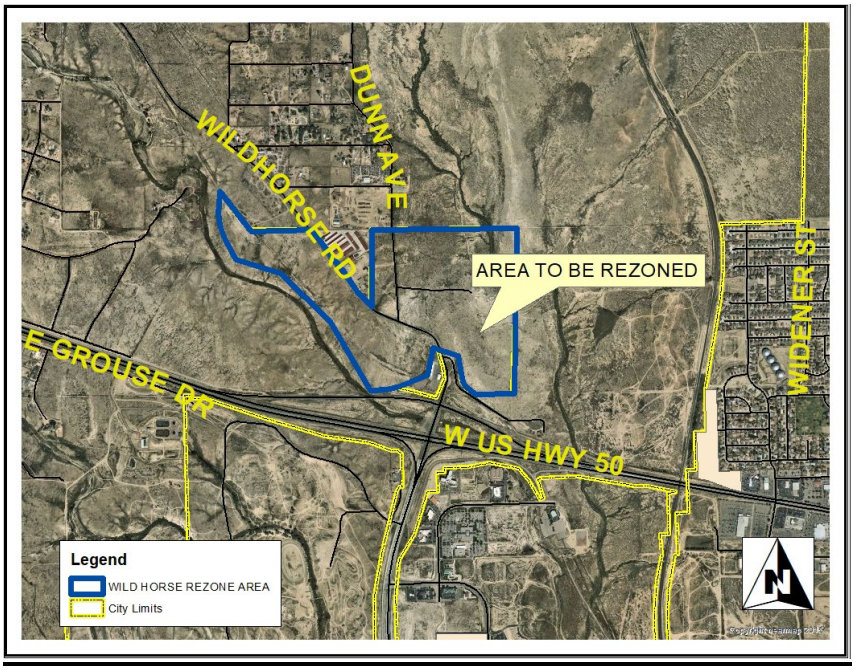
- Staff recommends the Planning and Zoning Commission make a recommendation to City Council that the zoning map amendment be **APPROVED.**

ATTACHMENTS:

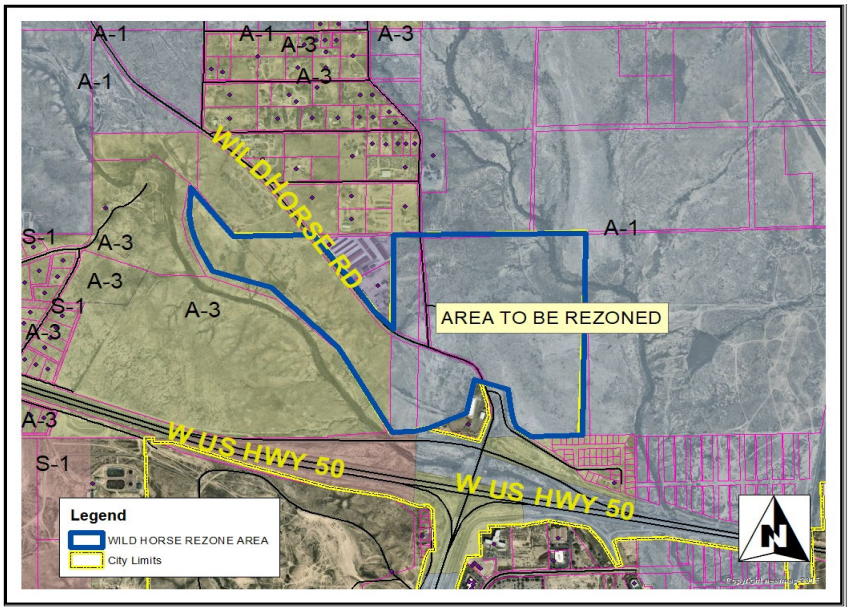
A. Aerial Map
B. Zoning Map
C. Comprehensive Plan Map
D. Rezoning Exhibit
E. Application

ATTACHMENTS:

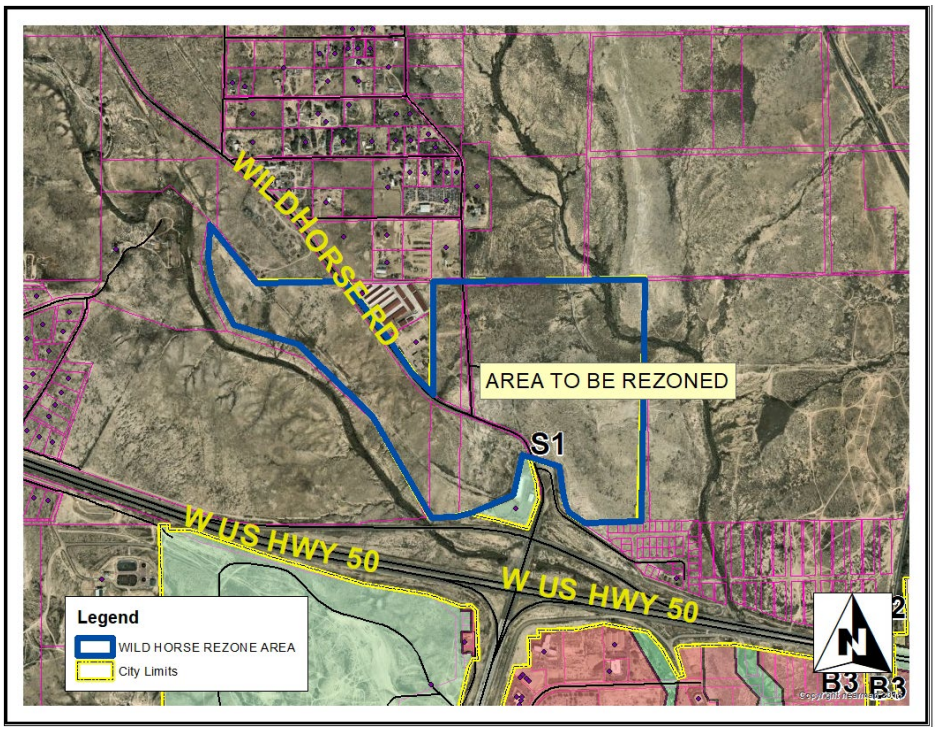
Attachment A:



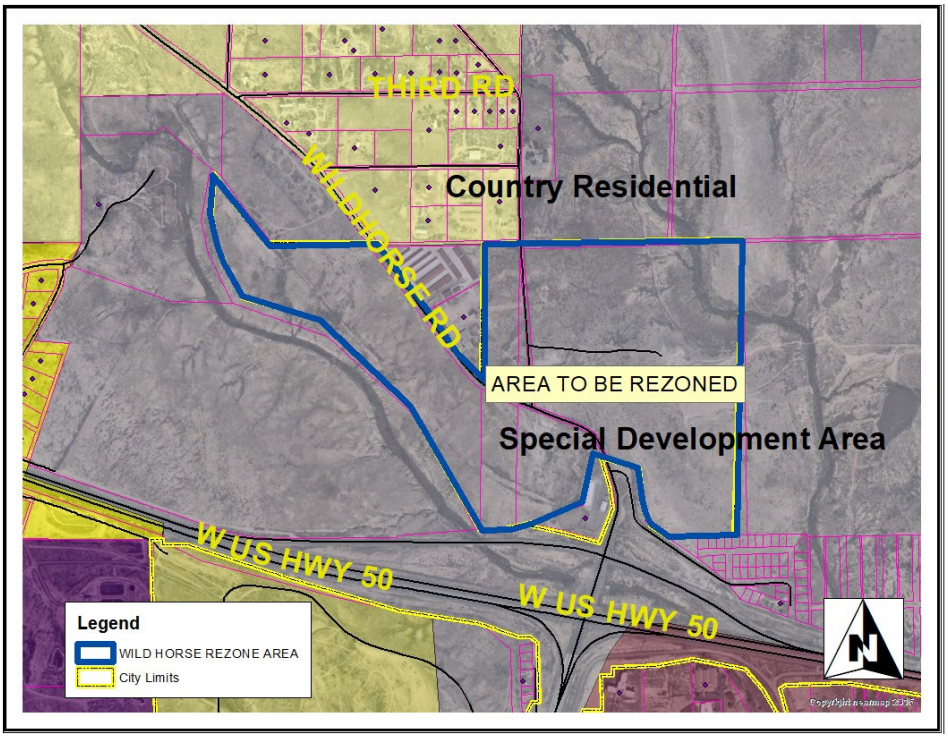
Aerial Photograph of Rezone Site



County Zoning Map



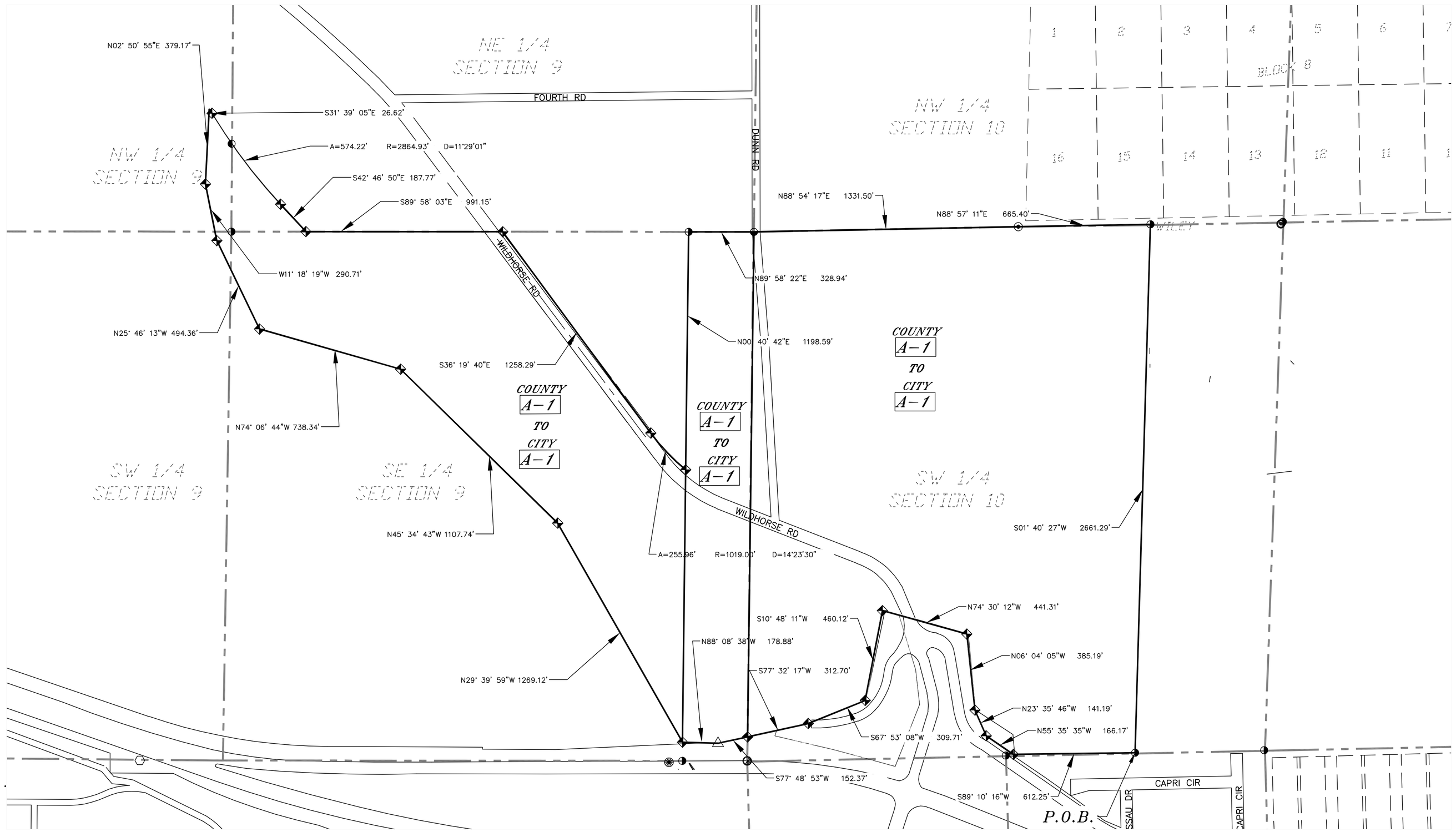
City Zoning Map



Comprehensive Plan Map

EXHIBIT "B"
ZONING EXHIBIT

A PORTION OF THE SE 1/4 OF THE NW 1/4, A PORTION OF THE NE ¼ OF THE SW ¼ AND A PORTION OF THE E ½ OF SECTION 9 AND A PORTION OF THE W ½ OF THE SW ¼, A PORTION OF THE W ½ OF THE E ½ OF THE SW ¼ OF SECTION 10, TOWNSHIP 20 SOUTH, RANGE 65 WEST, OF THE 6TH P.M. IN THE COUNTY OF PUEBLO, STATE OF COLORADO.



PREPARED BY: NORTHSTAR ENGINEERING AND SURVEYING, INC.

SCALE: 1" = 300'

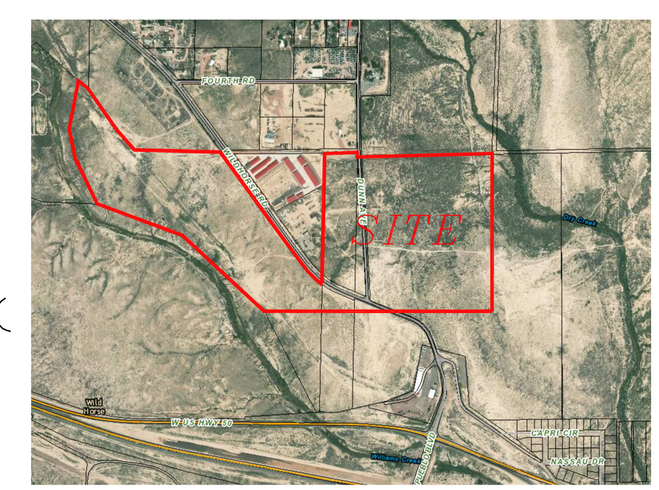
0 150' 300' 600'

LEGEND

	PROPOSED ZONING BOUNDARY
COUNTY A-1	EXISTING ZONING
CITY A-1	PROPOSED ZONING

BASIS OF BEARINGS

BEARINGS BASED ON THE EAST LINE OF THE W ½ OF THE E ½ OF THE SW ¼ OF SECTION 10, TOWNSHIP 20 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN TO BEAR N 01 DEGREES 40 MINUTES 27 SECONDS MONUMENTED ON BOTH ENDS WITH AD 3 ¼" DIAMETER ALUMINUM CAP STAMPED WITH PLS 33200



VICINITY MAP
NOT TO SCALE

JN 18 044 00

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: WARREN DEAN	
Company: WILDHORSE LAND AND HOLDINGS LLC	
Address: PO BOX 64140, COLORADO SPRINGS, CO	Zip: 80962
Phone: ( )719-440-1722	Email: WARREN@WHD22.COM
Applicant	
Name: SAME AS PROPERTY OWNER	
Company:	
Address:	Zip:
Phone: ( )	Email:
Person or Firm Representing (If Different From) Owner or Applicant	
Name: DREW BRICE	
Company: NORTHSTAR ENGINEERING AND SURVERYING, INC	
Address: 111 E. 5TH ST.	Zip: 81003
Phone: ( )719-544-6823	Email: DBRICE@NORTHSTAR-CO.COM
*The **applicant** will be the primary contact unless otherwise noted.*	
Project Location: North of Highway 50 along Wildhorse Road (address or general description)	
Parcel# 510000003, 509000013, 509000005	
Legal Description: See Attached	
Subdivision: N/A	Acreage: 179.38
Existing Zone District: A-1 COUNTY	**Proposed Zone District:** A-1 CITY

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 has been annexed into the city. The zoning needs to be changed from A-1 County to A-1 City

Description of area surrounding proposed development:

The majority of the land surrounding the property is undeveloped. There are a couple businesses to the north of the property.

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.

Since this property is changing from A-1 county to A-1 city as part of the annexation, there is no change in use or tentative site plan at this time. The property will be rezoned at a different time if need to accomade future use.

☐ 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: Early 2022

Estimated date for completion of project: Early 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 has already succesffully annexed the land and submitted a master plan, along with all associated fees and is moving forward with development of the site.

☑ CD with DWF and DWG (Autocad) file of all plans and drawings & a PDF of all documents submitted. (**if applicable**)

By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:

1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application, including Certificate of Occupancy Inspections.

Office Use Only

Zoning Compliance (Completed by City Staff)	
Application received by:	Date:
Application checked for completeness by:	Date:
Case Manager:	Fee Paid:
Hearing date: ☐ Approved ☐ Denied ☐Approved w/conditions	

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

2. There are no known hazards or vicious animals present on the subject property.
3. All information contained in this application, is true and accurate to the best of my knowledge.
4. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.

Property Owner		
Print Name:	Wildhorse Land and Holdings LLC	
Signature:	Manager	Date: 2/9/22
Applicant, if different from Property Owner		
Print Name:		
Signature:		Date:

April 26, 2022

This is to inform you that the City of Pueblo Planning and Zoning Commission will hold a public hearing on a request by **Warren Dean, Wildhorse Land and Holdings, LLC** for approval of the following application:

Z-22-03 Rezoning: Wildhorse: approximately 179.38 acres generally located north of West U.S. Hwy 50 and North Pueblo Blvd. from Pueblo County A-1 and A-3 to City A-1, for not more than a 10-year period.

The Planning and Zoning Commission meeting will be held on May 11, 2022, at 3:30 p.m., in City Council Chambers, 1 City Hall Place, Pueblo, CO or by Zoom: https://pueblo.zoom.us/j/92717867722?pwd=WUdnaHVGbnlCdHRrUHNFZnpPWG1Ydz09, Meeting ID: 927 1786 7722, Passcode: 195462, Telephone: 1 346 248 7799 US (Houston). You are welcome to attend this public hearing and express your viewpoint concerning this proposal. To review the plans and staff report for the proposed application, please visit www.pueblo.us/PandZ and click on "Most Recent Agenda" no sooner than the Friday prior to the hearing. **Please contact the planner listed below if you have questions.**

Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

April 26, 2022

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Scott Hobson, Director
Planning & Community Development
Beritt Odom, Principal Planner
(719) 553-2339

CASE NUMBER Z-22-03

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 WILDHORSE, 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.

4-25-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

I hereby certify that I did this day verify and photograph the posted notice of the public hearing on the Zoning Map Amendment of the property located at WILDHOSE, upon which action is pending as set forth in the Code of Ordinances, Section 17-6-2.

4-25-22
(Date)

PUEBLO PLANNING & ZONING COMMISSION

By KAREN ELGIN

Owner	OwnerStree	OwnerCity	Own	OwnerZip
METZ JAMES D	10 BIRMINGHAM CT	HIGHLANDS R/	CO	80130-3943
PUEBLO WEST METRO DISTRICT	109 E INDUSTRIAL BLVD	PUEBLO WEST	CO	81007-1404
PIERCE CRAIG/PIERCE JUDY	12352 MEADOWLARK LN	BROOMFIELD	CO	80021-4199
GUTHRIE EMERY	12410 OLD PUEBLO RD	FOUNTAIN	CO	80817-3545
STEVENS FLOYD L	1480 4TH RD	PUEBLO	CO	81007-1037
BYERLY + COSYLEON INC	1700 WILDHORSE RD	PUEBLO WEST	CO	81007-1023
COUNTY OF PUEBLO C/O BOARD OF	215 W 10TH ST	PUEBLO	CO	81003-2945
SMITH INA J/SMITH JOHN R	222 DUNN RD	PUEBLO WEST	CO	81007-1036
KERR LINDA	2321 DOGWOOD CIR	LOUISVILLE	CO	80027-1177
MONTEE NORMAN C/MONTEE KA	238 WILDHORSE RD	PUEBLO	CO	81007-1025
COLORADO DEPARTMENT OF TRAN	4201 E ARKANSAS AVE	DENVER	CO	80222-3406
WILDHORSE PROPERTIES LLC	421 E INDUSTRIAL BLVD	PUEBLO WEST	CO	81007-1415
PIERCE MARY	500 MOHAWK DR #501	BOULDER	CO	80303
PEAK VIEW BUSINESS CAMPUS LLC	511 W 29TH ST SUITE A	PUEBLO	CO	81008-1128
STECKMAN RODNEY S	7784 W STATE HWY 96	PUEBLO	CO	81005-9781
W L ENTERPRISES LTD	PO BOX 11677	PUEBLO	CO	81001-0677
WILDHORSE LAND + HOLDINGS LLC	PO BOX 64140	COLORADO SP	CO	80962-4140
HARRISON CATHY + NIBERT KRISTE	PO BOX 7672	PUEBLO WEST	CO	81007-0672

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Carla Sikes, Municipal Court Judge

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT, BY AND THROUGH THE DIVISION OF WORKERS' COMPENSATION, FOR THE RENTAL OF COURTROOM NO. 2 IN PUEBLO MUNICIPAL COURT

SUMMARY:

This Ordinance approves an intergovernmental agreement ("IGA") with the Division of Workers' Compensation of the Colorado Department of Labor and Employment for the rental of Courtroom No. 2 of the Pueblo Municipal Court.

PREVIOUS COUNCIL ACTION:

There has been no previous Council action with regards to this subject matter.

BACKGROUND:

The Municipal Court has two courtrooms. Courtroom No. 1 is the large courtroom used on a daily basis. Courtroom No. 2 is the smaller courtroom and is used every other Friday and on an as-needed basis by the Municipal Court. The IGA will allow the Division of Workers' Compensation to use Courtroom No. 2 on certain Tuesdays from 8:00 a.m. to 5:00 p.m. for workers' compensation hearings on an as-needed and as-available basis. The Division of Workers' Compensation will provide the Municipal Court with thirty (30) days advance notice of its desired use of the courtroom and will pay to the City one hundred and fifty dollars ($150) for each use. The use of Courtroom No. 2 by the Division of Workers' Compensation will not interfere with the operation of Municipal Court.

FINANCIAL IMPLICATIONS:

The IGA will provide a small amount of revenue to the City. All revenue will be paid into the City's General Fund. The Municipal Court does not anticipate any additional expenses as a result of the IGA.

BOARD/COMMISSION RECOMMENDATION:

Municipal Court recommends approval of the ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council may choose not to approve the Ordinance in which case Courtroom No. 2 will not be rented and the small amount of revenue available will not be realized by the City.

RECOMMENDATION:

Attachments:
Proposed Ordinance
Proposed Courtroom Rental Agreement

ORDINANCE NO. 10204

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT, BY AND THROUGH THE DIVISION OF WORKERS' COMPENSATION, FOR THE RENTAL OF COURTROOM NO. 2 IN PUEBLO MUNICIPAL COURT

WHEREAS, the Colorado Department of Labor and Employment, by and through its Division of Worker's Compensation, wishes to rent space at the Pueblo Municipal Court on an as-needed and as-available basis to conduct local workers' compensation hearings; NOW, THEREFORE,

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

SECTION 1.

The Courtroom Rental Agreement ("Agreement") between the City of Pueblo, a Municipal Corporation, and the Colorado Department of Labor and Employment, by and through the Division of Workers' Compensation, for the rental of Courtroom No. 2 in Pueblo Municipal Court, 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, and the City Clerk shall affix the Seal of the City thereto and attest same, as appropriate.

SECTION 3.

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 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

COURTROOM RENTAL AGREEMENT

THIS RENTAL AGREEMENT ("Agreement") is made and entered into as of February 1, 2022 ("Effective Date") by and between the City of Pueblo, a Municipal Corporation, ("Owner") and the Colorado Department of Labor and Employment, by and through is Division of Workers' Compensation ("Renter").

WITNESSETH:

WHEREAS, the Owner is the owner and operator of the Pueblo Municipal Court ("Court"), located at 200 South Main Street, Pueblo, Colorado 81003, together with the land on which said Court is situated; and

WHEREAS, Renter is desirous of renting and occupying the existing second courtroom, as designated by the Owner, ("Courtroom") in accordance with this Agreement.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Rental:

The Owner hereby rents unto the Renter and Renter hereby rents from Owner for the term and upon the conditions hereinafter stated, the Courtroom situated in the County of Pueblo, State of Colorado subject to existing easements and restrictions.

2. Term and Termination:

A. The term on this Agreement is from the Effective Date through December 31, 2022. This Agreement may be renewed annually upon the mutual agreement of the parties and through a signed writing.

B. All conditions and covenants contained herein shall remain in full force and effect during any and all extension periods.

C. Either party may terminate this Agreement by providing at least fourteen (14) days prior written notice to the other party stating that the Agreement shall terminate on a certain date.

3. Rental Rate and Other Fees:

A. In consideration of the rights and privileges contained herein, Renter agrees to pay a per usage fee of $150.00 for each use of the Courtroom.

B. Renter shall not be charged for utilities normally provided in the Courtroom.

C. In all cases where Renter is required by this Agreement to pay any rates, fees, or other charges or to otherwise make payments to Owner, such payments shall be made at the City of Pueblo, Finance Department, 1 City Hall Place, Pueblo, Colorado 81003, or at such other place as Owner may hereafter designate in writing to Renter. Said payments shall be made in legal tender of the United States and any check shall be received by Owner subject to collection. Renter agrees to pay any bank charges made for the collection on any such checks.

4. <u>Use and Improvements</u>:

A. The Courtroom shall be rented on a per usage basis, where each use by Renter shall be on those certain Tuesdays indicated by Renter and each use shall be for the duration of the municipal workday, from 8:00 a.m. to 5:00 p.m., unless the Court provides permission for a longer duration, as needed. Renter will inform Owner at least thirty (30) days prior to any desired use of the Courtroom. Owner makes no guarantees or warrantees as to the availability of the Courtroom for Renter's use or the suitability of the Courtroom for Renter's needs. All usage of the Courtroom must be approved by the Owner prior to use by Renter. In case of a scheduling or other conflict, Owner's decisions as to the use of the Courtroom will control in its sole and absolute discretion.

B. Renter may not construct or install upon the rented premises any improvements or otherwise alter the Courtroom. Renter will not modify, alter, or improve any fixtures or improvements upon the rented premises, whether now existing or hereafter constructed, without the prior written approval of Owner, which may be given or denied in Owner's sole and absolute discretion. Costs of any such improvements, revisions, signs, or alterations shall be borne solely by Renter and all such improvements, modifications, revisions, or alterations shall upon expiration or termination of this Agreement be removed without cost to Owner. Owner may, on a case by case basis, allow the improvements to remain, in which case ownership of the improvements will immediately pass to Owner and Owner shall not be liable for the cost of said improvements. All improvements must be completed by trade professionals licensed, insured, and permitted to conduct business within the City.

C. The rented premises shall be used and occupied by Renter solely for workers' compensation hearings and case management. Renter shall have no right to utilize the rented premises, or any improvement thereon, other than as specifically allowed under this Agreement.

D. Renter grants to the Owner the right to enter the rented premises at any time to do what is necessary for the purposes of repairing, replacing and/or maintaining the rented premises.

E. Renter may not store any materials, equipment, inventory, or other property in the Courtroom and must immediately remove all of Renter's property following each use of the Courtroom. Renter must repair any damage to the rented premises caused by Renter, its employees, guests, and invitees. Renter, at its expense, shall keep the

rented premises in good repair and condition, and in a safe, sanitary, orderly, and sightly condition.

F. Notwithstanding anything to the contrary, Renter's activity will not unreasonably interfere, as determined solely by the Municipal Court Judge, with operation of the Court.

G. Renter is renting the Courtroom "AS IS" in its present condition. Owner makes no representation or warranties with respect to the present or future condition, or suitability for a particular use of the rented premises or the Court. Owner shall be under no obligation to maintain the Court or any part thereof in a particular location or condition. If the Court shall permanently close or relocate, the Renter may terminate this Agreement upon thirty (30) days prior written notice given to Owner.

5. Signs:

Renter shall not erect, paint, or maintain any permanent signs whatsoever upon the rented premises without first securing the written consent of the Owner. Any such signs shall comply with all ordinances and regulations of the Owner or standards which might be developed by the Court.

6. Right of Inspection:

The Owner reserves and retains for its officers, employees, and authorized representatives the right to enter the rented premises during reasonable business hours, and after prior notice, for the purpose of inspecting and protecting the rented premises, and for doing any and all things which the Owner may deem necessary for the proper general conduct and operation of the Court, and in the exercise of the Owner's police power.

7. Assumption of Risk:

Renter assumes all risk of loss, damage, injury, and liability for the same that may occur to Renter, Renter's guests, and Renter's property in or upon the rented premises and Owner shall not be liable or responsible for any such loss, damage, or injury, regardless of the cause thereof, including, without limitation, the negligence of Owner, its officers, agents, or employees.

8. Waivers and Hold Overs:

No provision of this Agreement may be waived except by an agreement signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision. Should Renter hold over the use of or continue to occupy the rented premises after the termination or cancellation of this Agreement, such holding over shall be deemed merely a tenancy for successive monthly terms upon the same conditions as provided in this Agreement, subject to termination upon seven (7) days prior written notice.

9. Inconvenience During Construction:

Renter recognizes that from time to time it will be necessary for the Owner to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance, and repair at and to the Court in order that the Court and its facilities be suitable for their given purpose, which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or interrupt Renter's operations in the Courtroom. Renter agrees that no liability shall attach to Owner, its officers, agents, employees, contractors, subcontractors, and representatives by reason of such inconvenience or interruption, and for and in further consideration of the premises, Renter waives any right to claim damages or other consideration therefor.

10. Assignments and Subletting:

Renter shall not assign this Agreement or any interest therein nor sublet the rented premises or any portion thereon without the prior written consent of Owner, which may be granted or denied within its sole and absolute discretion.

11. Renter's Default:

A. Any one of the following shall constitute an event of default by Renter hereunder:

(1) Failure of Renter to pay in full all delinquent installments of rent and/or combined service fees for a period of forty-five (45) days after written notice and demand therefor are given by Owner to Renter.

(2) Failure of Renter to perform or comply with any obligation, covenant or agreement of Renter hereunder other than payment of money for a period of thirty (30) days after written notice specifying such failure is given by Renter to Owner, except that if such obligation, covenant or agreement is not capable of being performed within said thirty (30) day period, Renter shall not be in default if Renter shall commence such performance within said thirty (30) day period and thereafter prosecute the same with diligence and continuity to completion.

B. In the case of a continuing event of default by Renter, Owner shall have the following remedy in addition to all other rights and remedies provided by law or in equity, including without limitation, damages, and specific performance:

(1) Terminate this Agreement by seven (7) days prior written notice given to Renter specifying the date of termination and Renter shall within said seven (7) day period vacate the rented premises and surrender possession thereof to Owner.

12. Notices:

All notices, required to be given to Owner hereunder, shall be in writing and be sent by certified mail to Pueblo Municipal Court, 200 South Main Street, Pueblo, Colorado 81003.

All notices required to be given to Renter hereunder shall be in writing and sent by certified mail, addressed to _____, provided that either party may designate in writing from time to time subsequent or supplementary persons or addresses in connection with said notices. The effective date or service of any such notice shall be the date such notice is mailed by Renter or Owner.

13. Law, Rules, Regulations, and Conditions:

A. Renter, its officers, agents, and employees shall faithfully observe and comply with all applicable federal, state, and local laws, regulations, and ordinances now existing or hereafter adopted relating to the use and occupancy of the Court or rented premises including without limitation the Pueblo Municipal Code.

B. Renter, its officers, agents, and employees shall faithfully observe and comply with all minimum standards and rules regulating operations and activities from and upon the Court adopted from time to time by Owner. Such minimum standards and rules shall not be applied arbitrarily, discriminatorily, or unreasonably. Except with respect to matters of public health and safety, if any provision of this Agreement shall conflict with any provision of the minimum standards and rules adopted or amended by Owner after commencement date, the conflicting provision of this Agreement shall control.

C. Renter agrees not to use the rented premises for commercial or residential uses and that all uses shall be substantially related to workers' compensation procedures.

D. It is expressly understood by Renter that security within the Court is vital. Renter, its employees, guests, and invitees shall comply with all security requirements of Owner and directions issued by Owner's staff. Violation of Court security rules as now, or in the future may, exist shall be grounds for immediate termination of this Agreement.

14. Nondiscrimination Assurances

A. The Renter, for itself, its successors and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person on the grounds of race, color, religion, sex, sexual orientation, disability or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the rented premises; (ii) that in construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, sexual orientation, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) that the Renter shall use the rented premises in compliance with all other requirements imposed by or pursuant to local, state, and federal law, and as such may be amended.

B. Renter agrees to operate the rented premises for the use and benefit of the public and to furnish good, prompt, and efficient services adequate to meet all the demands for its services at the Court, to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit of service, provided that Renter may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

15. Miscellaneous:

A. This Agreement and all of its covenants and provisions shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, subtenants, and approved assigns.

B. This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising under this Agreement or for the enforcement of this Agreement shall be in a state court with jurisdiction located in Pueblo County, Colorado.

C. Nothing in this Agreement is intended to nor shall be deemed to constitute a partnership or joint venture between the parties, or to create any agency or partner relationship between the parties. Neither party shall hold itself out as a partner, joint venture, agent, or representative of the other under this Agreement.

D. Nothing in this Agreement is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred upon the Owner under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the Effective Date.

OWNER:

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By_____
Nicholas A. Gradisar

Title: Mayor

RENTER:

COLORADO DEPARTMENT OF
PERSONNEL & ADMINISTRATION,
OFFICE OF ADMINISTRATIVE COURTS

Rich Robinett Digitally signed by Rich Robinett Date: 2022.04.20 16:25:59 -06'00'

By _____
Rich Robinett

Title: Department Controller

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE (1) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS SELLER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS BUYER, AND (2) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS SELLER, RELATING TO RFP 22-017 FOR THE SALE OF PROPERTY LOCATED IN "THE BLUFFS" SECTION OF "THE BLOCKS"

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign (1) an agreement for the City to sell 2 parcels of unimproved land located to InhabX, LLC, a Colorado limited liability company ("Company") and (2) an agreement for the City to purchase a parcel of unimproved land from the Company. All 3 parcels are located in "the Bluffs" section of "the Blocks."

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

On February 4, 2022, the City's Purchasing Department issued RFP 22-0017 for the sale of the following 2 parcels of unimproved land located in "the Bluffs" section of "the Blocks." The Company was the successful bidder, as follows:

Assessor Parcel Number	Square Feet	Bid Amount
536320007	11,200	$4,000.00
536306001	5,300	2,000.00

The Company's bid also included an offer to transfer Parcel No. 536208004, consisting of approximately 39,500 square feet, to the City for no consideration.

FINANCIAL IMPLICATIONS:

The City will receive $6,000.00 plus Parcel No. 536208004. Title insurance premiums and closing costs will be paid by both the City and the Company, respectively.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to sell the 2 parcels to the Company.

RECOMMENDATION:

Approval of this Ordinance.

Attachments:
Proposed Ordinance;
2 proposed Contracts to Buy and Sell Real Estate and proposed Special Warranty Deeds

ORDINANCE NO. 10205

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE (1) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS SELLER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS BUYER, AND (2) A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AS BUYER, AND INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AS SELLER, RELATING TO RFP 22-017 FOR THE SALE OF PROPERTY LOCATED IN "THE BLUFFS" SECTION OF "THE BLOCKS

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

SECTION 1.

The following two (2) Contracts to Buy and Sell Real Estate ("Agreements") between the City of Pueblo, a Colorado municipal corporation ("City") and InhabX, LLC, a Colorado limited liability company ("Company"), both dated June 27, 2022, relating to the following real estate parcels, copies of which are attached hereto and are incorporated herein by this reference, having been approved as to form by the City Attorney, are hereby approved:

Assessor Parcel Number	Seller	Buyer
536320007	City	Company
536306001	City	Company

Assessor Parcel Number	Seller	Buyer
536208004	Company	City

The Mayor is authorized to execute and deliver said Agreements in the name of the City and the City Clerk is authorized to afix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver Special Warranty Deeds and related documents at closing, selling the properties owned by the City, and purchasing the property owned by the Company, as identified in and in the manner described in the attached Agreements.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreements which are necessary or appropriate to implement the transactions described therein.

SECTION 3.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 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 TO BUY AND SELL REAL ESTATE

THIS AGREEMENT ("Agreement") is made the 27th day of June, 2022, between the City of Pueblo, a Colorado municipal corporation (hereinafter called the "City"), and InhabX, LLC, a Colorado limited liability company (hereinafter called the "Company"). Company and City are sometimes referred to herein as a "Party" and collectively, as the "Parties."

1. Property Defined. Subject to satisfaction of the terms and conditions contained in this Agreement, the City agrees to sell and convey to the Company and the Company agrees to purchase from the City, all that certain plat, piece, and unimproved parcels of land (the "Property") described as follows:

Assessor Parcel Number
536320007
536306001

The Property shall be conveyed by Special Warranty Deed ("Deed"). The Property shall be conveyed subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and the zoning and subdivision regulations and resolutions of the City and the Permitted Exceptions (as hereinafter defined), which shall be listed as exceptions in Exhibit A to the Special Warranty Deed.

2. Purchase Price. City and Company agree that the total purchase price shall be as follows, to be paid as provided in, and subject to, Paragraph 7 below (the "Purchase Price"):

Assessor Parcel Number	Square Feet	Bid Amount
536320007	11,200	$4,000.00
536306001	5,300	$2,000.00

3. Payment of Purchase Price. The Purchase Price for the Property shall be paid at Closing (as hereinafter defined).

4. Title Commitment and Policy. No later than 10 days after the Effective Date, City shall order and obtain, and deliver to Company , at City's expense, a current commitment for extended coverage title insurance in the amount of Fifty Thousand Dollars ($50,000.00) together with legible copies of all documents listed as exceptions therein, and a current certificate of taxes due with respect to the Property, from a title company selected by City, and reasonably acceptable to Company, authorized to issue title insurance in the state of Colorado (the "Title Company") on the current standard form of extended ALTA Owners Policy (collectively, the "Title Commitment"). The Title Company shall promptly provide copies of any amendments or modifications of the Title Commitment to Company. Company shall have the right to review the Title Commitment and the title documents and notify City in writing of any title objections to the title exceptions set forth in the Title Commitment. City shall have five (5) days from receipt of notice of such objections within which to eliminate or modify (or agree in writing to so eliminate or modify) any such unacceptable

exceptions or items to the reasonable satisfaction of Company, but City shall have no obligation whatsoever to so eliminate or modify any such unacceptable exceptions or items. In the event that City is unable or unwilling to eliminate or modify (or agree in writing to so eliminate or modify) such unacceptable items to the reasonable satisfaction of Company on or before the expiration of said five (5) day period, City shall notify Company in writing of such fact within said five (5) day period or be deemed to have so notified Company with respect to all such unacceptable items not theretofore cured upon the fifth (5th) day of said period. In such event, Company shall, prior to the Closing Date either (i) waive such objections and accept title to the Property subject to title exceptions set forth in the Title Commitment to which Company did not object and to such unacceptable items (the "Permitted Exceptions"), or (ii) terminate this Agreement by written notice to City, whereupon this Agreement shall automatically be terminated and of no further force and effect, except as otherwise expressly set forth herein. At Closing or as soon as reasonably practicable after Closing, the Title Company shall issue and deliver to Company the owner's title insurance policy referred to above (the "Title Policy"), issued by the Title Company insuring Company's title to the Property consistent with the Title Commitment subject only to taxes and assessments for the year of Closing and subsequent years and the Permitted Exceptions. At Closing, City shall pay the premium for the Title Policy. Company may obtain such other endorsements to the Title Policy as Company desires, at the expense of Company, except for endorsements obtained at City's cost. City shall provide such affidavits or certificates, and pay such expenses, as may be required by the Title Company to remove all liens, including, without limitation, mechanics' or materialmen's liens, as exceptions to the Title Policy.

5. Transfer of Title. Subject to payment of the Purchase Price, compliance by Company with the other terms and provisions hereof, City shall execute and deliver to Company at Closing a Special Warranty Deed conveying marketable fee title to the Property to Company free of financing, mortgage, judgment and tax liens, subject to taxes and assessments for the year of Closing and subsequent years, subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and zoning and subdivision regulations and resolutions of the City of Pueblo and subject to the Permitted Exceptions which shall include all matters shown on the Title Commitment accepted by Company.

6. Closing Time and Place. Closing of the transaction contemplated hereby ("Closing") shall be held on a date and time as agreed by City and Company. The Closing shall take place in the offices of the Title Company issuing the Title Commitment and the Title Policy.

7. Conditions Precedent to Closing. The sale and purchase contemplated by this Agreement is contingent upon the full completion of the Company's performance under that certain Contract to Buy and Sell Real Estate between the Parties of even date herewith, by Company conveying the following real property to the City:

Assessor Parcel Number	Seller	Buyer
536208004	Company	City

8. Closing Costs, Documents and Services. Company and City shall sign and complete all customary or required documents at or before Closing. Fees for real estate closing services, if any, shall be paid at Closing, one-half by Company and one-half by City.

9. Prorations. General taxes and assessments for the year of Closing, if any (which shall be based on the taxes for the calendar year immediately preceding Closing), water, sewer, utility charges and other usual and customary items shall be prorated between City and Company as of the Closing Date.

10. Possession. Possession of the Property shall be delivered to Company by City on the Closing Date.

11. Time of Essence/Default and Remedies. Time is of the essence hereof. If any obligation required to be performed prior to Closing (and including the obligation to close) is not performed there shall be the following exclusive remedies:

(a) If Company is in Default: In the event Company defaults in the performance of its obligations hereunder, City shall have the right to (i) terminate this Agreement upon written notice to Company or (ii) treat this Agreement as being in full force and effect and to obtain specific performance, but not damages. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

(b) If City is in Default: In the event City defaults in the performance of its obligations hereunder, Company shall have the right to (i) terminate this Agreement by written notice to City or (ii) treat this Agreement as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations enforced by injunction at the instance and request of Company without the showing of any special damages or an inadequate remedy at law.

(c) Costs and Attorneys' Fees. Anything to the contrary herein notwithstanding, in the event of any action or litigation arising out of this Agreement, the court shall award to the prevailing party all reasonable costs and expenses, including reasonable attorneys' fees.

12. Representations and Warranties of City. The City represents and warrants to Company as follows:

(a) City has full power, capacity and authority to execute and deliver this Agreement and all other documents required to be executed and delivered by City under this Agreement and to perform its obligations hereunder.

(b) This Agreement has been, duly authorized, executed and delivered by City and constitutes the legal, valid and binding obligation of City, enforceable against City in accordance with its terms.

(c) City is not a party to any judicial, administrative, arbitration or other similar proceedings relating in any manner to the Property or to City's interest therein or that may detrimentally affect City's ability to perform its obligations under this Agreement or the ability of persons who acquire portions of the Property to develop, own or operate the Property. City has not received notice of (and to City's knowledge there is no basis for) any pending or threatened claims, actions, suits or other proceedings of the nature described in the immediately preceding sentence, nor are any such claims, actions, suits or other proceedings anticipated by City.

(d) To City's knowledge, there are no violations of laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions or agreements applicable to the Property. City has not received notice from any governmental or other agency or any other person with respect to any such violations concerning the Property.

(e) There are no Agreements or other obligations outstanding for the sale, lease or transfer of all or any part of the Property.

(f) There is no default, nor has any event occurred which, with the passage of time, the giving of notice or both, would constitute a default under any agreement, contract, mortgage, deed of trust or other instrument which relates to City's interest in the Property, to the Property itself, or which affects the Property in any manner that would have a material adverse effect on the Company.

(g) To the best of City's information, knowledge and belief: (i) the Property is in compliance with all applicable state and federal environmental laws, regulations, ordinances, rules and orders (collectively, "Environmental Laws"); (ii) there are no pending or threatened judicial or administrative proceedings of any kind with respect to the Property alleging the violation or potential violation of any Environmental Law nor any pending or threatened investigations of any matters relating to any Environmental Laws with respect to the Property; (iii) there exists no release or threatened release of any hazardous, toxic or otherwise regulated substance, waste, contaminant or material (collectively "Hazardous Materials"), as such terms are defined in any applicable Environmental Law, on, in or at the Property, or any part thereof; (iv) the Property has not been used as a dump site, a storage site for solid wastes or the location of above ground or underground fuel or storage tanks; and (v) that Hazardous Materials are not currently present on or have at any time been stored or used on the Property in violation of any Environmental Laws.

13. Representations and Warranties of Company. Company represents, warrants and covenants as follows:

(a) Company has full power, capacity and authority to execute and deliver this Agreement and all other documents required to be executed and delivered by Company under this Agreement and to perform its obligations hereunder.

(b) This Agreement will have been duly authorized, executed and delivered by Company and constitutes the legal, valid and binding obligation of Company, enforceable against Company in accordance with its terms.

14. 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 City, 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 Company, addressed to:

InhabX, LLC
Attn: John Wark
2311 S. Prairie Ave.
Pueblo, CO 81005

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 delivery in the case of overnight courier.

15. Assignment. This Agreement and the rights granted to Company hereunder may be assigned as follows:

15.1. Internal Assignments. Notwithstanding anything in this Agreement to the contrary, Company has the right to assign this Agreement, without City's consent, to a parent, subsidiary, or affiliate of Company, to a company that has been merged or consolidated with Company, or to a company acquiring all or substantially all of Company 's physical assets, provided Company (or the resulting entity of any merger or consolidation) remains fully liable hereunder.

15.2. Outside Assignment Requirements. It shall be necessary for Company to obtain City's prior, written consent to any other proposed assignment of this Agreement. However, City's consent must not be unreasonably or unduly withheld, conditioned, or delayed, provided, however, that City may withhold consent thereto if in the exercise of its sole judgment it determines that:

15.2.1. Financial Condition. The financial condition of the proposed assignee is not consistent with the extent of the obligations undertaken by the proposed assignment.

Except as so restricted, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

16. Modification. No subsequent modification of any of the terms of this Agreement shall be valid or binding upon the Parties or enforceable unless made in writing and signed by the Parties.

17. Entire Agreement. All understandings and agreements heretofore had between the Parties hereto considering the subject matter hereof are merged into this Agreement and the that certain Contract to Buy and Sell Real Estate between the Parties of even date herewith (identified in Section 7 *supra.)* which alone fully and completely express the agreement and

understanding of the Parties with respect to the Property. Said agreements are entered into after full investigation, neither Party relying upon any statement or representation, not embodied in this Agreement or the aforesaid other agreements, made by the other Party.

18. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

19. Validity. If any provision of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

20. Broker. Company and City represent and warrant to each other that no broker or finder has been engaged by such Party in connection with this transaction. City agrees to indemnify, defend and hold Company harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Company by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of City. Company agrees to indemnify, defend and hold City harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against City by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Company .

21. Applicable Law. This Agreement will be construed and enforced in accordance with the laws of the State of Colorado (without giving effect to its choice of law principles).

22. Interpretation. Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders. In addition, 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 amendments hereto.

23 Survival of Representations. The representations, warranties, covenants and agreements of Company and City in this Agreement are and shall be construed to be covenants running with the Property, shall survive the Closing of the transaction contemplated hereby and recordation of the Special Warranty Deed and may be enforced by either Company or City after Closing Date and shall not be merged or be deemed to be merged into the Special Warranty Deed.

24. Third Parties. Company and City and their respective successors and permitted assigns are the only parties to this Agreement and are the only parties entitled to enforce this Agreement. Nothing contained in this Agreement nor any provision hereof is intended to give or shall be construed to give or confer, directly or indirectly, or otherwise, upon any third party any right, remedy or benefit hereunder.

25. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT CITY IS NOT MAKING AND HAS NOT AT ANY TIME

MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILTY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN CITY'S SPECIAL WARRANTY OF TITLE TO BE SET FORTH IN THE SPECIAL WARRANTY DEED), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING, BUT NOT LIMITED TO, HAZARDOUS MATERIALS CONTAMINATION), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. COMPANY ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE SPECIAL WARRANTY OF TITLE TO BE SET FORTH IN THE SPECIAL WARRANTY DEED, UPON CLOSING CITY SHALL SELL AND CONVEY TO COMPANY AND COMPANY SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." COMPANY AND CITY AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 25 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THE RECORDING OF THE SPECIAL WARRANTY DEED HEREUNDER.

26. Venue and Waiver of Trial by Jury. CITY AND COMPANY HEREBY IRREVOCABLY SUBMIT TO THE PERSONAL AND SUBJECT MATTER JURISDICTION OF THE DISTRICT COURT, PUEBLO COUNTY, STATE OF COLORADO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN THE DISTRICT COURT OF PUEBLO COUNTY, STATE OF COLORADO. COMPANY AND CITY AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 26 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THE RECORDING OF THE SPECIAL WARRANTY DEED HEREUNDER. TO THE FULL EXTENT PERMITTED BY LAW, COMPANY AND CITY WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

27. 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.

28. Recording. Neither Party shall record this Agreement or any short form memorandum of this Agreement.

29. Limitations on Liability. NEITHER PARTY SHALL BE LIABLE FOR ANY ACTUAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES (INCLUDING LOSS OF PROFITS) ARISING OUT OF A BREACH OF THIS AGREEMENT. IN THE EVENT OF A BREACH OF THIS AGREEMENT, THE SOLE REMEDY AVAILABLE TO THE NON-BREACHING PARTY SHALL BE LIMITED TO SPECIFIC PERFORMANCE.

30. Counterparts. This Agreement may be executed in any number of 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.

CITY:

CITY OF PUEBLO, CO
A MUNICIPAL CORPORATION

By: _____
Mayor

ATTESTED BY: _____
City Clerk

COMPANY:

InhabX, LLC
A Colorado limited liability company

_____
By: (Signature)
John Wark
President and Manager

CONTRACT TO BUY AND SELL REAL ESTATE

This Contract to Buy and Sell Real Estate ("Agreement") is made and entered into this 27th day of June, 2022 by and between the City of Pueblo, a Colorado municipal corporation (hereinafter "Buyer") and InhabX, LLC, a Colorado limited liability company (hereinafter "Seller"). Buyer and Seller are sometimes referred to herein as a "Party" and collectively, as the "Parties."

1. Property Defined. Seller agrees to sell and convey to the Buyer and the Buyer agrees to purchase from Seller, that certain plat, piece, and parcel of land having the following legal description:

Assessor Parcel Number
536208004

County of Pueblo, State of Colorado (the "Property"). The Property shall be conveyed by Special Warranty Deed ("Deed") subject to the zoning and subdivision regulations and resolutions of the City of Pueblo and the Permitted Exceptions (as hereinafter defined).

2. Purchase Price and Terms. The Purchase Price for the Property shall be Ten Dollars ($10.00) payable at Closing (as hereinafter defined).

3. Evidence of Title.

(a) Title Commitment and Policy. Prior to the Closing Date (as defined in Paragraph 5 below) Seller shall order and obtain, at Seller's expense, a current commitment for extended coverage title insurance in the amount of $50,000.00, together with legible copies of all documents listed as exceptions therein, and a current certificate of taxes due with respect to the Property, from a title company selected by Buyer and reasonably acceptable to Seller authorized to issue title insurance in the State of Colorado (the "Title Company"), on the current standard form of extended ALTA Owners Policy (collectively, the "Title Commitment"). The Title Company shall promptly provide copies of any amendments or modifications of the Title Commitment to Buyer and Seller. At Closing or as soon as reasonably practicable after Closing, the Title Company shall issue and deliver to Buyer the owner's title insurance policy referred to above (the "Title Policy"), issued by the Title Company insuring Buyer's title to the Property consistent with the Title Commitment and subject only to taxes and assessments for the year of Closing and subsequent years. At Closing, Seller shall pay the premium for the Title Policy. Buyer may obtain such other endorsements to the Title Policy as Buyer desires, at the expense of Buyer. Seller shall provide such affidavits or certificates as may be required by the Title Company to remove all liens, including, without limitation, mechanics' or materialmen's liens, as exceptions to the Title Policy.

(b) Title Defects and Objections. Buyer will have twenty (20) days from the date of receipt of the Title Commitment, whichever shall last occur, but in no event later than the expiration of the Inspection Period (as defined in Paragraph 4 below), to notify Seller in writing of any objections to any items identified in the Title Commitment, or of any other objections as to title matters. Seller will have until fifteen (15) days after receipt of Buyer's written objections ("Seller's Cure Period") to elect, at its reasonable discretion, to cure all items to which Buyer has objected, cause such items to be modified in a manner which is reasonably satisfactory to Buyer or to advise Buyer that Seller does not intend to cure such items. Alternatively, within the Seller's Cure Period, Buyer at Buyer's cost may elect to obtain one or more endorsements to the Title

Commitment, in a form reasonably acceptable to Buyer, providing title insurance protection with regard to any objections raised by Buyer. If Seller fails to cure to the reasonable satisfaction of Buyer any written objection by Buyer of which Seller has been given notice in accordance with this subparagraph (b), or elects not to cure, then Buyer may elect, as its sole remedy to either (i) waive the objection by written notice to Seller within ten (10) days after expiration of Seller's Cure Period and proceed to Closing as herein provided, or (ii) terminate this Agreement by written notice to Seller, in which case the Parties will be released from all obligations hereunder, except for any obligations that expressly survive the termination of this Agreement. Buyer shall have ten (10) business days after receipt of any amendment or update to the Title Commitment to object to any changes in the same fashion as objections to the initial Title Commitment under this subparagraph (b). Anything above to the contrary notwithstanding, Seller shall be obligated to, and shall cause all financing, mortgage, judgment and tax liens to be removed as title exceptions prior to or concurrently with Closing.

4. Inspection. Commencing on the Effective Date and continuing for Thirty (30) days thereafter (the "Inspection Period"), Buyer, its agents, consultants and employees, shall have the right to enter and access the Property at reasonable times and upon reasonable advance notice for the purpose of making such inspections, studies, tests and investigations ("Testing") as Buyer may elect and which it deems necessary to determine the suitability of the Property for Buyer's intended use. All such Testing shall be performed by Buyer or its agents or employees at Buyer's sole cost and expense. Buyer shall indemnify, defend and hold Seller and the Property harmless from and against any and all direct costs, liabilities, claims, demands, actions and expenses arising from or in connection with such Testing and, in the event Buyer does not close on the purchase of the Property, Buyer shall repair any damage to the Property or improvements thereon caused by such Testing. This indemnification shall not be deemed to apply to costs, liabilities, claims, demands, actions or expenses arising from Seller's negligent acts or omissions or any pre-existing condition (including, without limitation, environmental conditions) within the Property. If Buyer is not satisfied with the physical condition of the Property, Buyer may terminate this Agreement by written notice given to Seller prior to the expiration of the Inspection Period.

5. Date of Closing. The closing of Buyer's purchase of the Property ("Closing") shall take place within Sixty (60) days after the Effective Date of this Agreement or at an earlier date as mutually agreed to by the Parties ("Closing Date") and the hour and place of Closing shall be mutually agreed upon by the Parties.

6. Transfer of Title. Subject to payment of the Purchase Price, compliance by Buyer with the other terms and provisions hereof, and the occurrence or waiver by Buyer of the Conditions Precedent to Closing defined and described in Paragraph 7, Seller shall execute and deliver to Buyer at Closing a Special Warranty Deed conveying marketable fee simple title to the Property to Buyer free of financing, mortgage, judgment and tax liens, subject only to the Permitted Exceptions which shall include all matters shown on the Title Commitment accepted by Buyer.

7. Additional Conditions Precedent to Closing. The sale and purchase contemplated by this Agreement is contingent upon occurrence of all the following prior to Closing Date (collectively, the "Conditions Precedent to Closing"):

(a) City Council of Buyer, as its governing body, approving this Agreement on

or before Closing.

(b) The results of inspection and testing do not indicate any conditions which are deemed unacceptable to Buyer, in Buyer's sole and absolute discretion.

(c) The sale and purchase contemplated by this Agreement is contingent upon the full completion of the City's performance under that certain Contract to Buy and Sell Real Estate between the Parties of even date herewith, by the City conveying the following real property to the Company:

Assessor Parcel Number	Square Feet	Bid Amount
536320007	11,200	$4,000.00
536306001	5,300	$2,000.00

In the event any of the Conditions Precedent to Closing are not satisfied on or before five (5) days before the Closing Date, Buyer may by notice given to Seller not less than least five (5) days prior to Closing Date that Buyer will (i) waive any or all of the above conditions in writing delivered to Seller and close the sale and purchase of the Property, or (ii) elect to terminate this Agreement, in which event each party will be released from all obligations under this Agreement.

8. Closing Costs, Documents and Services. Buyer and Seller shall sign and complete all customary or required documents at or before Closing. Fees for real estate closing services, if any, shall be paid at Closing, one-half by Seller and one-half by Buyer.

9. Prorations. Estimated general taxes and assessments for the year of Closing, if any (which shall be based on the taxes for the calendar year immediately preceding Closing) shall be prorated and paid by Seller on the Closing Date.

10. Possession. Possession of all portions of the Property shall be delivered to the Buyer as of the Closing Date.

11. Time of Essence/Default and Remedies. Time is of the essence hereof. If any obligation required to be performed prior to Closing (and including the obligation to close) is not performed there shall be the following exclusive remedies:

(a) If Buyer is in Default: In the event Buyer defaults in the performance of its obligations hereunder, Seller shall have the right to (i) terminate this Agreement by written notice to Buyer or (ii) treat this Agreement as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations enforced by injunction, without the posting of a bond, at the instance and request of Seller without the showing of any special damages or an inadequate remedy at law.

(b) If Seller is in Default: In the event Seller defaults in the performance of its obligations hereunder, Buyer shall have the right to (i) terminate this Agreement by written notice to Seller or (ii) treat this Agreement as being in full force and effect and to obtain specific performance, but not any damages. Such violations may be restrained or such obligations

enforced by injunction, without the posting of a bond, at the instance and request of Buyer without the showing of any special damages or an inadequate remedy at law.

(c) Costs and Attorneys' Fees. Anything to the contrary herein notwithstanding, in the event of any action or litigation arising out of this Agreement, the court shall award to the prevailing party all reasonable costs and expenses, including reasonable attorneys' fees. Exclusive venue and jurisdiction for any such litigation shall be in the District Court in and for Pueblo County, Colorado and to the maximum extent permitted by law, Buyer and Seller hereby waive their right to a trial by jury. The provisions of this subparagraph (c) shall survive Closing or termination of this Agreement.

12. Representations and Warranties of Seller. Seller represents and warrants to Buyer as follows:

(a) Seller has full power, capacity and authority to execute and deliver this Agreement and all other documents required to be executed and delivered by Seller under this Agreement and to perform its obligations hereunder.

(b) This Agreement has been, duly authorized, executed and delivered by Seller and constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms.

(c) Seller is not a party to any judicial, administrative, arbitration or other similar proceedings relating in any manner to the Property or to Seller's interest therein or that may detrimentally affect Seller's ability to perform its obligations under this Agreement or the ability of persons who acquire portions of the Property to develop, own or operate the Property. Seller has not received notice of (and to Seller's knowledge there is no basis for) any pending or threatened claims, actions, suits or other proceedings of the nature described in the immediately preceding sentence, nor are any such claims, actions, suits or other proceedings anticipated by Seller.

(d) To Seller's knowledge, there are no violations of laws, rules, regulations, ordinances, codes, covenants, conditions, restrictions or agreements applicable to the Property. Seller has not received notice from any governmental or other agency or any other person with respect to any such violations concerning the Property.

(e) There are no Agreements or other obligations outstanding for the sale, lease or transfer of all or any part of the Property.

(f) There is no default, nor has any event occurred which, with the passage of time, the giving of notice or both, would constitute a default under any agreement, contract, mortgage, deed of trust or other instrument which relates to Seller's interest in the Property, to the Property itself, or which affects the Property in any manner that would have a material adverse effect on the Buyer.

(g) To the best of Seller's information, knowledge and belief: (i) the Property is in compliance with all applicable state and federal environmental laws, regulations, ordinances, rules and orders (collectively, "Environmental Laws"); (ii) there are no pending or threatened judicial or administrative proceedings of any kind with respect to the Property alleging the violation

or potential violation of any Environmental Law nor any pending or threatened investigations of any matters relating to any Environmental Laws with respect to the Property; (iii) there exists no release or threatened release of any hazardous, toxic or otherwise regulated substance, waste, contaminant or material (collectively "Hazardous Materials"), as such terms are defined in any applicable Environmental Law, on, in or at the Property, or any part thereof; (iv) the Property has not been used as a dump site, a storage site for solid wastes or the location of above ground or underground fuel or storage tanks; and (v) that Hazardous Materials are not currently present on or have at any time been stored or used on the Property in violation of any Environmental Laws.

13. Representations and Warranties of Buyer. Buyer represents, warrants and covenants as follows:

(a) Buyer has full power, capacity and authority to execute and deliver this Contract and all other documents required to be executed and delivered by Buyer under this Agreement and to perform its obligations hereunder.

(b) Subject to approval by Buyer's City Council, this Agreement will have been duly authorized, executed and delivered by Buyer and constitutes the legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms.

14. Seller Covenants. Commencing on the Effective Date and until the first to occur of Closing or termination of this Agreement, Seller shall not (a) lease, sell, convey or further encumber any portion of the Property, (b) consent to any zoning or other change affecting the use of the Property, except for those requested or approved by Buyer, or (c) cause any other changes which affect the condition of Seller's title to the Property or would otherwise be reasonably likely to adversely impact the condition of the Property or Buyer's intended use thereof.

15. 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 Buyer, addressed to:

Mayor
1 City Hall Place, 2nd Floor
Pueblo, CO 81003

with a copy to:

City Attorney
1 City Hall Place, 3rd Floor
Pueblo, CO 81003

(b) If to Seller, addressed to:

InhabX, LLC
Attn: John Wark
2311 S. Prairie Ave.

Pueblo, CO 81005

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.

16. Assignment. This Agreement and the rights granted to Buyer hereunder may not be assigned by Seller without Buyer's express, written consent, which consent may be withheld in the sole and absolute discretion of Buyer. Except as so restricted, this Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

17. Modification. No subsequent modification of any of the terms of this Agreement shall be valid or binding upon the Parties or enforceable unless made in writing and signed by the Parties.

18. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and any prior statements, representations or agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement.

19. Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

20. Validity. If any provision of this Agreement shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Agreement.

21. Broker. Buyer and Seller represent and warrant that they shall each pay their respective brokers or real estate agents, if any, in connection with this transaction. Seller agrees to indemnify, defend and hold Buyer harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Buyer by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Seller. Buyer agrees to indemnify, defend and hold Seller harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Seller by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Buyer.

22. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado (without giving effect to its choice of law principles).

23. Interpretation. Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

24. Survival of Representations. The representations, warranties, covenants and agreements of Buyer and Seller in this Agreement are and shall be construed to be covenants running with the Property, shall survive the Closing of the transaction contemplated hereby and recordation of the Special Warranty Deed, may be enforced by either Buyer or Seller after Closing Date, and shall not be merged or be deemed to be merged into the Special Warranty Deed.

25. Third Parties. Buyer and Seller and their respective successors and permitted assigns are the only parties to this Agreement and are the only parties entitled to enforce this Agreement. Nothing contained in this Agreement nor any provision hereof is intended to give or shall be construed to give or confer, directly or indirectly, or otherwise, upon any third party any right, remedy or benefit hereunder.

26. Counterparts and Facsimile Signatures. This Agreement may be executed in multiple counterparts, which taken together shall be deemed one original.

27. Exclusivity. In consideration of the time and resources which the Buyer will devote to the transactions contemplated herein, Seller agrees that for a period of One Hundred Fifty (150) after the effective date of this Agreement or the earlier termination of this Agreement, Seller will not, directly or indirectly, solicit, initiate or enter into discussions or transactions with, or encourage, or provide any information to, any individual, entity or group (other than to Buyer and Buyer's designees) concerning any sale or lease of the Property or any similar transaction or alternative. The provisions of this Paragraph shall not be construed to prohibit Seller or Buyer from discussing the transaction contemplated herein with their attorneys or other consultants.

28. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILTY, FITNESS FOR A PARTICULAR PURPOSE, TITLE ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING, BUT NOT LIMITED TO, HAZARDOUS MATERIALS CONTAMINATION), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." SELLER AND BUYER AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 28 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THE RECORDING OF THE DEED HEREUNDER.

29. Venue and Waiver of Trial by Jury. BUYER AND SELLER HEREBY IRREVOCABLY SUBMIT TO THE PERSONAL AND SUBJECT MATTER JURISDICTION OF THE DISTRICT COURT, PUEBLO COUNTY, STATE OF COLORADO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR

PROCEEDING SHALL BE HEARD AND DETERMINED IN THE DISTRICT COURT OF PUEBLO COUNTY, STATE OF COLORADO. BUYER AND SELLER AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 29 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT.TO THE FULL EXTENT PERMITTED BY LAW, BUYER AND SELLER WAIVE THEIR RIGHTS TO A TRIAL BY JURY.

30 Limitations on Liability. NEITHER PARTY SHALL BE LIABLE FOR ANY ACTUAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES (INCLUDING LOSS OF PROFITS) ARISING OUT OF A BREACH OF THIS AGREEMENT. IN THE EVENT OF A BREACH OF THIS AGREEMENT, THE SOLE REMEDY AVAILABLE TO THE NON-BREACHING PARTY SHALL BE LIMITED TO SPECIFIC PERFORMANCE.

Executed at Pueblo, CO as of the day and year first above written.

BUYER:

CITY OF PUEBLO, COLORADO
a Colorado municipal corporation

By: _____
MAYOR

ATTESTED BY: _____
CITY CLERK

SELLER:

InhabX, LLC
A Colorado limited liability company

_____
By: (Signature)
John Wark
President and Manager

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND BLUFFS OPPORTUNITY ZONE BUSINESS, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR THE SALE OF PROPERTY LOCATED IN THE DELAVAN PLACE SUBDIVISION OF THE COUNTY OF PUEBLO, STATE OF COLORADO

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign an agreement for the City to sell a parcel of unimproved land located in the Delavan subdivision of Pueblo County (the "Property") to Bluffs Opportunity Zone Business, LLC, a Colorado limited liability company ("Company") for One Thousand Dollars ($1,000.00).

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

Company wishes to construct a 100-unit apartment building in "the Bluffs" portion of "the Blocks" and wishes to purchase a strip of land owned of record by the City for use as a parking lot for the project.

FINANCIAL IMPLICATIONS:

One Thousand Dollars ($1,000) will be deposited into the City's General Fund.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to sell the Property to the Company.

RECOMMENDATION:

The Mayor and City staff recommend approval of this Ordinance.

Attachments:
Proposed Ordinance;
Proposed Contract to Buy and Sell Real Estate and Proposed Quit Claim Deed

ORDINANCE NO. 10206

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT TO BUY AND SELL REAL ESTATE BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND BLUFFS OPPORTUNITY ZONE BUSINESS, LLC, A COLORADO LIMITED LIABILITY COMPANY FOR THE SALE OF PROPERTY LOCATED IN THE DELAVAN PLACE SUBDIVISION OF THE COUNTY OF PUEBLO, STATE OF COLORADO

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

SECTION 1.

The Contract to Buy and Sell Real Estate ("Agreement") dated June 27, 2022, between the City and Bluffs Opportunity Zone Business, LLC, a Colorado limited liability company ("Company), a copy of which is attached hereto and is incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver said Agreement in the name of the City and the City Clerk is authorized to fix the seal of the City thereto and attest same. The Mayor is further authorized to execute and deliver a Quit Claim Deed and related documents at closing, transferring the property owned by the City, as identified in said Agreement to the Company, in the manner described in the attached Agreement.

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 which are necessary or appropriate to implement the transactions described therein.

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

CONTRACT TO BUY AND SELL REAL ESTATE

THIS CONTRACT ("Agreement") is made the 27th day of June, 2022, between the City of Pueblo, a Colorado municipal corporation, 1 City Hall Place, Pueblo, CO 81003 (hereinafter called the "Seller") and Bluffs Opportunity Zone Business, LLC, a Colorado limited liability company, PO Box 6771, Denver CO 80206 (hereinafter called the "Purchaser").

1. Property Defined. The Seller agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase from the Seller, all that certain plat, piece, and improved parcel of land having the following legal description (Property):

the South 13 feet of Lot 14 and the North 17 feet of Lot 15, Block 4 in Delavan Place, according to the amended plat thereof, filed for record July 30, 1890

all in the County of Pueblo, State of Colorado.

The Property shall be conveyed by Quit Claim Deed ("Deed") a form of which, marked as Exhibit 1, is attached hereto and incorporated herein by reference. The Property shall be conveyed subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and zoning and subdivision regulations and resolutions of the City of Pueblo, subject to satisfaction of the conditions listed in this Agreement.

2. Purchase Price. Seller and Purchaser agree that the total purchase price shall be One Thousand Dollars (U.S. $1,000.00) to be paid as provided in, and subject to, Paragraph 3 below (the "Purchase Price").

3. Payment of Purchase Price. The Purchase Price for the Property shall be payable at Closing in cash or certified funds.

4. Real Property Taxes. There are no general real property taxes and assessments for tax year 2021 because the Grantor is exempt from the payment of real property taxes and assessments.

5. Closing Time and Place. Closing of the transaction contemplated hereby ("Closing") shall be held at the offices of the City Attorney, 1 City Hall Place, 3rd Floor, Pueblo, CO 81003 at a date and time as agreed by Seller and Purchaser. The Purchaser shall be responsible for recording the Quit Claim Deed and for paying all recording fees.

6. Broker. Purchaser and Seller represent and warrant to the other that no broker or finder has been engaged by such Party in connection with this transaction. Seller agrees to indemnify, defend and hold Purchaser harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Purchaser by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Seller. Purchaser agrees to indemnify, defend and hold Seller harmless from and

against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Seller by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Purchaser.

7. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILTY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING, BUT NOT LIMITED TO, HAZARDOUS MATERIALS CONTAMINATION), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 7 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THE RECORDING OF THE QUIT CLAIM DEED HEREUNDER.

8. In addition to Paragraph 7 hereof, Seller and Purchaser agree that the provisions of this Agreement shall survive Closing and the recording of the Quit Claim Deed.

9. All understandings and agreements heretofore had between the parties hereto are merged into this Agreement, which alone fully and completely expresses their agreement, and this Agreement is entered into after full investigation, neither party relying upon any statement or representation, not embodied in this Agreement, made by the other.

10. This Agreement may not be changed or terminated orally.

11. The provisions in this Agreement are to apply to and bind, and inure to the benefit of, the heirs, executors, administrators, successors, and assigns of the respective parties.

12. 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.

13. This Agreement shall in all respects be governed by, and construed in accordance with, the laws of the State of Colorado. Seller and Purchaser hereby irrevocably submit to the personal and subject matter jurisdiction of the District Court, Pueblo County, State of Colorado in any action or proceeding arising out of or relating to this Agreement and hereby irrevocably agree that all claims in respect of such action or proceeding shall be heard and determined in the District

Court of Pueblo County, State of Colorado. Purchaser and Seller agree that the provisions of this Paragraph 13 shall survive the closing of the transaction contemplated by this Agreement and the recording of the Quit Claim Deed hereunder. To the full extent permitted by law, Purchaser and Seller hereby waive their rights to a trial by jury.

14. The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser, and their respective heirs, executors, administrators, successors and assigns only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

15. The following schedules or exhibits attached hereto shall be deemed to be an integral part of this Agreement:

Exhibit 1 – Form of Quit Claim Deed

16. The section headings appearing in this Agreement are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

17. 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.

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

19. Neither party shall record this Agreement or any short form memorandum of this Agreement.

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

SELLER:

CITY OF PUEBLO, CO
A MUNICIPAL CORPORATION

By: _____
Nicholas A. Gradisar
Mayor

ATTESTED BY: _____
CITY CLERK

PURCHASER:

Bluffs Opportunity Zone Business, LLC
A Colorado limited liability company

_____
By: (Signature)
David Copperman
Manager

QUIT CLAIM DEED

THIS DEED, made this _____ day of _____, 2022, between the City of Pueblo, a Colorado municipal corporation (hereinafter referred to as "Grantor") and Bluffs Opportunity Zone Business, LLC, a Colorado limited liability company, whose address is PO Box 6771, Denver CO 80206 (hereinafter referred to as "Grantee"):

WITNESS, that the Grantor, for and in consideration of ONE THOUSAND ($1,000.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold and **QUITCLAIMED** and by these presents does remise, release, sell and **QUITCLAIM** unto the Grantee, and the Grantee's heirs and assigns forever, in Fee Simple, all of the right, title interest, claim and demand that the Grantor has in and to the real property, together with the fixtures and improvements located thereon, if any, situate, lying and being in the County of Pueblo and State of Colorado, described as follows:

the South 13 feet of Lot 14 and the North 17 feet of Lot 15, Block 4 in Delavan Place, according to the amended plat thereof, filed for record July 30, 1890

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging, including but not limited to, or in anywise thereunto appertaining, and all the estate, right, title, interest and claim, whatsoever, of the Grantor, either in law or in equity, to the use, benefit and behalf of the Grantee, and the Grantee's heirs and assigns forever.

IN WITNESS WHEREOF, this Quitclaim Deed is executed by Grantor to be effective the day and year first above written.

GRANTOR:

City of Pueblo
a Colorado municipal corporation

By: _____
Name: Nicholas A. Gradisar
Title: Mayor

STATE OF COLORADO)
) SS.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2022, by Nicholas A. Gradisar as Mayor of the City of Pueblo, a Colorado municipal corporation.

Witness my official hand and seal.

My Commission Expires: _____

_____
Notary Public

Background Paper for Proposed
Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

CC: Nicholas A. Gradisar, Mayor

VIA: Marisa Stoller, City Clerk

FROM: Barbara Huber, Fire Chief – Fire Department

SUBJECT: AN ORDINANCE AMENDING SECTION 3-2-2 OF CHAPTER 2, OF TITLE III OF THE PUEBLO MUNICIPAL CODE RELATING TO THE POWERS AND DUTIES OF THE FIRE CHIEF

SUMMARY:

This ordinance amends existing section 3-2-2 in relation to the power and duty of the Fire Chief.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Pursuant to Colo. Const. art. XX, § 6 and § 31-15-201(1)(f), C.R.S., the City has the power to legislate upon, provide or contract for and regulate the furnishing of emergency ambulance services. When such services are contracted for by the City, the Fire Chief should be the designated individual of City to regulate, consistent with the requirements of state and federal law, those procedures necessary to assure the continued health of any person or persons receiving such services. Although this has been previously assumed, it should be expressly provided for and set forth in the Code of Ordinances.

FINANCIAL IMPLICATIONS:

None..

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10207

AN ORDINANCE AMENDING SECTION 3-2-2 OF CHAPTER 2, OF TITLE III OF THE PUEBLO MUNICIPAL CODE RELATING TO THE POWERS AND DUTIES OF THE FIRE CHIEF

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 3-2-2 of the Pueblo Municipal Code, is amended to read as follows:

Sec. 3-2-2. Fire Chief; powers and duties.

(a) The Chief of the Fire Department or the ranking officer at fires shall have control of persons present at fires, and to that end shall have and exercise all the powers of a captain of police thereat.

(b) He or she may prescribe limits in the vicinity of any fire within which no person may enter, except those who reside therein, members of the Fire Department, policemen and such other persons as may be admitted by the officers of such departments.

(c) He or she shall have power to summon any person present at a fire to aid in extinguishing the fire and removing and protecting property. It shall be unlawful for any person to neglect or refuse to obey such orders. However, no person shall be bound to obey such officer, unless the official character of the officer be known or made known to such person.

(d) He or she shall have power, if in his or her judgment he or she may deem it necessary to order any buildings or structures in close proximity to a fire in progress to be torn down, blown up or otherwise disposed of for the purpose of checking the conflagration, but shall not unnecessarily or recklessly destroy or injure any building or other property.

(e) He or she shall regulate, consistent with the requirements of state and federal law, medical control with respect to any emergency ambulance services contracted for by the City pursuant to §31-15-201(1)(f), C.R.S. For the purposes of this Subsection, "medical control" shall mean all procedures necessary to assure the continued health of any person or persons injured in an accident or the subject of a medical emergency.

SECTION 2.

The officers 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 2022 .

☐ Disapproved on _____ based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

City Clerk's Office Item # S-11

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather M. Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING FIVE (5) FULL-TIME POSITIONS TO THE AUTHORIZED STAFFING FOR THE PURPOSE OF SUPPORTING COMMUNITY DEVELOPMENT ACTIVITIES

SUMMARY:

To enhance the City's efficiency and effectiveness in processing new and existing commercial and residential property development projects, the Mayor requests to add the following new positions:

Planning and Community Development:
- 1 Land Use Technician

Public Works:
- 1 Deputy Director of Public Works
- 1 Civil Engineer – Transportation
- 1 Associate Engineer I

Stormwater :
- 1 Civil Engineer – Drainage

Furthermore, the Public Works Department requests to convert a vacant, funded Pavement Management Technician position to an Associate Field Engineer.

All staffing changes listed are directly connected to the objective of enhancing the City's capacity to respond to commercial and residential development projects.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No. 10085 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2022.

BACKGROUND:

A City objective is to enhance the efficiency with which the various elements of development review connected to commercial and residential development projects is accomplished. The City is experiencing a significant increase in the number of land use and development-related applications from developers and property owners. Many of these applications are complex and inter-related, making the application review process a significant challenge.

Since fall of 2021, there have been a historic number of subdivision applications submitted to the Planning and Community Development Department. In fact, more development requests have been submitted since September of 2021 to current date, than in the previous decade.

Current Subdivision Applications – Received between September 2021- March 2022

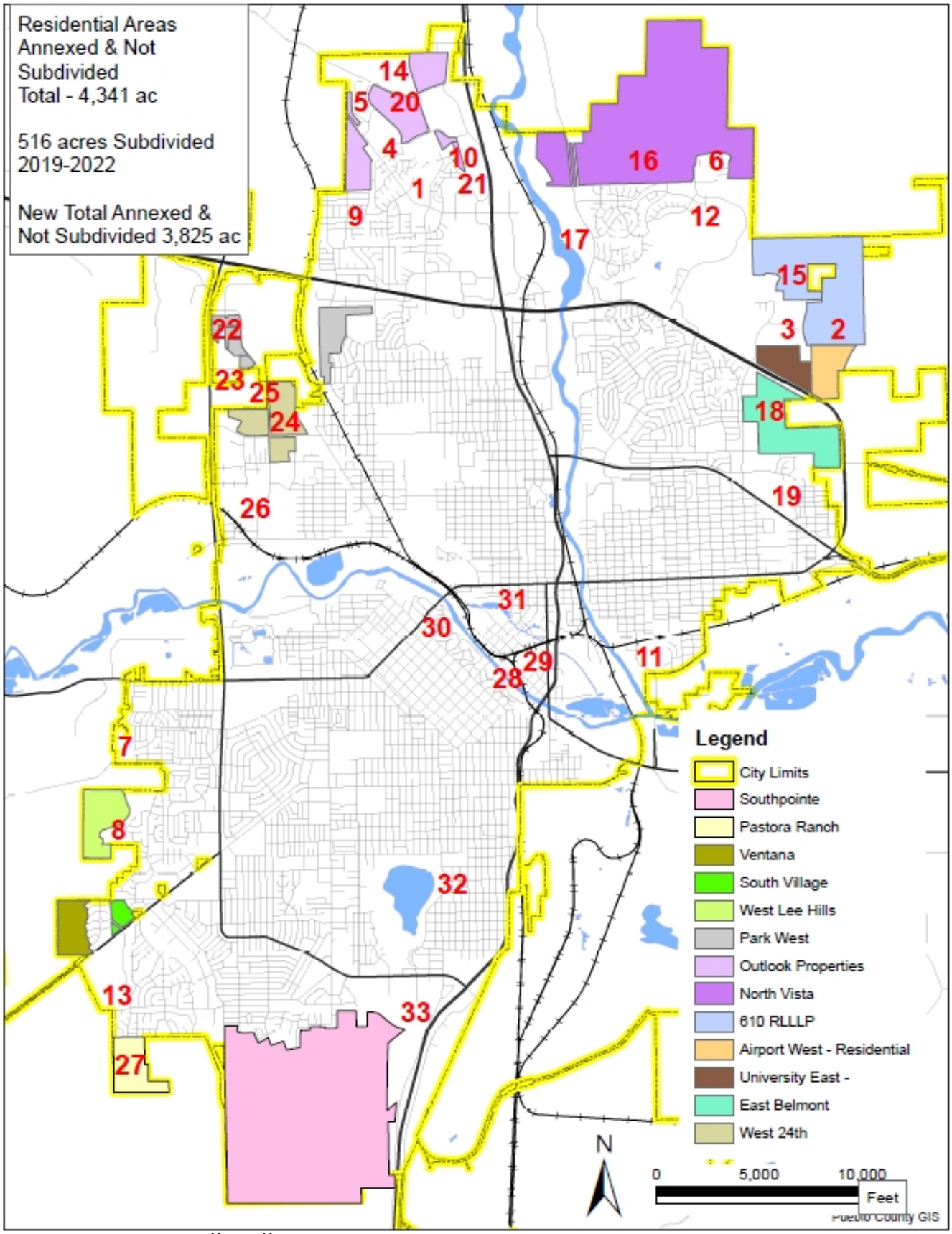
Case Description	Lots	Multi-Family Units
Regency Crest Filing 13	57	
Pueblo Springs Apartments		265
Villa Bella Filing 2	375	
Pikes Peak Park Filing 1	114	220
Rivers Run		50
Cottages at Park West		158
Pastora Ranch Filing 1	90	
Pastora Ranch Filing 2	104	
North Vista Highlands Filing 5	141	
Belmont Place	97	
Total	**978**	**693**

1671

Historic Subdivision Applications - 2003-2020

Year(s)	Lots	Multi-Family Units	Total
2020	5	49	54
2009-2019	250		250 (average 23 per year)
2008	80	150	230
2007	823		823
2006	226		226
2005	272		272
2004	260	15	265
2003	552		552

Active or Potential Development Project Areas as of April 2022 (33 in total)


Residential Areas Annexed & Not Subdivided
Total - 4,341 ac
516 acres Subdivided 2019-2022
New Total Annexed & Not Subdivided 3,825 ac
Legend
City Limits
Southpointe
Pastora Ranch
Ventana
South Village
West Lee Hills
Park West
Outlook Properties
North Vista
610 RLLLP
Airport West - Residential
University East -
East Belmont
West 24th
N
0
5,000
10,000
Feet
Pueblo County GIS

2 Villa Bella – 20 ac - 90 lots
3 Villa Bella – 25 acres - 125 lots
4 Sawyer Ridge– 20 ac - 98 lots
5 Sawyer Ridge, filing 2 – 36 ac - 165 lots
6 North Vista – 194 ac - 320lots, +/- 450 units
7 Regency Crest – 7 ac - 35 lots
8 West Lee Hills – 13 ac - 23 lots
9 Crestview Hills – 14 ac - 70 lots
10 Outlook Ridge Apartments – 8 ac - 120 units
11 River's Run – 12 ac - 60 lots

Subdivision Improvement Agreement Amendment – 124 acres, 490 lots/units

12 Walking Stick Vista – 40 ac - 97 lots – Amend SIA
13 Pueblo del Sol – 24 ac - 93 lots – Amend SIA
14 Northpointe Estates Mobile Home Park – 60 ac, 300 units

Unplatted – Overall Totals – 1,181 acres, 2,985 lots/units

Northeast – 325 acres, 1,175 lots/units

15 Villa Bella 560 ac - 2,620 lots, Current Application 48 ac -375 lots –Subdivision
16 North Vista Highlands – Current Application, filing 5, 141 lots 110 ac
17 Fountain Creek Apartments/Townhomes 39 ac - 411 lots – Subdivision
18 Belmont Place 114 ac – Current Application 116 lots – total 411 lots – Subdivision
19 Oakshire Lane Cottages 14 ac –132 units – Rezone & Subdivision

Northwest, 101 acres, 630 lots/units

20 Andiamo Development 85 ac – 350 lots – Rezone & Subdivision
21 **Apartment Complex – 16 ac – 280 units**

West – 223 acres, 1573 units/lots

22 Cottages at Park West – 25 ac - Current Application 194 units - Rezone & Subdivision
23 Pueblo Springs Apartments – 13 ac - Current Application 265 units - Rezone & Subdivision
24 Pikes Peak Park 90 ac - Current Application 114 lots & 220 units – Rezone & Subdivision
25 Quail Ridge 65 ac 600 lots/units – Rezone & Subdivision, portion Annex
26 Chamberlains/West Side Addition– 30 ac, 180 units/lots – Rezone & Subdivision

Southwest – 498.35 ac, 519 lots/units

27 Pastora Ranch 110 ac – 194 lots - Subdivision

Downtown - 16 acres, 431 +/- units

28 Fuel & Iron Project 2.5 acres, 28 units – Redevelopment in Process
29 Watertower Place 10 acres, +/- 110 units – PUD Amnd Current Application
30 Arkansas Bluffs 2 ac -– 115 units – Rezone & Subdivision
31 City Block 110 ac – .5 ac – 30 units – plus 1.3 ac - 178 units at full build out

South - 18 acres, 230 +/- units

32 Motel Conversion – Lake Avenue – 1 .3 ac – 30 units
33 Pueblo Dog Track Redevelopment – 17 ac – 200 units

Housing Permit Activity

Another strong indicator of development activity is the number of housing permits being issued. According to Pueblo Regional Building, 206 permits were issued in 2021. In 2022, between January and the end of April, 112 permits were already issued with an anticipated total for the year in excess of 300.

Specific Staffing Requests

Supporting the timely and thorough review of development applications requires a well-trained staff with subject matter technical expertise and knowledge of the Pueblo Municipal Code, land use, transportation engineering, drainage engineering standards and regulations, federal permitting requirements as well as City construction standards. Additionally, these staff members must also possess the soft skills required to successfully communicate and collaborate with a broad cross-section of the public.

Given development trends that have taken shape over the past year as well as anticipated funding for future City projects, it is crucial that adequate resources be allocated to meet the City's development support objectives. Adding additional staffing resources and maximizing current capacity is critical to success.

Planning and Community Development – 1 Full-Time Position

Land Use Technician

The Land Use Technician position will significantly help with the daily land use communications with customers, and in accomplishing the variety of administrative support activities associated with moving applications through the required review and public hearing processes. The Land Use Technician will set up case files, organize the application attachments for distribution to other City departments and outside agencies, properly notice property owners, prepare legal notices of hearings and work with the three boards and commissions of the Planning and Community Development Department. Maintaining accurate and up-to-date records of land use applications, and documenting the legal process required for city land use actions is mission critical in supporting development activities.

Adding an additional Land Use Technician will provide for better allocation of time for senior planning staff to work on staff reports and development reviews to expedite development applications.

Public Works – 3 Full-Time Positions, 1 Existing Position Conversion

Deputy Director Public Works (New Classification)

The Deputy Director will provide additional leadership and management capacity within the Public Works Department. This position will manage personnel administration, champion internal process improvement and technical innovation, and support the Director in achieving the City's public infrastructure and capital project programs. The Deputy Director will be required to hold the same credentials as the Director in case of an extended absence or vacancy in the Director position.

Civil Engineer – Transportation (New Classification)

The Civil Engineer-Transportation will provide direct support to the Traffic Engineer, reviewing applications for various land use and development activities; managing standards and specifications related to signals, signs, and striping for City projects; designing and developing scopes of work for City projects; analyzing traffic data and transportation studies; and performing other duties as assigned by the Traffic Engineer. The Civil Engineer-Transportation will be on a career path that leads to licensure as a Professional Engineer which is required within five years of the employee's hire date.

Associate Engineer I

The Associate Engineer I will facilitate the review and approval of land use and development applications for residential and commercial development within the City; draft agreements and exhibits related to subdivisions and property boundary rearrangements; provide input on the development and update of standard details, construction specifications, design criteria, and other City standards; prepare resolutions, ordinances, and background papers for City Council agenda items; and other duties as assigned by the Engineering Manager.

Pavement Management Tech to Associate Field Engineer (Conversion)

The Pavement Management Technician position within Public Works is currently vacant due to a recent retirement. By converting the position to an Associate Field Engineer, the employee in this role would assess pavement conditions across the City, assist in developing scopes of work and estimating quantities for paving projects, and oversee day-to-day construction operations on those projects. Some of the Pavement Management Technician job responsibilities have been transferred to the new Public Works Asset and Project Coordinator positions or they have been contracted out. Public Works still requires the day-to-day project management and oversight capacity previously performed by the Pavement Management Technician, but this is a function also performed by the Associate Field Engineer job classification. Associate Field Engineers have a wide scope of construction oversight training and experience that includes paving projects. This realignment will allow Public Works to support a broader range of project types now and into the future.

Stormwater – 1 Full-Time Position

Civil Engineer – Drainage

The Stormwater Department is finding that the engineering firms that submit drainage documents to for reviews are overwhelmed as well as the City. These firms are submitting incomplete documents. This causes the Stormwater

Department to have to spend extra time documenting mistakes and completing multiple reviews of one project to ensure that drainage criteria is met.

The addition of one more Civil Engineer – Drainage position would make a significant difference in being able to meet the development review deadlines. This extra Drainage Engineer position will be able to design construction documents for Stormwater capital improvement projects. Otherwise, a private engineering firm would have to be paid to design these projects.

FINANCIAL IMPLICATIONS:

All costs associated with this proposal will be paid out of either the General Fund or the Stormwater Enterprise Fund dependent on department assignment.

Assuming the additional development positions are approved, the timeline to fill through the Civil Service, selection and post-offer background processes would likely result in a hire date no sooner than August 2022 for the majority of the new positions. Some of the requested positions may be filled sooner if an existing Civil Service eligibility list is already established with a sufficient number of qualified candidates. The costs below include salary, benefits and necessary recruitment and office equipment costs.

Position	Department	Fund	Annual Cost	5 Months of Costs
Deputy Director of Public Works	Public Works	GF	$ 163,639	$ 69,495
Civil Engineer - Transportation	Public Works	GF	$ 124,800	$ 53,312
Associate Engineer I	Public Works	GF	$ 79,465	$ 34,306
Conversion -Pavement Mngt Tech to Associate Field Engineer	Public Works	GF	$ 1,195	$ 239
Civil Engineer -Drainage	Stormwater	SW Enterprise	$ 124,800	$ 53,312
Land Use Technician	Planning	GF	$ 77,145	$ 33,340
		Totals	**$ 571,044**	**$ 244,005**

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and continue as is with respect to development activities within the City. As has been outlined, this is not operationally ideal for the departments involved given the surge in development related activities. The suggested changes represent a more efficient way to accomplish this important work for the community.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10208

AN ORDINANCE AMENDING THE FISCAL YEAR 2022 STAFFING ORDINANCE BY ADDING FIVE (5) FULL-TIME POSITIONS TO THE AUTHORIZED FOR THE PURPOSE OF SUPPORTING COMMUNITY DEVELOPMENT ACTIVITIES

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and functionality for the Public Works, Stormwater and Planning and Community Development Departments in their mission to support development activities within the community; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

The following sections captioned “Planning & Community Development” , “Public Works-Engineering “and “Stormwater”, and of Ordinance No. 10085, being the 2022 Staffing Ordinance, are amended as follows:

Planning & Community Development	
Director of Planning & Community Development	1
Assistant Mayor/Community Investment	1
Principal Planner	1
Senior Planner	3
Planner	4
Land Use Technician	[1] **2**
Transportation Planning Technician	1
MPO Manager	1
Administrative Technician	1
Office Assistant	1
Total	[15] **16**

Public Works - Engineering	
Director of Public Works	1
Deputy Director of Public Works	**1**
Engineering Manager	1
Civil Engineer/Construction	1
Civil Engineer/Public Works	1
Civil Engineer – Transportation	**1**
Associate Engineer II	2
Associate Field Engineer	[2] **3**
Associate Engineer I	[2] **3**
[Pavement Management Technician	**1]**
Public Works Asset Coordinator	1
Public Works Projects Coordinator	1
Survey Party Chief-LS	1
Survey Party Chief	1
Senior Planner	1
Construction Inspector	2
Administrative Technician	1
Senior Office Assistant	1
Total	[20] **23**

Stormwater	
Director of Stormwater	1
Stormwater Coordinator	1
Stormwater Utility Maintenance Supervisor	1
MS4 Permit Coordinator	1
Civil Engineer/ Drainage	[1] **2**
Associate Engineer II Stormwater	1
Associate Engineer I Stormwater	2
Permit Compliance Specialist - SW	1
Inspector/Stormwater	1
Stormwater Crew Leader	1
Equipment Operator IV	3
Equipment Operator II	4
Utility Worker/Equipment Operator I	4
Administrative Technician	1
Total	[23] **24**

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 transactions described therein.

SECTION 3.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Planning and Community Development, Public Works, Stormwater Departments and shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 2022 .

☐ Disapproved on _____ based on the following objections:

_____

_____

_____

_____

Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

President of City Council

ATTEST

City Clerk

City Clerk's Office Item # S-12

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather M. Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CIVIL ENGINEER TRANSPORTATION

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance that reflects the addition of the pay rate and salary schedule for the classification of Civil Engineer Transportation.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10092 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2022.

BACKGROUND:

A City objective is to enhance the efficiency with which the various elements of development review connected to commercial and residential development projects is accomplished. The City is experiencing a significant increase in the number of land use and development-related applications from developers and property owners. Many of these applications are complex and inter-related, making the application review process a significant challenge.

In response, Mayor Gradisar has requested that several new positions be added to City staffing to support development activities. One of those positions is one Civil Engineer Transportation.

The Civil Engineer-Transportation will provide direct support to the Traffic Engineer, reviewing applications for various land use and development activities; managing standards and specifications related to signals, signs, and striping for City projects; designing and developing scopes of work for City projects; analyzing traffic data and transportation studies; and performing other duties as assigned by the Traffic Engineer. The Civil Engineer-Transportation will be on a career path that leads to licensure as a Professional Engineer which is required within five years of the employee's hire date

FINANCIAL IMPLICATIONS:

Salary and benefit costs for the position will be paid out of the General Fund.

Cost Item		Approximate Annual Cost
Salary	$	86,416.44
Retirement	$	12,271
Other Pay for admin/appointed	$	600
Health Insurance	$	21,637
Dental Insurtance	$	296
Life Insurance	$	76
Medicare	$	1,253
Ancillary Costs - recruitment, equipment	$	2,250
Total	$	124,800

Assuming the Civil Engineer Transportation position is approved, the timeline to fill through the Civil Service, selection and post-offer background processes would likely result in a hire date no sooner than August 2022. Therefore, the more realistic cost of the position would be **approximately $53,312 in FY 2022**.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and continue as is with respect to development activities within the City. As has been outlined, this is not operationally ideal for the departments involved given the surge in development related activities. The suggested changes represent a more efficient way to accomplish this important work for the community.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10209

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CIVIL ENGINEER TRANSPORTATION

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2022 pay scale for the classification of Civil Engineer Transportation is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

A. The pay range for the appointed classification of Civil Engineer Transportation in 2022

CLASS TITLE	*BASE SALARY*	*MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)*					
(B) ADMINISTRATIVE							
Civil Engineer Transportation	6312.15	6505.92	6853.65	7201.37	7549.09	7896.81	8245.39

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 and transactions described therein.

SECTION 3.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 2022.

☐ Disapproved on _____ based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

City Clerk's Office Item # S-13

BACKGROUND PAPER FOR PROPOSED ORDINANCE

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather M. Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director
Marisa Pacheco, Human Resources Director

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DEPUTY DIRECTOR PUBLIC WORKS

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance that reflects the addition of the pay rate and salary schedule for the classification of Deputy Director Public Works.

PREVIOUS COUNCIL ACTION:

On December 28, 2021, Ordinance No.10092 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2022.

BACKGROUND:

A City objective is to enhance the efficiency with which the various elements of development review connected to commercial and residential development projects is accomplished. The City is experiencing a significant increase in the number of land use and development-related applications from developers and property owners. Many of these applications are complex and inter-related, making the application review process a significant challenge.

In response, Mayor Gradisar has requested that several new positions be added to City staffing to support development activities. One of those positions is the Deputy Director Public Works.

The Deputy Director Public Works will provide additional leadership and management capacity within the Public Works Department. This position will manage personnel administration, champion internal process improvement and technical innovation, and support the Director in achieving the City's public infrastructure and capital project programs. The Deputy Director will be required to hold the same credentials as the Director in case of an extended absence or vacancy in the Director position.

FINANCIAL IMPLICATIONS:

Salary and benefit costs for the position will be paid out of the General Fund.

Cost Item		Approximate Annual Cost
Salary	$	120,000
Retirement	$	17,040
Other Pay for admin/appointed	$	600
Health Insurance	$	21,637
Dental Insurtance	$	296
Life Insurance	$	76
Medicare	$	1,740
Ancillary Costs - recruitment, equipment	$	2,250
Total	$	163,639

Assuming the Deputy Director Public Works position is approved, the timeline to fill through the Civil Service, selection and post-offer background processes would likely result in a hire date no sooner than August 2022. Therefore, the more realistic cost would be **approximately $69,495 in FY 2022**.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and continue as is with respect to development activities within the City. As has been outlined, this is not operationally ideal for the departments involved given the surge in development related activities. The suggested changes represent a more efficient way to accomplish this important work for the community.

RECOMMENDATION:

Approval of the Ordinance.

ORDINANCE NO. 10210

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2022 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR DEPUTY DIRECTOR PUBLIC WORKS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscore indicates matter being added)

SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2022 pay scale for the classification of Deputy Director Public Works is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

A. The pay range for the appointed classification of Deputy Director Public Works 2022

CLASS TITLE	*BASE SALARY*	*MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)*					
(B) ADMINISTRATIVE							
Deputy Director Public Works	9545.00	9859.99	10195.22	10541.86	10900.29	11270.90	11696.67

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 and transactions described therein.

SECTION 3.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 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 AMENDING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537

SUMMARY:

Attached is a proposed amendment to the collective bargaining agreement ("Labor Agreement") between the City of Pueblo and the International Brotherhood of Police Officers Local 537 ("Union") which would provide for a 7% increase as opposed to a 2.5% increase in 2023 and which would grant the City the option to extend the Agreement for one successive one-year term.

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 Nos. 9942 (May 24, 2021) and 10183 (May 23, 2022), City extended the Agreement for calendar years 2022 and 2023 at the rates previously agreed

BACKGROUND:

The proposed amendment to the "Labor Agreement" would provide for a 7% increase as opposed to a 2.5% increase in 2023 and would grant the City the option to extend the Agreement for one successive one-year term.

The decision to extend the term of the Labor Agreement must be made by the City Council on or before the 1st day of June 2023. The extended term shall be upon the same terms and conditions, except that wages shall be as follows:

> The monthly pay rate for each class, grade, step or position of employees shall be increased over the amount set by Ordinance establishing the 2023 pay levels by an amount equal to the Regional Adjustment multiplied by the CPI Index. For purposes of the foregoing calculation, the following terms have the following meanings:
>
> > "Regional Adjustment" means the quotient obtained by dividing the 2023 average annual cost of living index for the Pueblo, CO Metro (Pueblo Urban Area) by the 2023 average annual cost of living index for the Denver-Aurora-Lakewood CO Metro (Denver Urban Area). The average annual cost of living index for each area shall be the composite index of the same name as published by the Council for Community and Economic Research (C2ER); and
> >
> > "CPI Index" means the percentage increase for the period from January 2022 to January 2023 according to the following CPI index published by the United States Department of Labor's Bureau of Labor Statistics:
> > Population Coverage: CPI-W
> > Area Coverage: Denver-Aurora-Lakewood Colorado
> > Series Items: All Items
> > Base Period: 1982-1984=100

FINANCIAL IMPLICATIONS:

The total estimated cost of the contract for 2022 including the across-the-board wage increase of 7% and step increases is approximately $1,406,017.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

If the City Council does not approve the amendment, the Labor Agreement would remain at a 2.5% increase in 2023 and there would be no agreement for 2024, i.e the entire contact would be opened for negotiations in 2023 for 2024.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

Attachments:
Amendment to the Collective Bargaining Agreement between the City and the Union

ORDINANCE NO. 10211

AN ORDINANCE AMENDING AND EXTENDING THE TERM OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS LOCAL 537 FOR A ONE-YEAR PERIOD COMMENCING JANUARY 1, 2021 THROUGH DECEMBER 31, 2021

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Amendment to the Collective Bargaining Agreement between the City of Pueblo and the International Brotherhood of Police Officers Local 537, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and pursuant to the requirements of Section 8-14(l) of the Charter of the City of Pueblo, Colorado, is enacted as an Ordinance.

SECTION 2.

The Mayor is authorized to execute the Amendment to the Collective Bargaining 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 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 June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

_____
President of City Council

Action by the Mayor:

☒ Approved on June 29, 2022 .

☐ Disapproved on _____ based on the following objections:

_____

_____

_____

_____

_____
Mayor

Action by City Council After Disapproval by the Mayor:

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

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

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

_____
President of City Council

ATTEST

_____
City Clerk

AMENDMENT TO COLLECTIVE BARGAINING AGREEMENT

This Amendment to Collective Bargaining Agreement ("Amendment") is entered into this ____ day of _____, 2022, by and between the International Brotherhood of Police Officers Local 537 ("Union") and Pueblo, a municipal corporation ("City").

WHEREAS, City and Union are parties to a collective bargaining agreement effective January 1, 2022 through December 31, 2023 (herein "Labor Agreement");

WHEREAS,_the parties mutually agree to the amendment of the Labor Agreement according to the terms and conditions herein provided.

NOW THEREFOR, in consideration of the foregoing and mutual covenants contained herein, the parties agree as follows:

A. Article 2 of the Labor Agreement is amended to read as follows:

ARTICLE 2. TERM OF AGREEMENT

This Agreement shall be effective January 1, 2022, and all of its provisions shall remain fully effective through December 31, 2023 and may be extended by the City for one (1) successive one (1) year term.

The decision to extend the term of this Agreement shall be made by the City Council on or before the 1st day of June 2023. The extended term shall be upon the same terms and conditions, except that wages during each extended term shall be as provided or otherwise determined pursuant to Article 16 of the Agreement and health insurance shall be as provided or otherwise determined pursuant to Section 23.1. If the City Council shall fail to extend the term of the Agreement as stated above, then either party may commence negotiations for a successor agreement by serving notice pursuant to the City Charter on or before June 21, 2023.

B. Article 16 of the Labor Agreement is amended to read as follows:

ARTICLE 16. SALARY

Effective January 1, 2022, the monthly pay rate for each class, grade, step or position of employees covered by this Agreement shall be increased by 2.75 % over the amount set by Ordinance establishing the 2021 pay levels.

Effective January 1, 2023, the monthly pay rate for each class, grade, step or position of employees covered by this Agreement shall be increased by 7.0 % over the amount set by Ordinance establishing the 2022 pay levels.

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2024 through December 31, 2024, the monthly pay rate for each class, grade, step or position of employees covered by this Agreement shall be increased over the amount set by Ordinance establishing

the 2023 pay levels by an amount equal to the Regional Adjustment multiplied by the CPI Index. For purposes of the foregoing calculation, the following terms have the following meanings:

"Regional Adjustment" means the quotient obtained by dividing the 2023 average annual cost of living index for the Pueblo, CO Metro (Pueblo Urban Area) by the 2023 average annual cost of living index for the Denver-Aurora-Lakewood CO Metro (Denver Urban Area). The average annual cost of living index for each area shall be the composite index of the same name as published by the Council for Community and Economic Research (C2ER); and

"CPI Index" means the percentage increase for the period from January 2022 to January 2023 according to the following CPI index published by the United States Department of Labor's Bureau of Labor Statistics:

Population Coverage: CPI-W
Area Coverage: Denver-Aurora-Lakewood Colorado
Series Items: All Items
Base Period: 1982-1984=100

C. Miscellaneous Provisions

1. The parties stipulate, acknowledge and agree that, given the terms of the Labor Agreement as amended and agreed to herein and entered into in calendar year 2022 including but not limited to the City's discretion to approve a future extension in 2024, this Labor Agreement complies and satisfies all requirements of City Charter including but not limited to Section 18(l) which limits collective bargaining agreements to a term of not more than three years and all duties to negotiate a successor agreement as provided in Section 8-14(m) or otherwise.

2. Each person signing this Amendment on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute and deliver this Amendment on behalf of such party and that this Amendment is a valid and legally binding obligation of such party enforceable against it.

Executed in Pueblo, Colorado as of the date first above written.

CITY OF PUEBLO

By: _____
Mayor

ATTEST:

_____
City Clerk

LOCAL 537, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

By: _____
President

ATTEST:

_____

Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: June 13, 2022

TO: President Heather Graham and Members of City Council

VIA: Marisa Stoller, City Clerk

FROM: Mayor Nicholas A. Gradisar
Robert Jagger, Deputy City Attorney
Marisa Pacheco, Director of Human Resources

SUBJECT: AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES COMMENCING JANUARY 1, 2023, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

Attached is a proposed Ordinance which would approve and enact the collective bargaining agreement between the City of Pueblo and the Pueblo Association of Government Employees ("Union") commencing January 1, 2023. Pursuant to §8-14(l) of the City Charter, any collective bargaining agreement negotiated between the Union and the City shall be reduced to writing, signed by the parties, and enacted by Ordinance.

PREVIOUS COUNCIL ACTION:

Not Applicable.

BACKGROUND:

The current collective bargaining agreement between the City and Union expires on December 31, 2022. Pursuant to the requirements of the City Charter, the City and Union commenced negotiations with respect to a contract in May of this year. Through the negotiation process, the parties have successfully reached a tentative agreement with respect to a successor contract beginning January 1, 2023. Pursuant to §8-14(l) of the Charter, such an agreement is required to be enacted as an Ordinance.

The successor contract contains the following specific changes with respect to the prior contract:

Article 15. Wages

For 2023, The monthly pay rate for all classifications shall be increased by 6.5% for all steps of the respective salary schedule for 2023. This wage increase was derived from the same methodology used for the last several years of the contract setting pay levels by an amount equal to the Regional Adjustment multiplied by the CPI-W Index for Denver-Aurora-Lakewood Colorado.

CPI – Change is 7.9%

Table 1. Consumer Price Index for All Urban Consumers (CPI-U): Indexes and percent changes for selected periods, Denver-Aurora-Lakewood, CO (1982-84=100 unless otherwise noted)

Item and Group	Indexes			Percent change from -		
	Nov. 2021	Dec. 2021	Jan. 2022	Jan. 2021	Nov. 2021	Dec. 2021
All items	289.621	-	293.580	7.9	1.4	-

C2ER – COLI – Regional Adjustment - 82%

Below are index numbers, expected spending by household types, and average prices of each selected areas compared to the national average:			
Index Comparison			
Index	**Denver, CO**	**Pueblo, CO**	**National Average**
Composite (100%)	113.5	95.0	100.0

PAGE 2023 Wage Increase – 6.5%

7.9%/100 = 0.079%

.079 x 82 = 6.5%

For purposes of the foregoing calculation, the following terms have the following meanings:

"Regional Adjustment" means the quotient obtained by dividing the 2022 average annual cost of living index for the Pueblo, CO Metro (Pueblo Urban Area) by the 2022 average annual cost of living index for the Denver Aurora-Lakewood CO Metro (Denver Urban Area). The average annual cost of living index for each area shall be the composite index of the same name as published by the Council for Community and Economic Research (C2ER); and

"CPI Index" means the percentage increase for the period from January 2021 to January 2022 according to the following CPI index published by the United States Department of Labor's Bureau of Labor Statistics:
Population Coverage: CPI-W
Area Coverage: Denver-Aurora-Lakewood Colorado Series Items: All Items
Base Period: 1982-1984=100

Additional salary range adjustments, beyond the 6.5% across-the-board wage increase were made to the following classifications based on a review of 2022 external salary data collected from comparison agencies by Colorado Municipal League:

- Administrative Technician
- Area Crew Leader/ Streets, Parks, Stormwater
- Associate Engineer I
- Associate Engineer II/Public Works, Stormwater and Wastewater
- Associate Field Engineer
- Dispatch Training Coordinator
- Emergency Services Dispatcher
- Emergency Services Dispatch Supervisor
- Equipment Operator II
- Equipment Operator IV
- Inspector/ Stormwater, Streets, Wastewater

- Lead Court Technician
- Legal Support Assistant
- Parks Caretaker II
- Parks Caretaker II/Irrigation and Playground
- Parks Maintenance Mechanic
- Parks Sr. Maintenance Mechanic/Welder
- Payroll Coordinator
- Police Payroll Technician
- Senior Office Assistant
- Streets Maintenance Mechanic
- Sweeper Operator
- Traffic Engineering Analyst
- WW Utility Worker II

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2024, through December 31, 2024, and January 1, 2025, through December 31, 2025, the monthly pay rate for each class, grade, step, or position of employees covered by this Agreement shall be increased over the amount set by Ordinance establishing the previous year pay levels by an amount equal to the Regional Adjustment multiplied by the CPI Index for the time periods relevant to year as outlined in the methodology above.

Article 15 Wages and Other Payment – Shift Differential
Added clarifying language indicating that shift differential is based on shift start time and should be paid for the entirety of the shift.

Article 16 Unform Protective Clothing – Special Footwear
Annual safety shoe allowance will be increased from $175 per year to $200 per year.

Article 18 Hours of Work – Stand By Time
The minimum compensated rate for an employee who is called back to work prior to the beginning of the next regularly scheduled shift will be increased from one hour to two hours.

Article 20 Leaves and Other Absences – Sick Leave
The amount of sick leave that can be used for a sick family member will be increased from 3 days to “an amount consistent with that required under the Healthy Families and Workplaces Act”, which is currently set at 48 hours per calendar year.

Article 20 Leaves and Other Absences – Funeral Leave
No change in benefit, just replaced with clarifying language as to how benefit should be administered.

Article 23 Holidays
Juneteenth Day (June 19th) shall be recognized as a declared holiday in addition to those designated in Section 1 of said Article.

Article 25 Health, Hospitalization, and Dental Insurance
City contribution towards health insurance will be increased by $25 for all coverage levels of all plans.

Article 32 **Term.**
The term of the agreement is for 3 years subject to the City approving any subsequent year contract extension on or before March 15th of the then current year. The City will know the amount of the wage increase for the subsequent year prior to the time the decision to extend the contract has to be made. If not extended by City, the parties will commence the negotiation process for a successor contract in compliance with the requirement of Section 8-14, City Charter.

Various **Housekeeping Items**
In addition to the above items, there were also various "housekeeping" changes that were made throughout the Contract and Appendices to update job class titles that have been added, eliminated, or changed throughout the duration of the current contract term.

FINANCIAL IMPLICATIONS:

The total estimated cost of the contract for 2023 including the across-the-board wage increase of 6.5%, step increases, and all other specific classification adjustments listed above is approximately $1,577,160.

The cost to increase the safety shoe allowance is approximately $3,375.

The cost to increase the City's health insurance contributions is approximately $68,000.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

The requirements of §8-14(l) of Charter require the agreement be enacted as an Ordinance.

RECOMMENDATION:

City Administration recommends approval of this Ordinance.

Attachments:
A copy of the Collective Bargaining Agreement between the City and the Union commencing January 1, 2023.

ORDINANCE NO. 10212

AN ORDINANCE APPROVING AND ENACTING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES COMMENCING JANUARY 1, 2023 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, pursuant to the requirement of Section 8-14, City Charter, the corporate authorities of the City of Pueblo and the sole and exclusive bargaining agent of the classified employees in the general services bargaining unit, i.e. Pueblo Association of Government Employees, have negotiated and otherwise resolved all remaining issues by final and binding interest arbitration with respect to a collective bargaining agreement commencing January 1, 2023 (the "Labor Agreement"); and

WHEREAS, the Labor Agreement has been reduced to writing and signed by said parties pursuant to the requirements of Section 8-14(l) of the Charter, City of Pueblo, Colorado; and

WHEREAS, Section 8-14(l) of the Charter of the City of Pueblo, Colorado, further requires that the Labor Agreement be enacted as an Ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Collective Bargaining Agreement between the City of Pueblo and the Pueblo Association of Government Employees commencing January 1, 2023, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and enacted as an Ordinance.

SECTION 2.

The Mayor is authorized to execute the Collective Bargaining Agreement in the name of the City.

SECTION 3.

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

SECTION 4.

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

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on June 13, 2022 .

Final adoption of Ordinance by City Council on June 27, 2022 .

President of City Council

Action by the Mayor:

☒ Approved on June 29, 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

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF PUEBLO

AND

PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES

COMMENCING JANUARY 1, 2023

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PREAMBLE

THIS AGREEMENT entered into by and between the City of Pueblo, hereinafter referred to as the City, and the Pueblo Association of Government Employees, hereinafter referred to as the Union. The City and the Union may also hereinafter be referred to severally as a party and jointly as the parties.

It is the intent and purpose both of the City and the Union to set forth herein their entire Agreement, establishing wages, hours, and other conditions of employment; providing for prompt and equitable adjustment of grievances; and achieving and maintaining harmonious labor relations.

DEFINITIONS

Certain terms used in this Agreement shall be defined as follows:

"Employee" shall mean any person holding a position in the classified service, which is included in the Bargaining Unit defined in Appendix A of this Agreement.

"Mayor" shall mean the Mayor, the Deputy Mayor in the absence or disability of the Mayor or the Mayor's designee. Pursuant to Section 20.4 of Ordinance No. 9134 amending the Charter and creating the Mayor form of government ("Charter Amendment"), the office of City Manager and the functions, powers and duties of said office shall continue until the first Mayor elected under the Charter Amendment takes office. The provisions of this Agreement including all references to Mayor shall be construed consistent with the purpose and intent of said Section and the Charter Amendment.

"Director" shall mean the Director of Human Resources or his/her designee.

"Department Head" shall include those persons appointed as Department Directors or the designee of a Director.

"Day" shall mean calendar day unless otherwise modified or defined herein. Unless otherwise specified herein, other words used in this Agreement shall have the same meanings as are given them in Section 6-3-1 of the Code of Ordinances.

Article and section titles or captions contained herein are descriptive but not substantive.

ARTICLE 1. RECOGNITION

The City recognizes the Pueblo Association of Government Employees as the sole and exclusive representative of the employees in the Bargaining Unit set forth in Appendix A of this Agreement for the term of this Agreement, for the purpose of negotiating with the City with respect to wages, rates of pay, hours, grievance and disciplinary procedures which may result in arbitration, working conditions, and all other terms and conditions of employment except disciplinary measures and the application thereof to individual employees; provided, however, that the application of discipline to individual employees may be grieved and such grievance processed in accordance with the provisions of this Agreement.

ARTICLE 2. UNION SECURITY – DUES DEDUCTION

Section 1. REQUIREMENT AND NONDISCRIMINATION. No employee shall be required to become a member of the Union as a condition of his/her employment or continued employment by the City, and there shall be no discrimination by either party against any employee on account of membership or non-membership in the Union.

Section 2. DISCRETION TO JOIN. Any employee may or may not join the Union, at the individual's sole discretion.

Section 3. DUES DEDUCTION. Upon receipt of a signed authorization from an employee, the City shall deduct monthly from the pay of such employee: (a) the amount of normal Union dues and assessments uniformly required of Union members, and (b) initiation fees uniformly required of all Union members. Any revocation of such authorization shall be effective the month following the date received by the City but not earlier. Upon receipt of a revocation by the Finance Department, the City shall forward a copy of the revocation to the Union.

Any signed authorization submitted by an employee after January 1, 2008, must recite and set forth the language contained in Section 12 of this Article.

Section 4. NOTIFICATION. The Union, through a duly authorized officer or officers of the Union, will notify the City in writing as to the amount of dues, assessments, and initiation fees to be deducted from the pay of any employees. Any changes in Union membership dues, assessments, and initiation fees will be certified to the City and such notification shall be provided at least one month in advance of the effective date of any such change.

Section 5. AGENCY SHOP. Any person employed by the City in a position within the Bargaining Unit represented by the Union who is not a member of the Union and who does not make application for membership within thirty (30) days from the effective date of this Agreement, or from the date of employment, whichever is later, shall pay to the Union a fair share fee for collective bargaining and contract administration services rendered by the Union as the sole and exclusive representative of the employees covered by this Agreement, provided

said fair share fee shall not exceed the dues attributable to being a member of the Union. The amount of the fair share fee shall not include any contributions related to the election or support of any candidate for political office or for any member-only benefit. The fair share fee should be uniform for each employee subject to the obligation to pay a fair share fee. The Union may change the fixed uniform dollar amount that will be considered the regular monthly fair share fee once each calendar year during the life of this Agreement. The Union will give the City thirty (30) days' notice of any such change in the amount of the fair share fee.

The Union agrees to assume full responsibility to insure full compliance with the requirements laid down by the United States Supreme Court in *Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986),* with respect to the constitutional rights of fair share fee payors. Accordingly, the Union agrees to do the following:

(a) Give advance notice to fair share fee payors of the amount of the fee and an explanation of the basis for the fee, including the major categories of expenses, as well as verification of same by an independent auditor.

(b) Advise fair share fee payors of an expeditious and impartial decision-making process whereby fair share payors can object to the amount of fair share fee.

(c) Place the amount reasonably in dispute into an escrow account pending resolution of any objections raised by fair share fee payors to the amount of the fair share fee.

It is specifically agreed that any dispute concerning the amount of fair share fee and/or the responsibilities of the Union with respect to fair share fee payors as set forth above shall not be subject to the grievance and arbitration procedures set forth in this Agreement.

Non-members who object to this fair share fee based upon bona fide religious tenents or teachings shall pay an amount equal to such fair share fee to a non-religious charitable organization mutually agreed upon by the employee and the Union. If the affected non-member and the Union are unable to reach agreement on the organization, the organization shall be selected by the affected non-member

from an approved list of charitable organizations established by the Civil Service Commission and the payment shall be made to said organization.

The obligation for enforcement of this provision shall rest with the Union, not the City.

Section 6. VOLUNTARY FAIR SHARE FEE DEDUCTIONS. The City agrees to deduct the fair share fee set forth in Section 5 above from the pay of all employees who hereafter voluntarily authorize such deductions in writing on a form provided for this purpose by the City. Such fair share fees shall be deducted by the City from the earnings of non-members and remitted to the Union with the same frequency and in the same fashion as dues deductions. The Union shall periodically submit to the City a list of the employees covered by this Agreement who are not members of the Union and an affidavit which specifies the amount of the fair share fee.

Section 7. EFFECTIVE CONDITIONS. Sections 5 and 6 of this Article shall not be effective until the conditions described in Section 8-9 of the Charter of the City of Pueblo are satisfied.

Section 8. NO EARNINGS. If an employee has no earnings due him for the pay period in question, no deductions will be made for that employee for that period. The collection of money described herein other than for the current period shall not be the responsibility of the City.

Section 9. PAYMENT. The sole responsibility of the City will be to pay over to the Union any sums actually deducted from the pay of employees on a current basis. Any funds deducted as herein provided shall be paid to the Union Treasurer within thirty (30) days of such deduction.

Section 10. HOLD HARMLESS. The Union agrees to save the City harmless from any action growing out of this Article and commenced by any employee, citizen, or other person against the City or the City Council or any employee or agent of either. The Union assumes full responsibility for the disposition of the funds so deducted once they have been turned over to the Treasurer of the Union. The Union agrees that in the event of any litigation against the City, its agent, or employees arising out of this provision, it will co-defend and indemnify and hold

harmless the City, its agent, or employees from any monetary award or any costs arising out of such litigation, including but not limited to attorney's fees.

Section 11. NO RIGHT TO MONEY UNTIL PAID. No party shall have any right or interest whatsoever in any money authorized withheld under Sections 3 and 6 of this Article until such money is actually paid over to them. The City or any of its officers and employees shall not be liable for any delay in carrying out such deductions, and upon forwarding a check in payment of such deductions by mail to the assignee's last known address, the City and its officers and employees shall be released from all liability to the employee or to the assignees under such assignments.

Section 12. AUTHORIZATION FOR UNION DUES DEDUCTIONS.

I hereby voluntarily authorize the Department of Finance of the City of Pueblo to deduct from my regular earnings, the Union dues, initiation fees and assessments, in the amount certified by the duly authorized officer of the Pueblo Association of Government Employees, and further authorize the remittance of such amount(s) to said Union in accordance with the currently effective Agreement between the City of Pueblo and said Union. This authorization is revocable by a notice in writing by certified mail to the Department of Finance of the City of Pueblo and with a copy to the Union. Any revocation received by the Department of Finance shall only be effective with respect to my regular earnings earned in the month following the date received.

I hereby waive all right and claim for said monies so deducted and transmitted in accordance with this authorization and, further and separately, relieve the City, any Department of the City, the Union and all their officers, representatives or agents from liability therefor.

_____
Print Name

_____
Signature

_____
Date

ARTICLE 3. MANAGEMENT RIGHTS

Section 1. UNION RECOGNITION. The Union recognizes the prerogatives of the City to operate and manage its affairs in all respects in accordance with its authority, discretions, responsibilities, and powers of authority as set forth under the Constitution and the Statutes of the State of Colorado and the Charter of the City of Pueblo.

Section 2. VESTED IN CITY AND DISCIPLINE AND DISCHARGE FOR JUST CAUSE. Except as otherwise specifically provided herein, the management of the City, the direction of the work force, including but not limited to, the right to hire, the right to discipline or discharge for just cause, the right to decide job qualifications, the right to lay-off, the right to establish or abolish positions, the right to make rules and regulations governing conduct and safety, the right to determine the mission of the City and the means and methods by which it is to be achieved, the right to determine schedules of work, the right to subcontract work, together with the right to determine the methods, processes and manners of performing work, are vested in the City.

ARTICLE 4. DISCIPLINE AND DISCHARGE

Section 1. NEWLY HIRED PROBATIONARY EMPLOYEES. A newly hired probationary employee may be disciplined or discharged at any time during the full initial probationary period with or without reasons. Such a probationary employee shall have no right to appeal his or her discipline or discharge under this Agreement; however, such employee shall have the right to appeal such action pursuant to Section 6-10-1 of the Code of Ordinances.

Section 2. CITY'S AUTHORITY. The Union recognizes that the City has the authority to suspend, demote, discharge or take other appropriate disciplinary action against employees for just cause. Any non-probationary employee who is subject to discipline may appeal same pursuant to the grievance procedure or to the Civil Service Commission pursuant to Title VI of the 1971 Code of Ordinances of the City, but not both. The filing of any appeal to one forum constitutes a waiver of any right to appeal to the other forum.

Section 3. DUE PROCESS. When the City is considering suspension without pay or discharge, the involved employee shall be given a written statement indicating the reasons or grounds for such action and giving notice of the time and place of a meeting with the employee. The meeting time shall be not less than seven calendar days after date of the notice.

The written statement and notice of meeting shall be considered given to the employee if personally delivered or, if unable to be personally delivered, four (4) days after the statement has been mailed by First Class mail to the employee.

The employee may, on or before the date and time of the meeting, file a written response thereto setting forth in detail an explanation of or defenses, if any, to the reasons or grounds contained in the statement. At such meeting the employee may also make an oral statement regarding the charges.

The employee shall have the right to the presence of a Union representative at such meeting but shall have no right to a continuance of such meeting to secure the presence of a particular Union representative.

The Department Head will consider the employee's written response, if any, and oral statement, if any, if timely received, before taking final action on the termination or suspension.

This Article remains subject to the limitations contained in section 8-14(b) of the City Charter.

Section 4. FILING OF GRIEVANCE. Any grievance challenging the discharge or termination of an employee may be commenced at the step prior to the final step of the grievance procedure, provided that it is filed not later than seven (7) calendar days after the date of the action taken by the City.

Section 5. REMOVAL FROM PERSONNEL FILE.

a) In the event discipline is imposed and it is established through the grievance procedure that such discipline was not warranted, such disciplinary action shall be removed from the employee's personnel file. Any disciplined employee may be represented, at his or her option, by the Union during the processing of any grievance concerning such discipline.

b) If an employee has not received a disciplinary action, excluding demotion, suspension or dismissal, for a period of two years (24 months), he/she may request that all disciplinary action, excluding demotion, suspension, and dismissal, over two years (24 months) old be removed from his/her file maintained in the City Human Resources Department. Such removal should not be unreasonably denied by the City.

ARTICLE 5. GRIEVANCE AND ARBITRATION

Section 1. A grievance is a claim that the City has violated an express provision of this Agreement. Any employee may discuss any grievable matter with an immediate supervisor on an informal basis without resorting to this grievance procedure, provided that no such informal discussion shall extend any time limit provided herein.

Section 2. A grievance shall be initiated either by an aggrieved employee or by the Union acting on behalf of one or more employees. Unless the grievance arises at a higher administrative level, it shall be presented by the employee and/or Union representative to the immediate supervisor of the employee within fourteen (14) days after the date on which the employee or the Union knew or reasonably should have known the facts giving rise to the grievance. The supervisor shall meet with the employee and/or Union representative within seven (7) days after receipt of the grievance and shall respond to both the Union and the grievant within seven (7) days after the meeting is concluded.

Section 3. If the grievance is not resolved under Section 2 above, it shall be presented to the involved Department Head by a Union representative and/or the grievant within seven (7) days after receipt of the supervisor's response under Section 2. The Department Head shall meet with a Union representative and/or the grievant within seven (7) days after the grievance is presented and shall respond to both the Union and the grievant within seven (7) days after the meeting is concluded.

Section 4. If the grievance is not resolved under Section 3 above, it shall be presented by a Union representative to the Mayor within seven (7) days after the receipt of the response of the Department Head under Section 3. The Mayor shall meet with a Union representative and the grievant within ten (10) days after the

grievance is presented and shall respond to the Union representative within ten (10) days after the meeting is concluded.

Section 5. If the grievance is not resolved under Section 4 above, the Union may request the appointment of an arbitrator pursuant to the American Arbitration Association's then current Labor Arbitration Rules by filing the appropriate Demand. Any such request and Demand shall be filed with the American Arbitration Association within fifteen (15) days following receipt of the answer of the Mayor. Arbitration shall be pursuant to the then current rules of the American Arbitration Association and the Colorado Uniform Arbitration Act. The decision of the Arbitrator shall be final and binding on the City, the employee, and the Union.

The arbitrator's fee and his other expenses shall be shared equally by the City and the Union provided that each party shall be required to compensate its own representatives and witnesses and pay the cost of production of its documentary evidence. Either party may at its own expense retain a certified shorthand reporter to record and transcribe the proceedings. Either party may provide the arbitrator with a transcript of the proceedings. Either party may order a copy of the transcript at its own expense.

Section 6. The City and the Union shall each have the right to investigate all circumstances relating to any grievance and shall assist each other in the conduct of any such investigation.

Section 7. Any grievance processed at Section 2 or beyond shall be reduced to writing, either on paper or by electronic medium such as e-mail, and shall include each of the following: The matter complained of; the date of its occurrence and the date the grievant or the Union first became aware of the matter; the sections or provisions of this Agreement which were allegedly violated; the disposition sought; the signature of the employee or Union representative; and the date the grievance

is filed. Any response by the City at Section 2 or beyond shall be reduced to writing, either on paper or by electronic medium such as e-mail.

Section 8. Grievances which arose prior to the effective date of this Agreement and the immediately preceding Agreement are not substantively arbitrable and shall not be subject to the grievance procedure described herein, and provided that grievances properly filed which arose prior to the effective date of this Agreement may be arbitrated under the provisions of the Agreement under which they arose.

Section 9. All claims for back wages shall be reduced by the amount, if any, of unemployment compensation benefits received by the employee and any compensation received for other employment obtained subsequent to removal from the City payroll.

Section 10. The failure of the City to file a timely response at any step of the grievance procedure shall be deemed to be a rejection of the grievance effective on the last day for timely response.

Section 11. The parties may mutually agree in writing to extend any time limitation contained in this Article. The parties recognize that such extensions are contrary to the spirit of this grievance procedure and shall be agreed on only for good cause.

Section 12. The findings and decision of the arbitrator shall be consistent with applicable Colorado law and with the express terms of this Agreement. The arbitrator shall have no power or authority to add to, subtract from, disregard, alter, or modify any of the terms of this Agreement.

ARTICLE 6. STRIKES AND LOCKOUTS

Section 1. LOCKOUTS. No lockout of employees covered by this Agreement shall be instituted by the City during the term of this Agreement.

Section 2. STRIKES. The Union specifically agrees that employees in the classified service of the City are prohibited from engaging or participating in any strike, work stoppage, work slowdown, or mass absenteeism involving employees of the City of Pueblo.

Violation of this Article by any employee shall be cause for discipline or discharge. In addition, the City shall not be required to pay any employee any portion of his or her salary including fringe benefits while engaged in activity in violation of this Section.

The Union agrees not to encourage, condone, assist, or participate in any action prohibited by this Section.

Section 3. INJUNCTIVE RELIEF. The parties are specifically authorized to seek injunctive relief without first attempting to resolve any dispute relating to violation of this Article through the grievance procedure. The parties may, at their independent option, seek compensation for damages from the other party through the provisions of Article 5, Grievance and Arbitration.

ARTICLE 7. SENIORITY, TRANSFERS AND PROMOTIONS

Section 1. CITY SENIORITY - DEFINED. Unless otherwise set forth in this Agreement, seniority means an employee's length of continuous service with the City since his last date of hire.

Section 2. INFORMATION REGARDING SENIORITY. The City agrees to make available to the Union necessary information to resolve seniority conflicts as needed.

Section 3. BREAK IN SERVICE. Approved leaves shall not constitute a break in service for purposes of this Article. Employees who resign, are discharged, or retire shall be considered as having a break in service if they are subsequently employed in any capacity by the City, and, notwithstanding any provision of prior agreements to the contrary, for the purposes of this Article, such employees shall receive no credit for prior service.

Section 4. DEPARTMENTAL SENIORITY. Departmental seniority is defined as the continuous length of service in a department, measured from the date the employee was assigned in that department.

Section 5. TRANSFERS - DEFINED. A transfer is a change in an employee's position within a job title classification within such employee's department or in any other department or division of the City, which does not result in a change in the transferred employee's rate of pay.

Section 6. PROMOTIONS - DEFINED. A promotion is an appointment of an employee to a job title classification within such employee's work department or in any other department or division of the City, which does result in an increase in the promoted employee's rate of pay. A promoted employee shall be placed on the salary schedule at the step which results in not less than a five percent (5%)

increase in salary, or at the top of the salary schedule for the new position, whichever is less.

Section 7. DEMOTIONS - DEFINED. A demotion is a personnel action resulting in an employee's assignment to a job title classification within such employee's department or in any other department or division of the City, which results in a decrease in the demoted employee's rate of pay.

Section 8. LAYOFF.

A. When employees are laid off, the employees in the Department and class affected shall be laid off in the following order:

1. Unclassified part-time or temporary employees who perform substantially the same duties as the class affected;

2. Probationary.

3. Permanent.

Probationary and permanent employees shall be laid off within a Department and class in inverse order of their seniority as defined by Section 1 of this Article.

When an employee's position is abolished, that employee shall have the option to exercise his/her bumping rights, as defined in Section 10 of this Article, within his/her Department. The employee who is ultimately left without a position in his/her Department, if any, shall then have the option to exercise his/her Section 10 bumping rights City-wide.

Section 9. RECALL. Employees shall be recalled from layoff to positions within any class previously occupied on a permanent basis and for which they currently meet the minimum qualifications, according to their seniority as defined in Section 1 of this Article. No new employees shall be hired into any such classes until all such employees with reinstatement rights to such classes desiring to return to work have been recalled.

Section 10. BUMPING. When an employee is laid off, he/she shall be permitted to bump (replace an employee with less seniority) in accordance with this Section. Such employee may, if he/she so desires, bump the least senior employee in an equal or lower job class previously held by that employee on a permanent basis, provided the bumping employee has greater seniority than the employee whom he/she bumps and provided he/she currently meets the minimum qualifications of the job class. If the least senior employee's work schedule substantially differs from the work schedule of the bumping employee, the bumping employee shall have the option to bump instead the least senior employee with substantially the same work schedule, within the parameters contained herein.

Section 11. TRANSFERS AND PROMOTIONS. When filling vacancies, the City shall consider for transfer employees within the same class. The City will post notices of vacancies for ten (10) calendar days and will place a copy of the notice in the Union mailbox in the City Clerk's office.

Employees who file with the City written requests for consideration to transfer to vacancies that have been posted shall be considered; however, no such request shall be considered until all employees with applicable reinstatement or bumping rights have been accommodated.

If a position is not filled through reinstatement, demotion, reemployment, or transfer, the City shall fill the position from a civil service eligible list in the following manner:

(a) The Director shall forward a copy of the appropriate class specification to the Civil Service Commission, with a request for certification of the appropriate number of highest ranking eligible for appointment. The Civil Service Commission shall certify the following number of highest-ranking persons on the appropriate eligible list:

(1) For entry level positions other than Emergency Services Dispatcher and Office Assistant including Wastewater Utility Worker, Water Reclamation Facility Worker, Airport Operations/Maintenance Worker, or Utility Worker, the Commission shall certify the names of the five highest ranking persons on the appropriate eligible list;

(2) For the entry level position of Emergency Services Dispatcher and Office Assistant, the Commission shall certify the names of the ten highest ranking persons on the appropriate eligible list; and

(3) For positions other than entry level positions, the Commission shall certify the names of the three highest ranking persons on the appropriate eligible list;

(b) The Director may also request from the Commission further information relating to the persons certified and to their application, examination, or certification process.

(c) Removal and certification of next highest eligible.

(1) If any person certified pursuant to above subsection (a) or otherwise hereunder fails to accept appointment to the position or fails to appear for an employment interview, that person shall be removed from the list and the name of person next highest on the eligible list shall be certified. Pursuant to the requirements of Civil Service Rule 31, the Civil Service Commission may retain on the eligible list the name of a person who refused an appointment or failed to appear for an employment interview only upon that person's timely request and for just cause.

(2) If any person certified pursuant to above subsection (a) or otherwise hereunder declines an employment interview, that person shall be removed from the list and the name of the person next highest on the eligible list shall be certified. Except for entry level positions including Wastewater Utility

Worker, Water Reclamation Facility Worker, Airport Operations/Maintenance Worker, Office Assistant, Utility Worker, and Emergency Services Dispatcher and pursuant to the requirements of Civil Service Rule 31, the Civil Service Commission shall retain on the list the name of a person who declines an employment interview upon that person's timely request. Irrespective of whether such person is retained on the list, the next highest eligible on the appropriate list shall be certified if requested by the Director.

With respect to the entry level positions including Wastewater Utility Worker, Water Reclamation Facility Worker, Airport Operations/Maintenance Worker, Office Assistant, Utility Worker, and Emergency Services Dispatcher and pursuant to the requirements of Civil Service Rule 31, the Civil Service Commission may retain on the eligible list the name of a person who declines an employment interview only upon that person's timely request and for just cause.

(3) The Director may request removal from the list the name of a person who does not otherwise qualify for or meet a requirement of the position. The Civil Service Commission shall grant such request and certify the name of the next highest ranking eligible on the list, if the person so removed does not actually qualify or meet requirements.

(d) If more than one vacancy is to be filled from an eligible list, the Director may request certification of an additional name for the second and each subsequent vacancy.

(e) If less than three names appear or remain on an eligible list, not including persons retained on the list pursuant to above subsection (c), the Mayor may either request that the Commission establish a new eligible list, or may accept a certification of less than three names; provided that in the case of a recruitment for entry level positions other than Emergency Services Dispatcher including Wastewater Utility Worker, Water Reclamation Facility Worker, Airport

Operations/Maintenance Worker, or Utility Worker, or Emergency Services Dispatcher, the Mayor may request a new eligible list if less than five names remain on the existing list, or may accept a certification of less than five names, and in the case of the entry level position of Emergency Services Dispatcher and Office Assistant, the Mayor may request a new eligible list if less than ten names remain on the existing list, or may accept a certification of less than ten names.

(f) If a person certified for appointment from an eligible list is rejected or passed over twice, the Mayor may request removal of the person from that eligible list. The Civil Service Commission may deny such request upon the basis of the person's qualifications.

(g) After a certification, the Director shall select a committee of at least three (3) persons to evaluate the persons certified. No member of the Bargaining Unit shall be allowed or required to serve as a member of the committee. Not more than one (1) member of a division of a department may be a member of the committee.

(h) After consultation with the involved department or bureau head and the committee, the Director shall forward the names of all persons certified and recommendations to the Mayor, who shall make the final appointment.

(i) The City shall notify each eligible certified for a vacancy of the appointment and the appeal rights available hereunder. If not appointed, the highest ranking eligible for each vacancy may appeal his rejection to the Civil Service Commission by filing a written notice of appeal within seven (7) days after receipt of the notice of appointment. The Commission shall hear the appeal within five (5) days of the filing of the notice of appeal. The City and the individual appointed shall also be notified of the hearing and be given an opportunity to be heard. The person filing the appeal shall have the burden of proving that the Mayor's appointment was arbitrary, capricious, or a clearly unwarranted abuse of

discretion. If the Commission sustains the appeal, the appointment shall be vacated and the appellant shall be appointed to the position by the Mayor pursuant to the decision of the Commission retroactive to the date of the original appointment.

(j) The Commission shall render its decision within five (5) days after the hearing which shall be final and binding subject only to judicial review pursuant to Rule 106, CRCP.

(k) Regardless of length of service or seniority, employees inside or outside of the Bargaining Unit shall be limited to a maximum of ten (10) seniority points on all civil service entry level or promotional examinations.

Classes within the Bargaining Unit shall be either closed classes, which are open only to members of the Bargaining Unit, or classes that may be closed or open to all applicants, as determined by the Mayor. Classes that are closed classes are listed in Appendix B. Classes that may be closed or open are listed in Appendix C.

Civil Service examinations for all classes in Appendix B shall be open only to employees within the Bargaining Unit who meet the qualifications for such classes. If the Civil Service Commission, after announcement of an examination and acceptance of applications for a class in Appendix B, determines that there are no qualified employee applicants available, the Commission may open such examination to non-employee applicants.

If the Mayor determines that a class in Appendix C is to be a closed class, examinations for such a class shall be conducted in accordance with the preceding paragraph. If the Mayor determines that a class in Appendix C is to be an open class, examinations for such a class shall be open to all applicants.

Section 12. RECLASSIFICATION. Whenever a position is reclassified, the incumbent in such position who has performed all duties of the position in a

satisfactory manner for a period of one year or more shall be deemed qualified for appointment along with the three highest ranking eligibles on the eligible list from which the reclassified position is to be filled.

ARTICLE 8. GENERAL PROVISIONS

Section 1. UNION AND NON-UNION ACTIVITIES. The parties agree not to interfere with the rights of employees to become members of the Union or to refrain from becoming members of the Union, and there shall be no discrimination, interference, restraint, or coercion by the City or the Union or any employer representative or any Union representative against any employee because of Union membership or nonmembership, or as a result of an employee's lawful exercise of rights granted by the City Charter or this Agreement. The Union recognizes its responsibilities as the sole and exclusive bargaining agent and agrees to represent all employees in the Bargaining Unit without discrimination, interference, restraint, or coercion.

Section 2. NONDISCRIMINATION.

A. The City and the Union recognize that under State or Federal Law, neither party may discriminate against any employee because of race; age as defined; creed; color; sex; sexual orientation; handicap; or national origin.

B. All references to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

C. The City and the Union recognize that neither party may discriminate against, or in any way favor, any employee because of such employee's political opinions or affiliations as provided in the Pueblo City Charter.

ARTICLE 9. SPECIAL CONFERENCES

The City and the Union agree to set up a Labor Management Committee ("Committee") which shall consist of two (2) representatives appointed by the Union President and two (2) representatives appointed by the Mayor. If the Committee meets with respect to a subject which affects more than one (1) department, the composition of the Committee will be increased to three (3) representatives of the Union and three (3) representatives of the City as may be reasonably necessary depending on the complexity of the issue. Either party may bring in a subject matter expert to provide additional or needed information and to assist in the understanding of any particular subject under discussion.

The Committee shall discuss matters of concern to either the Union, the department, and/or the City as a whole. Statements by Committee members made during Labor Management meetings shall not be used as evidence or admissions in any grievance or arbitration proceeding between the parties. The failure of any party to reach agreement on any subject raised pursuant to this Article shall not be indicative of bad faith, nor shall such failure initiate the grievance procedures available under this Agreement.

Unless otherwise agreed upon, the Committee shall meet on a monthly basis at a time and place mutually agreed upon between the parties. Either party may request additional meetings as may be reasonably needed, and such meetings will occur at a time and place mutually agreed upon. Union shall notify the Director at least 48 hours in advance of any LMI meeting indicating which representatives and/or subject matter experts will be attending so that the Director can make arrangements with the employees' supervisors for scheduling purposes. No employee may attend any LMI meeting without 48 hours advance notice to the Director.

The Committee's discussion of an issue does not affect whether that issue is or is not a mandatory or permissive subject of bargaining.

ARTICLE 10. UNION REPRESENTATION

Section 1. UNION REPRESENTATION. The City agrees that the representatives of P.A.G.E. may confer with Bargaining Unit employees during break periods in a manner so as to not interrupt the work of employees. Additionally, said representatives may confer with members of the management staff at mutually agreeable times and places.

Section 2. NEW BARGAINING UNIT EMPLOYEES. When the City engages new employees in Bargaining Unit positions, it shall notify the Union of the name, class, and department of all such new employees within ten (10) days of employment.

Section 3. UNION ACTIVITIES ON EMPLOYER'S TIME AND PREMISES. The City agrees that during working hours, on the City's premises, or at the site of negotiations or grievance proceedings, and without loss of pay, Union officers and stewards shall be allowed to:

- Attend negotiations, grievances and special conferences;
- Collect Union dues, initiation fees, and assessments (if these funds are not collected through payroll deductions);
- Post Union notices;
- Transmit communications, authorized by the local Union or its officers, regarding grievances, arbitrations, and collective bargaining negotiations to the City or its representatives.

All such time off shall be with the approval of the employee's supervisor and subject to such supervisor's work and schedule requirements. Such approval shall not be unreasonably withheld. Abuse of this provision may be the subject of discipline.

Members of the Union as may be elected or designated as officers, stewards, or members of the negotiating committee to represent the Union shall be granted leave from duty, with no loss of pay under the terms and conditions set forth in this Article.

Officers of the Union and the Union Executive Board Members shall be granted Union business leave with pay to attend meetings of the Union or special conferences, if said meetings occur during a regular tour of duty. The maximum of off-duty hours allowed hereunder shall not exceed two hundred forty (240) per calendar year. It is understood that those Union officials granted leave hereunder shall be on call during attendance at such meetings. The privileges granted herein shall not be abused or unreasonably exercised. Union members using paid Union business leave shall notify their supervisor when leaving duty and when reporting back to duty.

Section 4. NUMBER OF REPRESENTATIVES. The Union shall designate a sufficient number of stewards to assure that each Department or Division, and each shift within each Department or Division, shall have a steward. No more than one (1) steward or Union officer at a time shall investigate any grievance on duty time; provided, however, two (2) stewards or Union officer(s) shall be allowed to attend a step 3 grievance meeting.

No more than four (4) employees at a time shall attend negotiations on duty time.

ARTICLE 11. UNION BULLETIN BOARDS

The Union shall have the right to post on the bulletin boards designated by the Department Head at all work locations where available, notices pertaining to Union matters, all of which pertain to the City. No other postings will be allowed. Should the available bulletin boards be insufficient, the Union may erect suitable bulletin boards in locations mutually agreeable.

ARTICLE 12. PROBATION

Section 1. NEW HIRE. A newly hired employee other than an Emergency Services Dispatcher shall serve a probationary period of six (6) months from the date of his most recent initial appointment. For a newly hired employee in the classification of Emergency Services Dispatcher, the probationary period shall be nine (9) months from the date of his most recent initial appointment. Any probationary period may be extended for an additional period not to exceed six (6) months upon mutual agreement of the affected employee and Department Head. A newly hired employee will not be allowed to transfer or demote to any position other than an entry level job (Office Assistant or Utility Worker) during the probationary period.

Section 2. PROBATION AFTER PROMOTION. A newly promoted employee other than an Emergency Services Dispatcher shall serve a probationary period in the higher-level class for a period of six (6) months from the date of appointment to the higher class. For a newly promoted employee in the classification of Emergency Services Dispatcher, the probationary period shall be nine (9) months from the date of appointment to the higher class. Any probationary period may be extended for an additional period not to exceed six (6) months upon mutual agreement of the affected employee and Department Head.

Newly promoted employees shall have their probationary period reduced by the amount of time, if any, spent during temporary duty in a higher class of a full shift or longer, in accordance with Article 15, Section 4, of this Agreement, when such temporary duty was in the class to which the employee was subsequently promoted. Only such temporary duty within the three (3) years preceding promotion shall be considered, and the maximum reduction of the probationary period shall be three (3) months.

Section 3. PROBATION AFTER TRANSFER OR DEMOTION TO A POSITION NOT PREVIOUSLY HELD. An employee demoted into a position not previously held shall serve a probationary period of six (6) months from the date of the demotion; provided, however, an employee demoted into a position not previously held and within the Emergency Services dispatcher classification shall serve a probationary period of nine (9) months. An employee transferred into a position shall serve a probationary period of 90 days, provided that the employee and the Department Head may mutually agree to continue such probationary period for an additional 90 days.

Section 4. RETURN TO PREVIOUS CLASS. A newly promoted, transferred or demoted employee may be returned to the previous class if the employee is unable to satisfactorily perform the duties of the new position. Such employee may grieve the return to the previous class under Article 5 of this Agreement.

ARTICLE 13. RESIGNATION

Section 1. NOTICE. An employee shall provide to the City at least seven (7) days' notice in writing of his intention to resign. Once the employee ceases employment, the employee may seek reemployment under the reemployment procedures.

Section 2. ABSENCE WITHOUT LEAVE. All unauthorized absences without leave shall be grounds for disciplinary action. Reduction of pay shall be made for all periods of unauthorized absences.

Section 3. UNAUTHORIZED ABSENCES FOR MORE THAN FIVE (5) DAYS. Any unauthorized absence of more than five (5) consecutive working days shall be deemed to be and shall constitute a resignation from employment by the employee.

ARTICLE 14. EMPLOYEE PERSONNEL FILE

Employees may inspect all documents contained in the employee's own personnel file as provided by the Colorado Open Records Law.

ARTICLE 15. WAGES AND OTHER PAYMENTS

Section 1. WAGE INCREASES DURING CONTRACT. Effective January 1, 2023, employees covered by this agreement and occupying the classifications listed below shall be paid in accordance with the following monthly salary schedule:

	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Administrative Technician	$3,944.18	$4,040.92	$4,239.16	$4,435.80	$4,535.65	$4,747.95	$4,811.16	$4,961.39	$5,027.33	$5,397.81
Area Crew Leader	$4,607.95	$4,724.79	$4,964.04	$5,204.66	$5,322.89	$5,460.32	$5,538.06	$5,612.95	$5,692.12	$5,873.76
Associate Engineer I	$4,562.72	$4,680.97	$4,916.04	$5,152.47	$5,272.09	$5,326.35	$5,404.23	$5,479.34	$5,550.30	$5,735.41
Associate Engineer II	$4,751.20	$4,874.99	$5,121.21	$5,371.57	$5,495.35	$5,557.92	$5,633.06	$5,712.35	$5,790.25	$5,979.21
Associate Engineer II - SW	$4,751.20	$4,874.99	$5,121.21	$5,371.57	$5,495.35	$5,557.92	$5,633.06	$5,712.35	$5,790.25	$5,979.21
Associate Engineer II - WW	$4,751.20	$4,874.99	$5,121.21	$5,371.57	$5,495.35	$5,557.92	$5,633.06	$5,712.35	$5,790.25	$5,979.21
Associate Field Engineer	$4,607.95	$4,724.79	$4,964.04	$5,204.66	$5,322.89	$5,460.32	$5,538.06	$5,612.95	$5,692.12	$5,873.76
Dispatch Training Coord.	$4,243.18	$4,379.92	$4,516.66	$4,653.44	$4,790.21	$5,070.45	$5,211.21	$5,351.96	$5,492.69	$5,776.24
Emergency Svcs. Dispatcher	$3,894.94	$4,031.68	$4,168.42	$4,305.20	$4,441.97	$4,712.07	$4,852.83	$4,993.58	$5,134.30	$5,411.10
Emergency Services Dispatch Supervisors	$5,261.51	$5,427.98	$5,594.45	$5,760.90	$5,927.37	$6,260.03	$6,431.05	$6,602.03	$6,773.05	$7,074.94
Equipment Operator II	$3,504.95	$3,591.19	$3,766.42	$3,941.69	$4,069.62	$4,111.76	$4,166.56	$4,222.75	$4,278.93	$4,752.81
Equipment Operator IV	$4,005.58	$4,106.30	$4,310.59	$4,514.92	$4,686.30	$4,738.14	$4,800.07	$4,843.74	$4,906.83	$5,446.08
Inspector/Stormwater	$4,562.72	$4,680.97	$4,916.04	$5,152.47	$5,272.09	$5,326.35	$5,404.23	$5,479.34	$5,550.30	$5,735.41

	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Inspector/Streets	$4,562.72	$4,680.97	$4,916.04	$5,152.47	$5,272.09	$5,326.35	$5,404.23	$5,479.34	$5,550.30	$5,735.41
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Inspector/Wastewater	$4,562.72	$4,680.97	$4,916.04	$5,152.47	$5,272.09	$5,326.35	$5,404.23	$5,479.34	$5,550.30	$5,735.41
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Lead Court Technician	$3,944.18	$4,040.92	$4,239.16	$4,435.80	$4,535.65	$4,747.95	$4,811.16	$4,961.39	$5,027.33	$5,397.81
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Legal Support Assistant	$3,944.18	$4,040.92	$4,239.16	$4,435.80	$4,535.65	$4,747.95	$4,811.16	$4,961.39	$5,027.33	$5,397.81
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Parks Area Crew Leader	$4,607.95	$4,724.79	$4,964.04	$5,204.66	$5,322.89	$5,460.32	$5,538.06	$5,612.95	$5,692.12	$5,873.76
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Park Caretaker II	$3,504.95	$3,591.19	$3,766.42	$3,941.69	$4,069.62	$4,111.76	$4,166.56	$4,222.75	$4,278.93	$4,752.81
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Park Caretaker II - Irrigation	$3,680.19	$3,773.38	$3,957.34	$4,143.36	$4,278.93	$4,342.24	$4,401.54	$4,460.83	$4,518.71	$5,015.95
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Park Caretaker II - Playground	$3,680.19	$3,773.38	$3,957.34	$4,143.36	$4,278.93	$4,342.24	$4,401.54	$4,460.83	$4,518.71	$5,015.95
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Parks Maint. Mechanic	$4,005.58	$4,106.30	$4,310.59	$4,514.92	$4,663.22	$4,714.80	$4,776.43	$4,843.74	$4,906.83	$5,446.08
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Parks Senior Mechanic/Welder	$4,375.67	$4,489.71	$4,716.42	$4,940.37	$5,054.44	$5,111.47	$5,182.39	$5,253.35	$5,322.89	$5,910.42
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Payroll Coordinator	$4,570.77	$4,688.87	$4,922.13	$5,158.38	$5,275.02	$5,334.84	$5,408.11	$5,481.36	$5,554.64	$5,977.63
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Police Payroll Technician	$3,944.18	$4,040.92	$4,239.16	$4,435.80	$4,535.65	$4,747.95	$4,811.16	$4,961.39	$5,027.33	$5,397.81
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Sr. Office Assistant	$3,703.87	$3,795.23	$3,976.37	$4,160.78	$4,248.95	$4,528.42	$4,633.31	$4,756.01	$4,878.68	$5,213.25
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Streets Maint. Mechanic	$4,005.58	$4,106.30	$4,310.59	$4,514.92	$4,663.22	$4,714.80	$4,776.43	$4,843.74	$4,906.83	$5,446.08
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Stormwater Crew Leader	$4,607.95	$4,724.79	$4,964.04	$5,204.66	$5,322.89	$5,460.32	$5,538.06	$5,612.95	$5,692.12	$5,873.76
	Entrance	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Sweeper Operator	$3,830.43	$3,927.79	$4,119.74	$4,314.45	$4,454.53	$4,503.70	$4,566.93	$4,625.94	$4,686.35	$5,204.44

	Entrance	*Step 2*	*Step 3*	*Step 4*	*Step 5*	*Step 6*	*Step 7*	*Step 8*	*Step 9*	*Step 10*
Traffic Engineering Analyst	$4,562.72	$4,680.97	$4,916.04	$5,152.47	$5,272.09	$5,326.35	$5,404.23	$5,479.34	$5,550.30	$5,735.41

	Entrance	*Step 2*	*Step 3*	*Step 4*	*Step 5*	*Step 6*	*Step 7*	*Step 8*	*Step 9*	*Step 10*
WW Utility Worker II	$3,715.25	$3,806.66	$3,992.41	$4,217.16	$4,271.09	$4,315.32	$4,372.82	$4,431.80	$4,490.75	$5,037.93

Effective January 1, 2023, the monthly pay rate for each class, grade, step, or position of employees covered by this Agreement other than Administrative Technician, Area Crew Leader, Associate Engineer I, Associate Engineer II, Associate Engineer II – SW, Associate Engineer II – WW, Associate Field Engineer, Dispatch Training Coordinator, Emergency Services Dispatcher, Emergency Services Dispatch Supervisor, Equipment Operator II, Equipment Operator IV, Inspector/Stormwater, Inspector/Streets, Inspector/Wastewater, Lead Court Technician, Legal Support Assistant, Parks Area Crew Leader, Park Caretaker II, Park Caretaker II-Irrigation, Park Caretaker II-Playground, Parks Maintenance Mechanic, Parks Senior Mechanic/Welder, Payroll Coordinator, Police Payroll Technician, Sr. Office Assistant, Streets Maintenance Mechanic, Stormwater Crew Leader, Sweeper Operator, Traffic Engineer Analyst, WW Utility Worker II , which have been established and/or adjusted above, shall be increased by 6.5% percent over the amount set by ordinance establishing the 2022 pay levels.

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2024, through December 31, 2024, the monthly pay rate for each class, grade, step, or position of employees covered by this Agreement shall be increased over the amount set by Ordinance establishing the 2023 pay levels by an amount equal to the Regional Adjustment multiplied by the CPI Index. For purposes of the foregoing calculation, the following terms have the following meanings:

"Regional Adjustment" means the quotient obtained by dividing the 2023 average annual cost of living index for the Pueblo, CO Metro (Pueblo

Urban Area) by the 2023 average annual cost of living index for the Denver Aurora-Lakewood CO Metro (Denver Urban Area). The average annual cost of living index for each area shall be the composite index of the same name as published by the Council for Community and Economic Research (C2ER); and

"CPI Index" means the percentage increase for the period from January 2022 to January 2023 according to the following CPI index published by the United States Department of Labor's Bureau of Labor Statistics:
Population Coverage: CPI-W
Area Coverage: Denver-Aurora-Lakewood Colorado Series Items: All Items
Base Period: 1982-1984=100

If, and in the event that, the City exercises its option to extend the term of this Agreement for the period January 1, 2025, through December 31, 2025, the monthly pay rate for each class, grade, step, or position of employees covered by this Agreement shall be increased over the amount set by Ordinance establishing the 2024 pay levels by an amount equal to the Regional Adjustment multiplied by the CPI Index. For purposes of the foregoing calculation, the following terms have the following meanings:

"Regional Adjustment" means the quotient obtained by dividing the 2024 average annual cost of living index for the Pueblo, CO Metro (Pueblo Urban Area) by the 2024 average annual cost of living index for the Denver Aurora-Lakewood CO Metro (Denver Urban Area). The average annual cost of living index for each area shall be the composite index of the same name as published by the Council for Community and Economic Research (C2ER); and

"CPI Index" means the percentage increase for the period from January

2023 to January 2024 according to the following CPI index published by the United States Department of Labor's Bureau of Labor Statistics:

Population Coverage: CPI-W

Area Coverage: Denver-Aurora-Lakewood Colorado Series Items: All Items

Base Period: 1982-1984=100

Section 2. LONGEVITY COMPENSATION. Commencing with the month following completion of five (5) years of actual continuous service as a full-time employee of the City, each such employee shall receive in addition to all other compensation for full-time service, the amount of Thirty-Two Dollars and Fifty Cents ($32.50) per month; following ten (10) years of such service, Thirty-Seven Dollars and Fifty Cents ($37.50) per month; following fifteen (15) years of such service, Forty-Seven Dollars and Fifty Cents ($47.50) per month; following twenty (20) years of such service, Fifty-Two Dollars and Fifty Cents ($52.50) per month. In no event shall longevity compensation exceed Fifty-Two Dollars and Fifty Cents ($52.50) per month.

Section 3. LONGEVITY COMPENSATION DURING LEAVES.

A. Longevity compensation as stated above shall be paid to an employee while on authorized leave with pay. Such longevity compensation shall not be paid to an employee for any month during which such employee shall be absent on leave without pay for more than one-half the working time prescribed for that employee's job classification. Absence without leave as defined in Section 6-6-12 of the 1971 Code of Ordinances of the City shall forfeit all longevity pay for the month in which such absence occurs.

B. For the purposes of this Section periods of authorized leave without pay shall not accrue as part of the actual continuous service necessary to qualify for longevity compensation. Service as a permanent part-time employee may be accrued as a part of the actual continuous service necessary to qualify for longevity compensation under this Section; provided, such service of permanent part-time employment be accrued on a percentage basis, i.e., two years of half-time service

would accrue as one year of full-time service; and, provided further, that periods of permanent part-time service and full-time service are continuous.

C. Periods of time during which an employee in the classified service is off work due to lay-off or reduction in force and is on a valid reinstatement list shall not constitute a break in continuity of service; provided, however, such periods of time shall not be accrued as a part of the actual continuous service necessary to qualify for longevity compensation.

Section 4. RATE OF PAY FOR WORK IN HIGHER CLASSIFICATION. In any case when an employee is assigned work in a position in a higher class within the PAGE Bargaining Unit, for a period amounting to one hour or more within a pay period, the employee shall be paid One Hundred Percent (100%) of the difference in pay between the employee's actual rate of pay and the lowest step in the salary schedule for the higher class that would provide a minimum increase of 3 percent or the highest step in the higher class, whichever is less. The employee shall be paid only for such hours actually worked.

In any case when an employee is assigned work in a position in a higher class outside the PAGE Bargaining Unit for a period amounting to one hour or more within a pay period, the employee shall be paid Seventy-Five Percent (75%) of the difference in pay between the employee's actual rate of pay and the lowest step in the salary schedule for the higher class that would provide a minimum increase of 3 percent for the actual period of such service.

For purpose of this Section only, Emergency Services Dispatchers who are assigned to and perform the duties of the supervisor in the Communication Center for a period of one (1) hour or more shall receive for each such hour step up pay of One Hundred (100%) percent of the difference between the employee's actual rate of pay and the lowest step in the salary schedule for the Emergency Services Dispatch Supervisor class that would provide a minimum increase of 3 percent.

In the event there is a valid eligibility list for a higher class, employees who have placed themselves on the current valid eligibility list for that higher class and who are on the crew, shift, or sector in which the temporary vacancy occurs shall be given opportunities to fill temporary vacancies in that higher class for the

educational value to the employee and the department. In the event no such valid eligibility list exists, the employee in the next lower class with the most seniority in such lower class who is on the crew, shift, or sector in which the temporary vacancy occurs shall, with his consent, be assigned temporary duty in the higher class, unless the department furnishes proof of the inability of the employee to perform.

If no employee consents to such assignment, the Department Head may, at the Department Head's sole discretion, assign an employee temporary duty in a higher class; provided, however, no employee shall be assigned temporary duty in a higher class where the employee is not competent to perform such assignment.

Section 5. SHIFT DIFFERENTIALS. This Section shall apply only in those departments where two or more shifts are worked in any particular classification.

A. Full-time permanent employees who are assigned to work the afternoon shift shall receive an additional Forty Cents ($.40) per hour for each hour worked on such shift.

B. Full-time permanent employees who are assigned to work the graveyard shift shall receive an additional Eighty Cents ($.80) per hour for each hour worked on such shift.

The shift differential amount paid is based on the start time of the shift and shall apply to each hour worked for the entirety of the shift.

Section 6. MILEAGE. An employee who is required and specifically authorized to operate his personally-owned automobile in the conduct of City business shall be paid the amount allowed by the Internal Revenue Service for each mile of usage of the personal automobile on City business. The City may, at its option, where an employee requests the City to exercise the within described option, where an employee regularly utilizes his personal car in the conduct of City business, estimate the average number of miles traveled per month and authorize a monthly allowance on the basis of such estimate at the rate allowed by the Internal Revenue Service per mile. Such estimated payment shall be in lieu of any claims for payment based upon actual mileage driven.

Section 7. TUITION REIMBURSEMENT. Upon recommendation of the Department Head and after prior approval by the Mayor, the City shall reimburse

a permanent, full-time employee upon successful completion of an approved course or courses in education or vocational training. The course or training must be related to the work, be designed to improve competence in the job, and be of value to the employee's service to the City. The employee must conclude the course or training with a grade of "Pass," "C," or better in order to be entitled to reimbursement. The amount to be reimbursed will not exceed eighty percent (80%) of the cost of tuition, fees, and required books. If, and in the event, the course or training is of value to the employee's service to the City but is not related to the employee's work or is not designed to improve the employee's competence in the job, the City will reimburse up to fifty percent (50%) of the cost of tuition, fees, and required books, not to exceed Five Hundred Dollars ($500.00) per year. This Article shall apply to employees completing the 30 hours of educational or vocational training after January 1, 1987.

SECTION 8. BILINGUAL COMPENSATION. Certain positions in the City may be required to be filled by employees who possess bilingual capabilities. The City reserves the right to determine the number of positions, where the positions are located, competency levels, and the second language required for each. Employees that hold these positions will be paid an additional Fifty Dollars ($50.00) per month for their capabilities. These positions will be bid on a yearly basis by seniority among all department personnel who meet the competency level required by the City.

SECTION 9. DISPATCH TRAINING INCENTIVE PAY. Communications Training Officers (CTO's) shall be selected by the City based upon the City's judgment relative to experience, knowledge, employment history, his/her ability to successfully monitor and train new/probationary employees and meet established qualifications for the CTO program.

Communications personnel with the CTO designation shall receive training incentive pay of One Dollar Seventy-Three Cents ($1.73) per hour up to Three Hundred Dollars ($300) a month when performing specific approved training duties. "Training duties" shall include, but are not limited to, "one-on-one" training, "double plug-in training," classroom instruction, materials preparation time,

completion of Daily Observation Reports (DORs), and other training projects approved by the Dispatch Manager or his/her designee. Employees who sit with new/probationary employees, civilians, or other City personnel for the purpose of observing dispatch operations, and without being ordered to otherwise train, shall not be considered “in training” and shall not be eligible for training incentive pay.

CTO employees who fail to meet established expectations for the training program shall be relieved of responsibility under the program, at the City’s discretion. Employees may re-apply for inclusion in the program after six (6) months and upon satisfactory demonstration that they meet program expectations.

ARTICLE 16. UNIFORM AND PROTECTIVE CLOTHING

Section 1. UNIFORMS. Any employee who is authorized and required to wear an official uniform, shall have that uniform provided, maintained, and laundered by the City.

Section 2. SPECIAL FOOTWEAR. All employees who are authorized and required to wear special footwear shall be paid the sum of Two Hundred dollars ($200.00) in January of each year. Such employees initially appointed during a year shall receive said footwear allowance with their initial paycheck.

ARTICLE 17. TOOLS

All employees who are required by the nature of their employment to use tools to accomplish their job assignment, and are required to provide their own tools, shall be reimbursed, upon presentation of receipts, for the cost of such tools up to maximum of Five Hundred Dollars ($500.00) per year. Tools belonging to the City and employees shall be clearly marked or inscribed to identify ownership. Upon termination of employment with the City, all tools, except those purchased by the employee, shall remain the property of the City.

ARTICLE 18. HOURS OF WORK

Section 1. WORK DAY. The regular hours of work each day shall be eight (8) hours exclusive of lunch periods, within a twenty-four (24) hour period.

Section 2. WORK WEEK. The work week shall consist of five eight-hour days for a total of forty (40) hours.

Section 3. FLEX TIME. The Department Head, with the approval of the Mayor, may implement a flex time program within a department or a part thereof when, in the Department Head's judgment, consideration of the operational needs of the department would so allow. Assignment of employees to a flex time program within a department or a part thereof shall be based upon the operational needs of the department and such basis for assignment shall be consistently applied to each employee within the department or part thereof in which the flex time program is implemented.

The Department Head, with the approval of the Mayor, may revoke a flex time program at any time by giving notice of revocation to the Union and the employees assigned to the flex time program at least thirty (30) days prior to the date of revocation. During the period after notice and before revocation, the Union shall have the opportunity to present its view and suggestions with respect to the revocation; provided, however, the revocation shall not be subject to grievance and arbitration under this agreement.

Section 4. REPORTING. The Department Head shall establish procedures for reporting absence for each department or portion thereof. Such procedures shall be consistent with Article 20, Section 8 of this Agreement.

Section 5. CALL-BACK TIME. Any employee called back to work prior to the beginning of his next regular shift shall be selected pursuant to Section 7 of this Article and shall be compensated at the rate of time and one-half in cash or time and one-half off. An employee called back for work shall be compensated at the overtime rate for a minimum of four (4) hours. This provision shall not apply to those employees assigned to and compensated for stand-by purposes. Also, this provision does not apply to callbacks two (2) hours before and in conjunction with

commencement of the regular shift. In this case the employee will be paid a minimum of two hours at the overtime rate.

Section 6. STAND-BY TIME. Any employee assigned and required to hold himself available for call-backs shall be paid stand-by pay in the sum of One Dollar Twenty-Five Cents ($1.25) per hour in addition to all other compensation. Any employee on stand-by who is called back to work prior to the beginning of his next regular shift shall be compensated at the rate of time and one-half for a minimum of two hours.

Such stand-by assignments shall be fairly and equitably made upon a rotating basis to employees within the affected class and departments who volunteer for and are qualified to perform such duty. If sufficient employees do not volunteer for such duty, it shall be assigned upon a rotating basis within the appropriate class and departments. Any employee assigned and required to hold himself available for call backs shall be provided with a remote telecommunication device and shall be available for and able to report for work.

Section 7. OVERTIME ASSIGNMENTS. Non-emergency overtime shall be distributed fairly and equitably, on a rotating basis, within a class, section in the Police Department, and department. In order to accomplish the fair and equitable rotation of overtime distribution, a seniority list, in order of departmental seniority, shall be established for each class within each department. An employee must indicate in writing his willingness to perform overtime work in order to be placed on the appropriate list. Any employee on sick leave is not eligible for overtime for that 24-hour period unless such sick leave is used for a doctor or dentist appointment or attendance at a funeral. Overtime shall be distributed by offering it to employees in order of their placement on the appropriate list. Subject to the following exceptions, an employee's name shall be rotated to the bottom of the list when the employee accepts and works an overtime shift or portion thereof:

(1) In the Department of Aviation and the Streets Division of the Bureau of Public Works, an employee shall not be rotated to the bottom of the list until the employee has received a minimum of four (4) hours of overtime: and

(2) In the Wastewater Department, any employee who refuses or fails to work offered overtime shall have their name rotated to the bottom of the list following the name of the employee who actually worked such overtime. The following example is provided as illustration of the foregoing:

The order of the list is A,B,C,D, and employee A refuses the overtime, but B works such overtime. The new order would be C,D,B,A after rotation.

The following procedure shall apply to overtime assignments in the Police Department Communications Center: (For actual procedure to be used at the Police Department Communications Center reference Intra-Department Communication dated March 22, 2006.)

(1) In order of seniority the on-duty civilians will be offered all of the overtime if the vacated shift is two (2) hours or less. If the vacancy remains, the on-coming civilians in order of seniority will be offered the entire amount of the shift, if the vacated shift is two (2) hours or less. In order of seniority, the on-duty civilians will be offered the first one-half (1/2) of the vacated shift, exceeding two (2) hours. In order of seniority, the on-coming civilians will be offered the last one-half (1/2) of the vacated shift exceeding two (2) hours.

(2) If the vacancy remains, the most senior civilian with the day off will be offered the vacated shift.

(3) If the vacated shift cannot be filled by civilian personnel assigned to the Communication Center, it may be filled by other qualified Police Department personnel.

The parties recognize that certain tasks are inherently individual in nature, and work on an overtime basis necessary for an individual to complete such task is not subject to the provisions of this Section.

Section 8. SHIFT ROTATION. Emergency Service Dispatchers and other employees whose shift assignments were rotated on a regular, calendar-based cycle, during the term of the Agreement prior to this Agreement, shall continue such method of accomplishing the rotation of shifts. No change in an employee's

shift may be made by the City unless the employee is given notice in advance of three (3) shifts, including the one in which the employee is notified.

Section 9. SHIFT ASSIGNMENT. Employees assigned to a department or division/section thereof where two or more shifts are worked, shall be assigned to one of the shifts by the following procedures:

A. Shift assignments shall be bid on a seniority basis on a minimum of once per year.

B. Shift seniority shall be the length of service in a class within the department or division/section thereof. If departments or divisions/sections thereof are combined, seniority shall be integrated.

C. An employee may be transferred to another shift on a temporary basis for a period not to exceed sixty (60) calendar days per year for training purposes or other verifiable department needs.

D. Probationary employees may be assigned to any shift for training purposes, but it is understood that as much training as possible be done on the shift this employee will ultimately fill.

E. The Department Head may involuntarily transfer an employee to another shift within the same division, but such transfer shall be for just cause only, subject to the grievance procedure.

F. No change in an employee's shift may be made by the City, except due to a verifiable emergency, unless the employee is given notice in advance of seventy-two (72) hours. If less than 72 hours' notice is given, the employee shall be entitled to time and one-half for each hour in the first new shift which differs from the hours worked in the former shift, unless such employee is already receiving time and one half for such hour(s) under another provision of this Agreement. For each hour worked in the new shift which differs from hours worked in the former shift, the employee shall be paid shift differential irrespective of whether or not the hours worked in the new shift become the employee's regular assignment.

G. When a vacancy on a shift is filled or when a probationary employee completes his/her probation period vacating a more favorable training slot, the

vacancy shall be filled by bidding process on a seniority basis. If not filled in this manner, the least senior employee will fill the vacancy.

H. Employees may, with supervisor approval, trade shift assignments with the most senior employee desiring the trade.

Section 10. SPECIAL DUTY ASSIGNMENT**.** Departments may transfer employees within the same class or similar classes occupying the same line of promotion for seasonal work demands, special projects, cross training, and job development. The City will generally seek volunteers who have the necessary skills and certifications for the duty assignment. If volunteers are not available, or if more employees are qualified than is needed for the assignment, the City shall make the assignment based on seniority. Issues regarding duty assignment will be brought back to the Labor Management Committee established under Article 9 of this Agreement. Callout will be done on a rotating basis; the employee with most seniority would be offered it first then rotated to the bottom of the volunteer list. If no one volunteers for the assignment, the lowest person on the list would be assigned and then rotated to the top of the volunteer list.

ARTICLE 19. OVERTIME

Section 1. OVERTIME COMPENSATION. Employees will be compensated for overtime at the rate of time and one-half, in either cash or compensatory time, at the discretion of the employee for any overtime required. The overtime rate for each hour of overtime shall be computed as follows: 1 ½ times the sum of the basic monthly rate plus longevity pay, divided by 173.83, plus 1 ½ times the hourly shift differential, if any, for each overtime hour worked, plus 1 ½ times the hourly step-up pay, if any, for each overtime hour worked. Overtime pay shall be paid within the pay period and no later than the following pay period.

Section 2. COMPENSATORY TIME. The City retains the right to assign overtime. The payment of overtime or granting of compensatory time is left to the discretion of the City; provided, however, an employee shall not be forced to take compensatory time if the employee elects to be paid for the overtime work. The City will not be unreasonable in the granting of accrued compensatory time off and when it can be taken. The City's stated business reason shall be consistently applied to all employees in the same work unit regarding which employee must take the overtime option.

Section 3. DAILY. All work performed in excess of eight (8) hours in any work day shall be compensated at the overtime rate.

Section 4. WEEKLY. All work performed in excess of forty (40) hours in the designated work week shall be compensated at the overtime rate. For the purpose of this Section, the term "work performed" shall include compensatory time, vacation and paid personal leave actually taken. No other paid or unpaid leave shall be included as "work performed" or otherwise included in calculating hours worked up to or in excess of forty (40) hours. There shall be no duplication or pyramiding of overtime pay and employees shall not be paid more than once, for more than one reason or under more than one provision of this Agreement for the same hours worked. The work week for purposes of overtime under this Section commences on Sunday at 12:01 a.m. and ends at midnight on the following Saturday.

Section 5. COURT TIME. In the event a general services employee from the communication center is required to participate in a judicial proceeding outside of his or her normal work shift, he or she will be compensated for no less than two (2) hours at the rate of time and one-half, or for actual hours worked at the rate of time and one-half if more than two (2) hours. If the employee is required to participate or be available to participate during such time that the employee would have been on a regularly scheduled day either the day before or the day after a vacation or personal day or, if the day he or she is scheduled to be available is on a vacation day or a personal day the employee shall have the option to take a cash payment of time and one-half for the entire day or one-half time plus an additional day off.

Once the subpoena is served, an employee will not be allowed to schedule a vacation day or personal day on the date of the court proceeding. If the employee is subpoenaed while on sick or injured leave the employee will be considered in work status for that day.

ARTICLE 20. LEAVES AND OTHER ABSENCES

Section 1. SICK LEAVE.

A. PAID SICK LEAVE BENEFITS. Paid sick leave to the extent the same is accrued and unused shall be granted to permanent full-time employees and probationary employees in case of actual illness or disability occurring without negligence of the employee; or for an amount consistent with that required under the Healthy Families and Workplaces Act each calendar year for an illness of the employee's spouse or child, parent, or a member of the employee's immediate household, subject to verification thereof. A medical certificate issued an signed by the employee's physician which provides adequate verification that a legitimate medical reason for the absence existed and which provides enough detail so the City will understand what, if any, restrictions exist upon the employee's return to work shall be required for any absence for which paid sick leave is claimed by the employee exceeding four (4) consecutive working days; provided, further, the Mayor, in any case of suspected abuse of sick leave privileges, may require such medical certificate for any absence for which paid sick leave is claimed by the employee. Requests for sick leave for an employee's last scheduled work shift before a vacation or scheduled time-off, or for his first scheduled work shift after a vacation or scheduled time-off, may be indicative of such abuse. Use or attempted use of paid sick leave benefits for any reason other than actual illness or disability shall be deemed an activity unbecoming an employee of the City. Disability caused by injury while on duty and maternity leave shall be compensated as hereinafter set forth.

B. SICK LEAVE; ACCRUAL.

1. Each permanent full-time employee hired before 01/01/96 shall accrue paid sick leave at the rate of one and one-half days for each calendar month of completed full-time duty to a maximum accrual of two hundred (200) days. An employee hired on or after January 1, 1996, shall accrue paid sick leave at the rate of one day for each calendar month of completed full-time duty to a maximum accrual of two hundred (200) days.

2. Probationary employees shall accrue paid sick leave benefits during their probationary period.

C. SICK LEAVE; BENEFITS UPON SEPARATION.

1. Upon separation for any reason other than death, discharge, retirement, or resignation with more than 20 years continuous service, an employee hired prior to January 1, 1996, whose sick leave accumulation exceeds seventy-five (75) days shall be paid at his regular rate of pay for the amount of sick leave accumulated over seventy-five (75) days, but not to exceed seventy-five (75) days.

2. Effective January 1, 2004, upon separation due to retirement, death, or resignation with 20 or more years continuous service, an employee hired prior to January 1, 1996 whose sick leave accumulation exceeds fifteen (15) days shall be paid at his regular rate of pay for the amount of sick leave accumulated over fifteen (15) days, but not to exceed one hundred twenty 120 days. For the purpose of this section, an employee separating due to lay-off, after twenty or more years of service, may elect to be paid off as if they are retiring or elect to leave their sick leave accrual with the City in anticipation of rehire.

3. In the event of death, such sum shall be paid to the beneficiary designated by the employee and, if no beneficiary is designated, to the surviving spouse and, in the event there is no surviving spouse, such sum shall be paid to the estate of such employee.

4. Separation benefits shall be paid immediately upon the effective date of separation.

5. Employees hired on or after January 1, 1996, shall not be reimbursed for unused sick leave upon separation. These employees will have the option to receive compensation for ten (10) days of sick leave each year at one-half (1/2) pay. However, before an employee may exercise this option, he must have a minimum of twenty-four (24) days of unused accrued sick leave to his credit, and his accrual may not be reduced to less than twenty-four (24) days by the exercise of this option.

6. Employees hired prior to January 1, 1996, shall have the option of electing the new plan, however, they must waive all benefits under Sections 20 (c)(1), 20 (c)(2), 20 (c)(3), and 20 (c)(7) of this Article. Once this election is made, the employee may not return to the old plan. This election to enter the new plan must be made prior to January 1, 1996. Employees who opt into the new plan shall accrue sick leave at one day for each month of completed full-time service with the City.

7. Employees hired prior to January 1, 1996, who have not elected the new plan, and who have at least 15 years of service and 120 days of accrued, unused sick leave to their credit, may annually sell back up to 10 days of sick leave for 1/2 pay. The number of sick leave days sold back to the City shall be deducted from the employee's accrual, but his accrual will be increased by future sick leave accrued but unused, to the maximum of 200 days. The amount of days available for buy-back under Sections 20 (c)(1) and 20 (c)(2) shall be permanently reduced by one-half of the days sold back to the City.

Section 2. INJURY LEAVE.

A1. Each employee covered by this Agreement who is injured while in the performance of his duties inside or outside the City limits shall be paid injury leave in a sum equal to the employee’s full salary for the period of disability not to exceed one (1) calendar year from the date of the injury, except that an employee who undergoes surgery for such duty injury shall be entitled to a total of one year of paid injury leave during a period ending 18 months from the date of injury whenever he/she may be disabled and unable to work as a result of such a duty injury. Even though the period of time during such an employee who undergoes surgery for a duty related injury is 18 months from the date of such injury, the total amount of said injury leave to which an employee is entitled shall in no event exceed the sum equal to one year of such employee’s full salary.

A. If benefits are reduced by 50% under the provisions of the Worker's Compensation Act of Colorado due to the willful failure to use safety devices, willful failure to obey safety rules, or intoxication of the employee, injury leave benefits otherwise payable under this Section shall be denied.

B. Injury leave benefits as set forth herein are maximum benefits for each injury. Employees on injury leave shall be granted all benefits provided other employees covered by this Agreement the same as if they were in active service of the City.

C. Worker's Compensation temporary disability benefits paid to an employee for the same period of time he receives injury leave benefits hereunder shall be reimbursed to the City, provided; that no amount shall be reimbursed until such time as the temporary disability benefits are actually paid. In the event an employee receives temporary disability benefits for the period he received injury leave benefits, he shall endorse to the City the check received by him for the purpose of paying such benefits. Receipt of injury leave benefits hereunder by an employee shall operate as and be a partial assignment to the City of said employee's interest in and to any cause of action against a third party as defined in C.R.S. 1973 8-52-100, et. seq., as amended, to the extent of injury leave benefits paid or payable hereunder by the City to said employee. During such time as he is receiving injury leave benefits hereunder and for a period of sixty (60) days from and after the receipt of the final payment thereof, said employees shall have an exclusive right to engage the services of an attorney-at-law to settle or to otherwise dispose of said cause of action which shall not be settled or otherwise disposed of without the written consent of the City. If said employee engages the services of an attorney as aforesaid, the City shall not be liable for costs or attorney fees in connection therewith; however, in lieu thereof, the City agrees to limit its pro rata share of any recovery so effected to seventy-five percent (75%) of injury leave benefits paid or payable to the employee hereunder. If said employee fails to engage the services of an attorney, as aforesaid, the City may take such action as it deems advisable for the recovery of one hundred percent (100%) of all injury leave benefits paid to said employee, and said employee will cooperate with the City in such action as it may take and furnish any and all papers and information in his possession deemed by the City to be necessary in connection therewith.

Section 3. FUNERAL LEAVE.

In addition to all leave benefits authorized under the terms of this Agreement, employees shall be entitled to funeral leave benefits pursuant to the terms of this Article.

A. **Parent, spouse, spousal equivalent as defined in PMC Section 6-3-1 (33.1), child, brother, sister, and grandchild** - Each employee shall be entitled to funeral leave for a period of ten (10) consecutive workdays commencing with the day of notification of death. Funeral leave shall be a special administrative leave, which is not accrued, not subject to any maximum, and not charged against any other accrued leave benefits.

B. **Immediate family defined as grandparent, mother-in-law, father-in-law, or other relative residing in the same household as the employee** - Each employee shall be entitled to funeral leave for a period of ten (10) consecutive workdays commencing with the day of notification of death. Funeral leave shall be paid leave and charged to employee's sick leave provided employee has a sufficient amount of sick leave accrued.

C. **Person not a member of immediate family** - Each employee shall be entitled to paid leave for a period of one (1) calendar day per year in order to attend the funeral of a person other than a member the immediate family. Funeral leave shall be paid leave and charged to employee's sick leave provided employee has a sufficient amount of sick leave accrued.

D. **Co-worker** – In the event of death of a departmental employee, employees of said department may be granted one-half (1/2) day's funeral leave, not to exceed 4 hours, for attendance of the funeral provided that the work schedule can be arranged by the Department Head so as not to materially impair the ability of the department to perform its public duties.

	RELATIONSHIP	LEAVE AMOUNT	LEAVE TYPE
Section A	Parent	10 days	Administrative Leave (paid)
	Spouse	10 days	Administrative Leave (paid)
	Child	10 days	Administrative Leave (paid)
	Brother / Sister	10 days	Administrative Leave (paid)
	Grandchild	10 days	Administrative Leave (paid)
Section B	Mother-in-Law	10 days	Sick Leave or Vacation provided employee has sufficient amount of leave accrued
	Father-in-Law	10 days	Sick Leave or Vacation provided employee has sufficient amount of leave accrued
	Other Relative Residing in Same Household as Employee	10 days	Sick Leave or Vacation provided employee has sufficient amount of leave accrued
Section C	Person other than Immediate Family Member	1 day	Sick Leave or Vacation provided employee has sufficient amount of leave accrued
Section D	Co-Worker	4 hours	Sick Leave or Vacation provided employee has sufficient amount of leave accrued

Section 4. TIME OFF TO VOTE. Each employee working for the City on any election day shall be allowed such time off, with pay, as is necessary to vote. This section shall not apply to any employee whose hours of employment on the day of the election are such that there are three (3) or more hours between the time of opening and the time of closing of the polls during which the employee is not employed on the job.

Section 5. COURT LEAVE.

A. Employees called for jury duty during working hours shall be granted leave. Employees shall receive their regular pay based on the hours they are normally scheduled to work during such time of service, provided that they pay to the City any jury duty fees, excluding mileage and parking reimbursement, which they receive. Mileage compensation, as well as jury duty or witness fees earned during holidays or vacation, shall be retained by the employee. An employee who reports to the court for jury duty but is excused for the day shall report to his/her job assignment within a reasonable time.

B. Employees who are subpoenaed to appear in court shall receive time off with pay upon turning over to the Employer any fees they receive for appearing. This provision shall not apply in any instance where the employee is a party in any fashion to the court action in question unless the employee's involvement arises out of performance by the employee of his/her regular duties and responsibilities for the City.

Section 6. MILITARY LEAVE. Any permanent employee who presents official orders requiring his attendance for a period of training or active duty as a member of the United States Armed Forces shall be entitled to military leave for a period or periods not to exceed a total of fifteen (15) calendar days in any one year. Military leave shall be in addition to, and may not be concurrent with, authorized vacation leave. The City shall pay such employee his full pay, minus the amount of his military base pay for any scheduled work day spent on military leave. Upon his return to work from a military leave, each employee shall provide to the City a copy of his military pay voucher so that the amount of City pay owed to him can be determined.

Section 7. MATERNITY/PATERNITY LEAVE.

A. An employee shall be granted leave for the birth of the employee's child. Maternity leave shall commence at the time of the child's birth or at the time recommended by the mother's physician and such leave shall expire upon the physician's written recommendation or six weeks from the date of birth, whichever first occurs.

B. Paternity leave shall not exceed three (3) weeks and shall commence at the time of the birth of the child, unless otherwise agreed by the employee and the appropriate supervisor.

C. An employee may utilize either sick leave or vacation leave for maternity or paternity leave purposes.

Section 8. ABSENCE WITHOUT LEAVE. Any employee covered by this Agreement who finds it necessary to be absent from duty due to emergency shall report the reasons therefore to his supervisor or department at least one hour before working time on the first day of such absence, and thereafter as reasonably established by the Department Head pursuant to Article 18. If this is not possible, the employee shall report to his supervisor or department at the earliest possible time and shall state the reasons for his failure to report at least one hour before working time. Failure of an employee to so report may be grounds for disciplinary action.

ARTICLE 21. LIGHT DUTY

Section 1. If, as a result of service connected injury or illness, an employee is temporarily disabled and unable to efficiently perform the duties of his position, but is able to efficiently perform the duties of some other position in which a vacancy exists and which position is compatible with the employee's skills and abilities, then the Department Head(s) may refer the employee for placement in such vacant position for a period not to exceed six (6) months. Upon approval of the Department Head, Director, and the Mayor, the employee may be so employed. Such assignment shall be called light duty.

Section 2. The salary and benefits of an employee on light duty shall be at least equal to the salary and benefits at which he was employed at the time of his injury or illness.

Section 3. Upon presentation of a doctor's certificate stating that the employee is physically capable of performing all the duties of the position in which he was classified to work at the time of his injury or illness, he shall be returned to full duty at that classification. If the Department Head determines that the work of the employee upon return to work is not satisfactory, the Department Head may cause the employee to be reexamined to determine his ability to perform.

Section 4. Any employee who refuses to cooperate in the placement program, by failure to accept or continue in the employment offered, shall, as of any such refusal, be disciplined.

ARTICLE 22. MEAL PERIODS AND REST PERIODS

Section 1. MEAL PERIODS. The City agrees to continue providing an unpaid meal period at or near the middle of the work-shift for all employees except emergency services dispatchers and Airport Ops/Maintenance Workers and Airport Ops/Maintenance Specialists assigned to security.

Emergency services dispatchers and Airport Ops/Maintenance Workers and Airport Ops/Maintenance Specialists assigned to security shall be provided a lunch break at or near the middle of the work-shift when conditions reasonably permit. During such time as the employee is eating, he or she will be fully responsible for the performance of his or her assigned duties unless other qualified and assigned dispatchers and Airport Ops/Maintenance Workers and Airport Ops/Maintenance Specialists assigned to security are present and able to perform such duties.

The City will provide an opportunity and materials for washing up prior to eating.

Section 2. REST PERIODS. In all work groups where on the date of execution of this Agreement authorized practices existed with respect to rest periods (coffee breaks, etc.), these practices shall continue for the duration of this Agreement. In addition to any regularly scheduled breaks, employees shall be entitled to reasonable and necessary time for the purpose of going to restroom facilities.

ARTICLE 23. HOLIDAYS

Section 1. DESIGNATION. The following days are hereby declared holidays for all employees:

A. The first day of January (New Year's Day)

B. The third Monday in January (Martin Luther King, Jr. Day)

C. The third Monday in February (Presidents Day)

D. The last Monday in May (Memorial Day)

E. The fourth day of July (Independence Day)

F. The first Monday of September (Labor Day)

G. The second Monday in October (Columbus Day)

H. The fourth Thursday in November (Thanksgiving Day)

I. The day after Thanksgiving

J. The twenty-fifth day of December (Christmas Day)

K. Two personal days (to be used any time with Departmental approval). In the Police Department Communication Center, the employee will be allowed two (2) shifts.

Section 2. SATURDAY AND SUNDAY OBSERVATION. When any holiday listed above falls on Saturday, the preceding Friday shall be observed as the holiday; when the holiday falls on Sunday, the following Monday shall be observed as the holiday.

For those employees scheduled to work on a Saturday or Sunday holiday, that day shall be considered the holiday. For those employees scheduled not to work on a Sunday or Monday holiday, the preceding Saturday shall be considered the holiday. In addition to the above, any day may be designated as a holiday by proclamation of the Council President upon approval of the City Council.

Section 3. WORK ON A HOLIDAY. The Mayor, Department Head, or immediate supervisor may require any employee to work on a holiday. Eligible employees who are required to work on the actual day of the holiday listed in Section 1 (A – J) of this Article shall be paid two times their regular rate of pay for each hour or fraction thereof of work performed on such day, in addition to their

regular monthly compensation. If the date that the employee works is a holiday for that employee, under Section 2 of this Article, then the employee shall be paid one and one-half times the regular rate of pay for the hours actually worked in addition to their regular monthly compensation.

Section 4. JUNETEENTH DAY. Subject to and conditioned upon similar amendments being made and becoming effective with respect to Section 6-6-1, P.M.C., and the City's collective bargaining agreements with the International Association of Fire Fighters Local No. 3 and International Brotherhood of Police Officers Local 537, Juneteenth Day (June 19th) shall be recognized as a declared holiday in addition to those designated in Section 1 of this Article.

ARTICLE 24. VACATION

Section 1. ENTITLEMENT.

Every employee shall be allowed vacation leave with pay at the rate set forth in the following schedule:

SERVICE REQUIRED	ANNUAL ACCRUAL	ACCRUAL RATE
0 -- 6 Months	0 Shifts	0 hours for each full month service *
7 months -- 60 months	12 Shifts (8 Hours)	8 hours for each full month service
61 months -- 120 months	15 Shifts (8 Hours)	10 hours for each full month service
121 months -- 180 months	18 Shifts (8 Hours)	12 hours for each full month service
181 months -- 240 months	21 Shifts (8 Hours)	14 hours for each full month service
241 months or more	24 Shifts (8 hours)	16 hours for each full month service

* Notwithstanding the above language, every employee other than an employee in the Emergency Services Dispatcher classification shall be credited with 40 hours vacation upon successful completion of the initial probationary period. An employee in the Emergency Services Dispatcher classification shall be credited with 40 hours vacation upon successful completion of the initial six months of service.

Section 2. HOW TAKEN. Vacation credit may be accumulated to a maximum of twice the amount accrued annually by the particular employee at any one time, and such leave may be granted in minimum and maximum periods as provided by the Department Head concerned; provided vacation leave will not be granted in excess of vacation credit earned prior to the starting day of leave.

Section 3. VACATION RECORDS. Each Department Head shall keep the necessary records of vacation leave allowance. Vacation schedules shall be worked out between the Department Head and the employees of his department. The employee in the classification with the longest consecutive length of service, as defined in Rule 37 of the Civil Service Rules, with the City shall be given first choice, the next senior employee second choice, and the like for succeeding conflicts, if any. For the purpose of vacations in the Police Department Communication Center for members of the Bargaining Unit, there shall be created three (3) vacation rosters, by shift, and for the purpose of compiling a seniority list, the Senior Dispatcher Classification and the Dispatcher Classification shall be combined and the employees on the shift will choose their vacations on the basis of seniority on the combined seniority list by shift. The Department Head shall have the right to determine how many employees in a classification may be off on vacation at any one time.

For the purpose of scheduling vacations in the Streets Division, the following shall apply:

1. Vacations shall be scheduled for each area crew. For each area crew, there shall be two (2) vacation rosters, each of which shall have combined classifications.

2. The first vacation roster on each crew shall contain the classification of Crew Leader, Street Inspector, and Equipment Operator IV and Equipment Operator II. Within those classifications, the employee with the longest consecutive service within the Department shall be given first choice to schedule vacation, the next senior employee second choice and, the like for succeeding employees.

3. The second vacation roster for each crew shall contain the combined classifications of Sweeper Operator, Equipment Operator I, and Laborer. Within those classifications, the employee with the longest consecutive service within the department shall be given first choice to schedule vacation, the next senior employee second choice, and the like for succeeding employees.

4. Six (6) employees on each crew shall be allowed vacation at the same time, three from the first vacation roster and three from the second vacation roster on each crew.

Section 4. PAY IN LIEU OF VACATION. If, in the discretion of the Mayor, an emergency exists, an employee may be granted the equivalent in money of vacation leave to which such employee is entitled for that year; but it is the policy of the council that each employee shall be granted a full amount of vacation leave each year.

Any employee who has reached the age of fifty (50) years and has a minimum of fifteen (15) years of service with the City, or any employee regardless of age who has a minimum of twenty (20) years of service with the City, may sell eighty (80) hours of vacation and two (2) personal days one time per year for no more than three years.

Section 5. CREDIT FOR HOLIDAY WORKED. In lieu of other holiday benefits, Emergency Services Dispatchers, and Code Enforcement Officers shall be credited with one additional working shift of vacation for each holiday set forth in Article 23, except for personal holiday(s), at the end of each completed year of service. Said employees shall not receive an additional vacation day for personal holiday(s).

ARTICLE 25. HEALTH, HOSPITALIZATION AND DENTAL INSURANCE

Section 1. HEALTH, ACCIDENT, HOSPITALIZATION AND MAJOR MEDICAL INSURANCE. Health insurance shall be as provided or otherwise determined pursuant to the August 26, 2019 Self-Funded Health Benefit Plan Amendment to the Labor Agreement, a copy of which is attached hereto and labelled Appendix E; provided, however, subsection 1.b. shall be amended to read as follows:

> Premiums and Contributions. Premiums shall be determined by City based upon the recommendation of City's insurance broker consultant, the plan design chosen pursuant to above Subsection 1.a., and the funding level acceptable to City. Employees who are eligible and select an offered plan shall pay the cost of any applicable premium by payroll deduction subject to the contributions herein provided. The City shall pay 95% of the actual premium for an individual policy per month but not to exceed $899.62. The City shall pay 78% of the actual cost of a premium toward the cost of a single plus spouse, single plus child or children or family policy per month for employees but not to exceed $1,563.15 with respect to a single plus spouse plan or $1,423.31 with respect to a single plus child or children plan or $1,828.11 with respect to a single plus family plan ("Contribution Cap"). The Contribution Cap applicable to each coverage tier, i.e. individual, single plus spouse, single plus child or children or family coverage tier, shall be increased by fifty percent (50%) of any increase between the HMO Tier 1 premium for such coverage tier in the current year and the recommended HMO Tier 1 premium for such coverage tier in the subsequent year. If the employee elects coverage under a PPO option, if offered, the City's contribution to payment for such PPO shall be in the same dollar amount as if the employee had elected coverage under the HMO Tier 1 option for the same coverage tier. If an employee elects coverage under a high deductible health plan with Health Savings Account ("High Deductible

HSA"), if offered, the City's monthly contribution for the High Deductible HSA shall be One Hundred Dollars ($100.00) per month less than monthly contribution required for the City's HMO Tier 1 plan, at the same coverage tier, and the City will contribute Sixty Six Dollars and 67 Cents ($66.67) per month to each employee's health savings account under such High Deductible HSA.

Section 2. DENTAL POLICY. The City shall pay $24.66 monthly toward the full cost of an individual employee policy or family policy for employees.

ARTICLE 26. RESERVED

ARTICLE 27. NEW CLASSES

Section 1. NEW CLASSES. In the event of the creation of a new class during the term of this Agreement, the parties shall meet and confer in good faith respecting such class within twenty (20) days from the creation thereof. The parties may, if they mutually agree, amend this Agreement by memorandum of understanding to make special provisions for such new class.

Section 2. PROVIDING DATA. Both parties agree they are mutually obligated to provide all reasonable required data in their possession to the other party in respect of the discussions referred to in Section 1 hereof.

Section 3. MEETINGS. The parties agree to schedule joint meetings between representatives of the Union and representatives of City management as follows:

a) meetings under this section shall be held not more than once each quarter;

b) Union presence at such meetings shall be limited to the Union president or designee and not more than four (4) additional Union representatives;

c) requests for such meetings must be initiated by the Union or the City on not less than 30 days' written notice to the other party;

d) such meetings shall not be substitute for the grievance procedure in this agreement;

e) no final agreement or final action shall be done at such meetings.

ARTICLE 28. OTHER CONDITIONS

1. During the term of this Agreement, no existing practice affecting a mandatory subject of bargaining, as defined in Section 8-14 of the Charter of the City of Pueblo, shall be changed, except by mutual written agreement of the parties.

The term "existing practice affecting a mandatory subject of bargaining" does not include any right reserved to the City under Article 3 of this Agreement.

2. In accordance with City Council Resolution No. 7157, smoking by any member of the Bargaining Unit is prohibited in all public buildings which are owned, leased or controlled by the City of Pueblo, except in designated smoking areas, if any, located in restaurants operated under concession or management agreements with the City.

Smoking by any member of the Bargaining Unit is prohibited in or on all City owned or leased vehicles at all times.

3. In each department in which a CIRSA safety committee is established, the safety committee shall include a Bargaining Unit member. The Union reserves the right to designate the member of the Bargaining Unit who will serve on the safety committee.

ARTICLE 29. WAIVER AND NOTICE

Section 1. WAIVER. Failure of either party to enforce, or insist upon, the performance of any term, condition, or provision of this Agreement in any one or more instances shall not be deemed a waiver of such term, condition, or provision. No term, condition or provision of this Agreement shall be deemed waived by either party unless such waiver is reduced to writing and signed by an agent of the party who has actual authority to give such waiver. If such written waiver is given, it shall apply only to the specific case for which the waiver is given and shall not be construed as a general or absolute waiver of the term, condition, or provision which is the subject matter of the waiver.

Section 2. NOTICE REQUIREMENTS. Where any provision of this Agreement requires that any notice or information be given by one party to the other party within a specified time, such requirement will not be met unless such notice is personally served upon the official of the other party designated to receive such notice under the terms of this Agreement or left at such person's regular business office during normal business hours with his administrative support staff within the limits specified in this Agreement. The Union shall provide to the City the names of not less than three (3) authorized representatives. Service of any notice required under the terms of this Agreement upon such an authorized representative shall be effective service upon the Union.

ARTICLE 30. SEVERABILITY

Should any provision of this Agreement be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement. However, if any provision of this Agreement should be declared invalid by any court of competent jurisdiction, then the parties to this Agreement shall meet within fifteen (15) days from the date they learn of such declaration and negotiate in good faith for the purpose of agreeing upon a lawful provision which would accomplish the intent of the parties as expressed by the provision declared invalid.

ARTICLE 31. ENTIRE AGREEMENT

AGREEMENT COVERS ALL MATTERS. The Union and the City agree that this Agreement and the July 10, 2012, Memorandum of Understanding, a copy of which is attached hereto and labeled Appendix D, covers all matters affecting wages, rate of pay, hours, grievance procedures, working, and other terms and conditions of employment. These matters are not available for further negotiations during the administration of this Collective Bargaining Agreement, except as specifically provided for herein. During the terms of this Agreement, neither the City nor the Union shall utilize this Article to avoid processing matters set forth in this Agreement through the settlement of disputes provisions.

ARTICLE 32. TERM OF AGREEMENT

This Agreement shall be effective January 1, 2023, and all of its provisions shall remain fully effective through December 31, 2023 and may be extended by the City for two (2) successive one (1) year terms.

The decision to extend the term of this Agreement shall be made by the City Council on or before the 15th day of March 2023, or 2024, whichever the case may be. The extended term shall be upon the same terms and conditions, except that wages during each extended term shall be as provided or otherwise determined pursuant to Section 15.1 of the Agreement and health insurance during each extended term shall be as provided or otherwise determined pursuant to Section 25.1 of the Agreement. If the City Council shall fail to extend the term of the Agreement as stated above, then either party may commence negotiations for a successor agreement by serving notice pursuant to the City Charter on or before April 1, 2023, or April 1, 2024, as the case may be.

ARTICLE 33. WELLNESS PROGRAM

The City will maintain a wellness program which may be made City-wide at the option of the City. The plan will be managed by the City and subject to amendment by the City with input from the representative designated by the Union.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2022.

PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES

_____
President

CITY OF PUEBLO

_____
Mayor

_____
Secretary

ATTEST:

_____
City Clerk

APPROVED:

_____
City Attorney

APPENDIX A

CITY OF PUEBLO

P.A.G.E.

BARGAINING UNIT

The Bargaining Unit shall consist of all non-supervisory employees in the classified service of the City of Pueblo, except Fire Fighters, Police Officers and Stage Hands. Specifically **excluded** are the following Class B, mid-management positions:

Accountant II
Accounting Manager
Administrative Assistant
Airport Operations/Maintenance Supervisor
Assistant Accounting Manager
Assistant Director/Human Resources
Assistant Director/Information Technology
Assistant Director/Parks and Recreation
Assistant WWTP Superintendent
Budget Analyst
Civil Engineer/Construction
Civil Engineer/Drainage
Civil Engineer/Public Works
Civil Service Administrator
Code Enforcement Manager
Communications Supervisor
Court Administrator
Crime Analyst
Deputy City Clerk
Dispatch Manager
Engineering Manager
Facilities Maintenance Superintendent
Fleet Superintendent
Grant & Resources Development Administrator
HR Analyst I
HR Analyst II
Ice Arena Manager
Landscape Architect
Legal Assistant
MPO Manager
MS4 Permit Coordinator
Parks Manager

Parks Supervisor
Police Records Manager
Pretreatment Manager
Principal Planner
Purchasing Contracts Administrator
Recreation Supervisor
Regulatory Compliance Specialist
Senior Business Systems Analyst
Senior GIS Administrator
Senior Network Administrator
Senior Security Administrator
Senior Systems Administrator
Shops Supervisor
Stormwater Coordinator
Stormwater Utility Maintenance Supervisor
Street Maintenance Supervisor
Tax Audit Manager
Traffic Control Supervisor
Traffic Engineer
Wastewater Collections Supervisor
Wastewater Engineering Supervisor
Wastewater Treatment Plant Lab Supervisor
Wastewater Treatment Plant Superintendent

APPENDIX B

CLOSED CLASSES

Accounting Technician II
Accounting Technician III
Accounting Technician IV
Administrative Technician
Airport Operations/Maintenance Specialist
Area Crew Leader
Associate Engineer I
Associate Engineer II
Associate Engineer II – Stormwater Utility
Associate Engineer II – Wastewater
Associate Field Engineer
Auto Mechanic
Aviation Operations Technician
Business Systems Analyst
Civil Service Technician
Code Enforcement Officer
Court Technician
Emergency Services Dispatch Supervisor
Equipment Operator I
Equipment Operator II
Equipment Operator IV
Fire Support Technician
Florist
Gardener
HR Records Technician
Investigations Technician
Inspector – Stormwater Utility
Lab Analyst II
Lab Analyst III
Land Use Records Technician
Land Use Technician
Law Department Technician
Lead Code Enforcement Officer
Lead Court Technician
Legal Support Assistant
Loan Coordinator II
Municipal Records & Technical Coordinator
Parks Area Crew Leader
Park Caretaker I
Park Caretaker II - Irrigation
Park Caretaker II - Playground
Park Maintenance Mechanic
Parks & Recreation Technician

Parts Clerk
Pavement Management Technician
Police Investigations Technician
Police Payroll Technician
Police Records Technician
Police Services Technician
Purchasing Contracts/Coordinator
Radio Technician II
Senior Airport Operations/Maintenance Specialist
Senior Facilities Maintenance Technician
Senior Office Assistant
Senior PC Network Technician
Senior Wastewater Treatment Plant Maintenance Mechanic
Street Inspector
Streets Maintenance Mechanic
Stormwater Crew Leader
Surveyor
Sweeper Operator
Tax Auditor II
Traffic Control Utility Worker II
Traffic Control Utility Worker III
Traffic Signs and Marking Specialist
Utility Worker III
Wastewater Electrical Specialist
Wastewater Inspector
Wastewater Operator A
Wastewater Operator B
Wastewater Treatment Plant Instrument & Controls Specialist
Wastewater Treatment Plant Maintenance Mechanic
Wastewater Utility Worker I
Wastewater Utility Worker II
Wastewater Utility Worker III
Wastewater Utility Worker IV
Water Reclamation Worker I
Water Reclamation Worker II

APPENDIX C

CLASSES WHICH ARE OPEN OR CLOSED
UPON DETERMINATION OF MAYOR

Accountant I
Accounting Technician I
Airport Operations/Maintenance Worker
Airport Operations/Maintenance Specialist
Aviation Operations Technician
Building Custodian
Carpenter
Civil Service Analyst
Code Enforcement Officer
Community Development Specialist
Community Service Coordinator
Community Service Officer
Community Service Specialist
Construction Inspector
Court Marshall
Crime Data Technician
Dispatch Training Coordinator
Electrician
Emergency Services Dispatcher
GIS Coordinator
GIS Specialist I
Housing and Community Development Coordinator II
Lab Analyst
Laboratory Pretreatment Specialist
Licensing Coordinator
Media Systems Administrator
Messenger
Network Administrator
Office Assistant
Painter
Park Ranger
Parking Enforcer
Parks Senior Mechanic/Welder
Payroll Coordinator
PC Network Technician
Permit Compliance Specialist – SW
Permit Compliance Specialist – WW
Planner
Plumber
Pretreatment Specialist
Probation Case Manager
Program Coordinator/Aquatics

Program Coordinator/Forestry
Program Coordinator/Horticulture
Program Coordinator/Housing
Program Coordinator/Ice Arena
Program Coordinator/Marketing
Program Coordinator/Park Rangers
Public Works Asset Coordinator
Public Works Projects Coordinator
Purchasing Specialist
Radio Technician
Senior Planner
Senior Traffic Signal Technician
Senior Traffic Signal Technician Trainee
Social Media Specialist
Solid Waste Coordinator
Survey Party Chief
Survey Party Chief-LS
System Administrator
Tax Compliance Technician
Tax Auditor
Traffic Engineering Analyst
Traffic Signal Technician
Transportation Planning Technician
Utility Worker
Wastewater SCADA Coordinator
Wastewater Data Technician
Wastewater Data Technician II
Wastewater Maintenance Coordinator
Water Reclamation Worker
WW Utility Worker

APPENDIX D

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is entered into this 27th day of June, 2012 by and between the Pueblo Association of Government Employees ("Union") and Pueblo, a Municipal Corporation ("City").

WHEREAS, Union is desirous of implementing a ten (10) hour a day work day within certain divisions of the Wastewater Department.

WHEREAS, the City is agreeable to implementing a ten (10) hour work day on a trial basis and subject to certain limitations and conditions.

NOW, THEREFORE, in consideration of the foregoing, the Union and City stipulate; acknowledge and agree as follows:

1. A work schedule shall be implemented wherein: (a) the regular hours of work each day shall be ten (10) hours exclusive of lunch periods, within a twenty-four (24) hour period; and (b) the work week shall consist of four (4) ten-hour days for a total of forty (40) hours (herein the "4 x 10 Schedule").

2. With respect to employees assigned to the 4 x 10 Schedule, the terms and conditions of employment and related provisions of the labor agreement between the Union and City shall be amended as follows:

(a) Article 13, Section 3:

UNAUTHORIZED ABSENCES FOR MORE THAN FOUR (4) DAYS. Any unauthorized absence of more than four (4) consecutive working days shall be deemed to be and shall constitute a resignation from employment by the employee

(b) Article 18, Sections 1 and 2:

Section 1. WORKDAY. The regular hours of work each day shall be ten (10) hours exclusive of lunch periods within a twenty-four (24) hour period.

Section 2. WORK WEEK. The work week shall consist of four ten-hour days for a total of Forty (40) hours.

(c) Article 19, Section 3:

Section 3. DAILY. All work performed in excess of ten (10) hours in any work day shall be compensated at the overtime rate.

(d) Article 20:

Section 1. SICK LEAVE.

A. PAID SICK LEAVE BENEFITS. Paid sick leave to the extent the same is accrued and unused shall be granted to permanent, full-time employees and probationary employees in case of actual illness or disability occurring without negligence of the employee; or for a maximum of twenty-four (24) hours in each calendar year for an illness of the employee's spouse or child, parent, or a member of the employee's immediate household, subject to verification thereof. A medical certificate subscribed by the employee's physician on forms supplied by the City shall be required for any absence for which paid sick leave is claimed by the employee exceeding three (3) consecutive working days; provided, further, the City Manager, in any case of suspected abuse of sick leave privileges, may require such medical certificate for any absence for which paid sick leave is claimed by the employee. Requests for sick leave for an employee's last scheduled work shift before a vacation or scheduled time-off, or for his first scheduled work shift after a vacation or scheduled time-off, may be indicative of such abuse. Use or attempted use of paid sick leave benefits for any reason other than actual illness or disability shall be deemed an activity unbecoming an employee of the City. Disability caused by injury while on duty and maternity leave shall be compensated as hereinafter set forth.

B. SICK LEAVE; ACCRUAL.

1. Each permanent full-time employee hired before 01/01/96 shall accrue paid sick leave at the rate of twelve (12) hours for each calendar month of completed full-time duty to a maximum accrual of one thousand six hundred (1,600) hours. An employee hired on or after January 1, 1996, shall accrue paid sick leave at the rate of eight (8) hours for each calendar month of completed full-time duty to a maximum accrual of one thousand six hundred (1,600) hours.

2. Probationary employees shall accrue paid sick leave benefits during their probationary period.

3. Temporary and temporary part—time employees shall not accrue paid sick leave benefits.

C. SICK LEAVE; BENEFITS UPON SEPARATION.

1. Upon separation for any reason other than death, discharge, retirement, or resignation with more than 20 years continuous service, an employee hired prior to January 1, 1996, whose sick leave accumulation exceeds six hundred (600) hours shall be paid at his regular rate of pay for the amount of sick leave accumulated over six hundred (600) hours, but not to exceed six hundred (600) hours.

2. Effective January 1, 2004, upon separation due to retirement, death, or resignation with 20 or more years continuous service, an employee hired prior to January 1, 1996 whose sick leave accumulation exceeds one hundred twenty (120) hours shall be paid at his regular rate of pay for the amount of sick leave accumulated over one hundred twenty (120) hours, but not to exceed nine hundred and sixty (960) hours. For the purpose of this section, an employee separating due to lay-off, after twenty or more years of service, may elect to be paid off as if they are retiring or elect to leave their sick leave accrual with the city in anticipation of rehire.

3. In the event of death, such sum shall be paid to the beneficiary designated by the employee and, if no beneficiary is designated, to the surviving spouse and, in the event there is no surviving spouse, such sum shall be paid to the estate of such employee.

4. Separation benefits shall be paid immediately upon the effective date of separation.

5. Employees hired on or after January 1, 1996, shall not be reimbursed for unused sick leave upon separation. These employees will have the option to receive compensation for eighty (80) hours of sick leave each year at one-half (1/2) pay. However, before an employee may exercise this option, he must have a minimum of one hundred and ninety-two (192) hours of unused accrued sick leave to his credit, and his accrual may not be reduced to less than one hundred and ninety-two (192) hours by the exercise of this option.

6. Employees hired prior to January 1, 1996, shall have the option of electing the new plan, however, they must waive all benefits under Sections 20(c)(1), 20(c)(2), 20(c)(3), and 20(c)(7) of this Article. Once this election is made, the employee may not return to the old plan. This election to enter the new plan must be made prior to January 1, 1996. Employees who opt into the new plan shall accrue sick leave at eight (8) hours for each month of completed full-time service with the City.

7. Employees hired prior to January 1, 1996, who have not elected the new plan, and who have at least 15 years of service and nine hundred and sixty (960) hours of accrued, unused sick leave to their credit, may annually sell back up to eighty (80) hours of sick leave for 1/2 pay. The number of sick leave hours sold back to the City shall be deducted from the employee's accrual, but his accrual will be increased by future sick leave accrued but unused, to the maximum of one thousand six hundred (1,600) hours. The amount of hours available for buy-back under Sections 20(c)(1) and 20(c)(2) shall be permanently reduced by one-half of the hours sold back to the City.

(e) Article 23, Section 1, Subsection K:

K. Sixteen hours of personal leave. Personnel leave shall not be accumulated and may be only taken if there is sufficient personal leave time and/or vacation time to cover a complete work day.

(f) Article 24, Section 1:

Section 1. ENTITLEMENT.

Every employee shall be allowed vacation leave with pay at the rate set forth in the following schedule:

SERVICE REQUIRED	ANNUAL ACCRUAL	ACCRUAL RATE
0 - 6 Months	0 hours	0 hours for each full month service*
7 months - 60 months	ninety-six (96) hours	8 hours for each full month service
61 months - 20 months	one hundred and twenty (120) hours	10 hours for each full month service
21 months - 180 months	one hundred and forty-four (144) hours	12 hours for each full month service
181 months or more	one hundred and sixty-eight (168) hours	14 hours for each full month service

*Notwithstanding the above language every employee shall be credited with forty (40) hours vacation upon successful completion of the initial probationary period.

(g) Article 24, Section 4:

Section 4. PAY IN LIEU OF VACATION.

If in the discretion of the City Manager an emergency exists an employee may be granted the equivalent in money of vacation leave to which such employee is entitled for that year but it is the policy of the council that each employee shall be granted a full amount of vacation leave each year.

Any employee who has reached the age of fifty 50 years and has a minimum of fifteen 15 years of service with the City or any employee regardless of age who has a minimum of twenty 20 years of service with the City may sell eighty (80)

hours of vacation and sixteen (16) hours personal leave one time per year for no more than three years.

3. Employees in the Operations, Lab and Maintenance Division of the Wastewater Department may be authorized to work the 4 x 10 Schedule upon approval by the Director of the Wastewater Department; provided, however, such authorization may be withdrawn upon seven days notice to the employee, and at which time, the employee shall return to the eight-hour shift under the labor agreement between Union and City. It is further understood and agreed that an employee in the Operations Division may be transferred from a 4x10 Schedule to an eight hour shift(s) and back to a 4x10 Schedule for the purpose of covering scheduled vacation or other scheduled leave ("Vacation Transfer Assignments") without complying with the foregoing seven (7) day notice requirement. The decision to authorize or withdraw authorization to work the 4 x 10 Schedule and the authority to require Vacation Transfer Assignments shall not be subject to the grievance and arbitration procedures set forth in the labor agreement between Union and City.

4. Interpretation of any conflicting provision of the labor agreement between the parties, shift assignments with respect to implementing the 4x10 Schedule in the Operations Division shall be as set forth in the schedule attached hereto and labeled Exhibit A.

5. Any employee who works a holiday as defined in Section 23.1 of the parties labor agreement shall work a ten hour work day for the holiday, shall receive holiday pay, but shall not receive any overtime pay for the work performed during the ten hour work day for the holiday.

6. This Memorandum of Understanding is temporary and subject to termination by the City at any time, in its sole discretion, with or without cause. Notice of such termination shall be mailed to Union in the manner provided in the parties' labor agreement and at least 10 days prior to the effective date of termination. The decision to terminate this Memorandum of Understanding shall not be subject to the grievance and arbitration procedures set forth in the labor agreement between Union and City.

7. This Memorandum of Understanding shall have no precedental value with respect to the terms and conditions of employment shall not be relied upon as identifying or establishing any past practice between the parties and shall not be construed in any manner as limiting or affecting the management rights of City.

8. For purposes of implementation, the City shall have up to two weeks to commence the 4 x 10 Schedule after execution of this Memorandum of Understanding.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION
By _____
City Manager

PUEBLO ASSOCIATION OF
GOVERNMENT EMPLOYEES
By _____
President

Operations work schedule
Exhibit A
4x10s

Day	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F
Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Jesik See note #2	1	2	2	0	0	1	1	2	2	2	0	0	1	1	2	2	2	0	0	1	1	2	2	2	0	0	1	1	1	2	2
Goodman	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1
Autobee	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0
Sleet	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0
Sigler See note #1	0	1	1	1	1	1	0	0	1	1	1	1	1	0	0	1	1	1	1	1	0	0	1	1	1	1	1	0	0	1	1
Zimmermann	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0	2	2	2	2	0	0	0
Arellano	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0
McGowan See note #2	1	2	2	0	0	1	1	2	2	2	0	0	1	1	2	2	2	0	0	1	1	2	2	2	0	0	1	1	1	2	2
Krueger	1	1	1	0	0	1	1	1	1	1	0	0	1	1	1	1	1	0	0	1	1	1	1	1	0	0	1	1	1	1	1
Keeney	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1	0	0	0	1	1	1	1

Note # 1 Thursday, Friday, Monday – 7:30am 4pm Saturday, Sunday – 8:30am 4:30pm
Note #2 Monday, Tuesday, Wednesday – 8:30am 5pm or 7:30am 4pm, Thursday, Friday 4:30pm 12:30am 10 hour day shift 6:30am 5pm afternoon 10 4:30pm 2:30am

SCHEDULE SUBJECT TO CHANGE PURSUANT TO MOU

ADDENDUM NO. 1

This Addendum No. 1 is entered into this 26th day of August, 2014 by and between Pueblo, a Municipal Corporation ("City"), and the Pueblo Association of Government Employees ("Union").

WHEREAS, City and Union executed the Memorandum of Understanding attached as Appendix D to the parties' labor agreement ("MOU").

WHEREAS, City and Union wish to amend the MOU in the manner and solely upon the conditions herein set forth.

NOW, THEREFORE, in consideration of the foregoing, the City and Union agree as follows:

1. Paragraph five (5) of the MOU is amended to read as follows:

> Any employee who works a holiday as defined in Section 23.1 of the parties labor agreement shall work a ten hour day for the holiday, shall receive holiday pay, but shall not receive any overtime pay for the work performed during the ten hour work day for the holiday. Holiday pay shall be received on an eight (8) hour shift basis; provided, however, an employee may request to work an additional two hours during the work week in which the holiday occurs in lieu of using two hours of paid leave time. Any such requests must be filed and approved prior to the work week in which the holiday occurs. The decision to grant or deny such a request shall not be subject to the grievance and arbitration procedures set forth in the parties' labor agreement other than upon the basis that the decision was arbitrary, capricious and not based upon any business purpose. Irrespective of any provision of the labor agreement to the contrary, no overtime pay shall be received for any such two hours worked.

2. The MOU as amended by this Addendum No. 1 shall remain in full force and effect.

Executed in Pueblo, Colorado as of the date first above written.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By _____
City Manager

PUEBLO ASSOCIATION OF
GOVERNMENT EMPLOYEES

By _____
President

APPENDIX E

AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT

This amendment to the collective bargaining agreement ("Amendment") is executed this 26th day of August, 2019, by and between Pueblo, a municipal corporation ("City"), and Pueblo Association of Government Employees ("Union") (collectively the "Parties").

WHEREAS, City and Union are parties to a collective bargaining agreement commencing January 1, 2019 and ending December 31, 2019 ("Labor Agreement").

WHEREAS, the Parties are interested in transitioning from a fully-insured to a self-funded health insurance plan ("Self-Funded Health Benefit Plan").

WHEREAS, in order to proceed with such transition, City desires and Union is willing to agree to certain terms and conditions which will be applicable to such Self-Funded Health Benefit Plan.

NOW THEREFOR, in consideration of the foregoing and the mutual covenants herein contained, the Parties stipulate, acknowledge and agree as follows:

1. If the City elects after consultation with the Union to transition to a Self-Funded Health Benefit Plan to be available in calendar year 2020 and thereafter, the following terms and conditions shall govern such plan, shall bind the Parties and shall supersede any conflicting or inconsistent provision of the Labor Agreement:

a. Plan Design. If a Self-Funded Health Benefit Plan is provided to covered employees of Amalgamated Transit Union Division No. 662 ("Transit"), the City, Transit, International Association of Fire Fighters Local No.3, International Brotherhood of Police Officers Local 537 and Union shall meet as a committee and confer with respect to determining the health plan design and benefits to be provided under such plan. Each party shall have one vote for a total of five (5) votes with respect to selecting such health plan design. The majority vote of the committee shall determine the plan and benefits; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the current premiums, the Mayor shall determine and select such plan and benefits.

Alternatively, if a Self-Funded Health Benefit Plan is not provided to covered employees of Transit, the City, International Association of Fire Fighters Local No. 3, International Brotherhood of Police Officers Local 537 and Union shall meet as a committee and confer with respect to determining the health plan design and benefits to be provided under such plan. Each party shall have one vote for a total of four (4) votes with respect to selecting such health plan design. The majority vote of the committee shall determine the plan and benefits; provided, however, if no majority vote is cast or if the plan and benefits selected will result in any increase in the

current premiums, the Mayor shall determine and select such plan and benefits.

b. Premiums and Contributions. Premiums shall be determined by City based upon the recommendation of City's insurance broker consultant, the plan design chosen pursuant to above Subsection 1.a., and the funding level acceptable to City. Employees who are eligible and select an offered plan shall pay the cost of any applicable premium by payroll deduction subject to the contributions herein provided. The City shall pay 95% of the actual premium for an individual policy per month but not to exceed $824.67. The City shall pay 78% of the actual cost of a premium toward the cost of a single plus spouse, single plus child or children or family policy per month for employees but not to exceed $1,433.75 with respect to a single plus spouse plan or $1,303.40 with respect to a single plus child or children plan or $1,680.72 with respect to a single plus family plan ("Contribution Cap"). The Contribution Cap applicable to each coverage tier, i.e. individual, single plus spouse, single plus child or children or family coverage tier, shall be increased by fifty percent (50%) of any increase between the HMO Tier 1 premium for such coverage tier in the current year and the recommended HMO Tier 1 premium for such coverage tier in the subsequent year. If the employee elects coverage under a PPO option, if offered, the City's contribution to payment for such PPO shall be in the same dollar amount as if the employee had elected coverage under the HMO Tier 1 option for the same coverage tier. If an employee elects coverage under a high deductible health plan with Health Savings Account ("High Deductible HSA"), if offered, the City's monthly contribution for the High Deductible HSA shall be One Hundred Dollars ($100.00) per month less than monthly contribution required for the City's HMO Tier 1 plan, at the same coverage tier, and the City will contribute Sixty Six Dollars and 67 Cents ($66.67) per month to each employee's health savings account under such High Deductible HSA.

c. Self-Funded Contracts and Documents. All contracts, programs and documents necessary to transition to and administer the Self-Funded Health Benefit Plan shall be determined and selected by City including but not limited to all costs and expenses of administrations, any third-party administration, if selected, stop loss policy, if selected, HIPAA privacy and security policies, and plan administration policies and procedures.

d. Plan assets. All assets of the Self-Funded Health Benefit Plan, including but not limited to premiums, reserves and reimbursements, shall be the property of the City to be used solely for providing benefits for enrolled employees and assuring funding of the Self-Funded Health Benefit Plan at a risk level acceptable to City.

2. For calendar year 2020, the Union waives any present or future right, contingent or otherwise, that it may have to negotiate any change to the terms and conditions of this Amendment in any successor collective bargaining agreement. The intent and purpose of the foregoing waiver is that the Self-Funded Health Benefit Plan available in calendar year 2020 shall be subject to and governed by the terms and conditions of this Amendment, and this Amendment shall be construed and applied consistent with such intent and purpose. Notwithstanding the foregoing, the City shall not be prohibited or otherwise limited by this Amendment from asserting or otherwise maintaining in any future negotiation of a successor collective bargaining agreement that any term or condition of this Amendment is not a mandatory subject of bargaining.

3. If the City provides a Self-Funded Health Benefit Plan in calendar year 2020 and if the City elects to extend the term of the successor collective bargaining agreement for calendar year 2021 or 2022, the Union may commence negotiations after receipt of notice of such election with respect to the terms and conditions of this Amendment by serving notice pursuant to Section 8-14, City Charter, on or before April 1, 2020 or April 1, 2021, as applicable. If the Union exercises its option to open negotiations with respect to the terms and conditions of this Amendment, no other provision of the collective bargaining agreement shall be opened for negotiations.

4. With respect to any provision relating to determining plan design during any subsequent calendar year negotiation for a successor collective bargaining agreement after 2020, including any reopening as set forth in above Section 3, the parties expressly stipulate and agree that the then current provisions for determining plan design shall govern the method and manner in which the plan design is selected for the following calendar year even though such provisions may be amended in the successor agreement.

5. Should the City elect to discontinue the Self-Funded Health Benefit Plan, the provisions of the Labor Agreement applicable to a fully-insured health benefit plan shall be reinstated; provided, however, any changes in the Contribution Caps shall be maintained.

6. Union expressly stipulates, acknowledges and agrees that City is materially relying upon the faithful performance of each and every provision of this Amendment, and without this Amendment, including each and every provision, the City would not consider proceeding with a transition from a fully funded health insurance plan to a Self-Funded Health Benefit Plan.

7. This Amendment represents the entire agreement between the Parties and supersedes all prior discussions and written agreements or understandings with respect to the subject matter of this Amendment. This Amendment may be amended only by an instrument in writing signed by the Parties. If any provision of this Amendment is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Amendment shall continue in full force and effect. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together constitute one and the same agreement.

8. This Amendment shall be construed in accordance with and governed by the laws of the State of Colorado.

9. This Amendment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

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

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

UNION
PUEBLO ASSOCIATION OF
GOVERNMENT EMPLOYEES

By _____
President

By _____
~~Secretary~~ VP.

CITY
Pueblo, a municipal corporation

By _____
Mayor

ATTEST:

_____
City Clerk