

ANNEXATION AGREEMENT

CASE NO. A-15-02 MVD ANNEXATION

This Annexation Agreement is made effective as of _____, 2015, by and between the City of Pueblo, a Municipal Corporation, (the "City"), for the use and benefit of Pueblo Suburban Development, LLC, a Colorado Limited Liability Corporation, ("Petitioner"), WITNESSETH

WHEREAS, the Petitioner is the owner of the real property located in Pueblo County, Colorado, and described in Exhibit "A" attached hereto and incorporated herein (the "Property");

WHEREAS, the Petitioner has submitted a petition for the annexation of the Property to the City; and

WHEREAS, as a condition precedent to the annexation of the Property, Petitioner has agreed to enter into an annexation agreement with the City setting forth certain terms and conditions with respect to such annexation.

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions set forth herein, the City and Petitioner agree as follows:

I. REPRESENTATION AND WARRANTIES OF PETITIONER

Petitioner hereby represents and warrants to, and covenants with, the City as follows:

(1) Petitioner has good and marketable fee simple title to the Property subject only to Permitted Encumbrances attached hereto as Exhibit "B."

(2) Petitioner is authorized to, and has taken all action required by it (a) to annex the Property to the City and (b) to execute, deliver and perform its obligations under this Annexation Agreement, and (c) to carry out and consummate all of its transactions contemplated by this Annexation Agreement.

(3) This Annexation Agreement when executed and delivered constitutes a valid and legally binding obligation of the Petitioner enforceable against Petitioner according to its terms. The document entitled "Special Improvements and Dedications" marked as Exhibit C, and attached hereto, is incorporated herein by this reference. In the event of a conflict between the terms and conditions of Exhibit C and this Agreement, the terms and conditions contained in Exhibit C shall control.

(4) Neither the execution and delivery of this Annexation Agreement nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions or any restriction or any agreement or instrument to which the Petitioner is bound, or constitutes a default under any of the foregoing.

(5) There is no litigation pending, or to the knowledge of Petitioner threatened, against the Petitioner or any person affecting the right of the Petitioner to execute this Annexation Agreement or to comply with the provisions hereof.

(6) The representations and warranties of Petitioner contained herein will be true and correct in all material respects as of the date of recording the annexation plat and Ordinance of the City Council approving the annexation of the Property, as if made on the date of such recording.

II. MASTER DEVELOPMENT PLAN

If the Property is not intended to be included in a single subdivision, Petitioner will prepare and submit or cause to be prepared and submitted to the Planning and Zoning Commission for approval a Master Development Plan for the Property contemporaneously with Petitioner's application to zone the Property as provided in Article III hereof. The Master Development Plan shall be prepared in consultation with the City's Subdivision Review Committee and Department of Planning and Development and submitted in its entirety to the Planning and Zoning Commission. The Master Development Plan will comply with the policies of the Pueblo Regional Comprehensive Development Plan existing as of the date the Master Development Plan is approved, and will be designed to address, identify and resolve all development, drainage, utilities, traffic and other infrastructure needs and requirements and the wide range of planning and development issues involved in and with respect to the development of the Property. The Master Development Plan as submitted and approved by the Planning and Zoning Commission will have the flexibility to adapt to changing conditions over the estimated time period for the development of the Property and shall consist of the following: (a) Development Plan, (b) Drainage Plan, (c) Sanitary Sewer Plan, (d) Transportation Plan, and (e) Environmental Study:

(1) Development Plan. The Development Plan shall be prepared in accordance with the requirements of Sections 12-4-5(a)(2) and 12-4-6(a) of the Pueblo Municipal Code. A development plan establishing the anticipated phasing of the development of the Property shall be prepared as part of the Development Plan.

(2) Drainage Plan. The Drainage Plan shall be prepared in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, Colorado, published June 9, 1997, or as same may hereafter be amended (MANUAL) and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado. The Drainage Plan shall address surface water drainage within the Property and onto the Property from other areas, as well as the effects of the development of the Property upon downstream properties and drainage facilities. Water quality management and erosion control measures will be incorporated in the Drainage Plan to meet NPDES requirements. Associated impacts on City's existing and proposed surface water drainage system shall be identified in the Drainage Plan, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through surface water drainage improvements installed by and at the expense of the Petitioner. The Drainage Plan shall include a phasing plan or schedule for such improvements. Storm water detention facilities, designed and constructed in accordance with the MANUAL, may be used to mitigate the increased runoff due to development of the Property.

(3) Sanitary Sewer Plan. The Sanitary Sewer Plan shall be prepared in accordance with the Sanitary Sewer Design Criteria and Policies for City of Pueblo published April 28, 2008, or as same may hereafter be amended, and be certified by Professional Engineers competent in the field of sanitary sewer engineering and registered in the State of Colorado. The Sanitary Sewer Plan shall address the needs of the gravity-fed sanitary sewer drainage basin of which the Property is a part from the tributary area north of the Property through the Property to the south Property line as provided in Exhibit C. The sewer drainage basin shall be approved by the Director of Public Works. Associated impacts on City's existing non-backbone system (less than 15-inch diameter) and proposed sanitary sewer system shall be identified in the Sanitary Sewer Plan, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through the installation of sanitary sewer improvements installed by and at the expense of the Petitioner. The Sanitary Sewer Plan shall include a phasing plan or schedule for such sanitary sewer improvements.

If sanitary sewers within the Property are oversized to serve future development outside the Property but within the sewer drainage basin, an Agreement to partially recover cost of constructing oversized or off-site sewer collection system improvements ("Agreement") will be entered into between the Petitioner and the City in accordance with Chapter 5, Title XVI of the Pueblo Municipal Code or as same may hereafter be amended.

If sanitary sewers are constructed downstream from the Property which will serve future development outside the Property but within the sewer drainage basin, the Agreement shall include provisions allowing the Petitioner to be reimbursed in accordance with said Chapter 5 of the City's ordinances.

The Agreement will comply with the City's then existing applicable ordinances but shall not require any cost recovery from the City except to the extent that funds therefore are made available by Resolution of the City Council pursuant to Section 16-11-4 of the Pueblo Municipal Code or as same may hereafter be amended for oversizing the sanitary sewer system within the Property.

(4) Transportation Plan. The Transportation Plan shall be prepared in accordance with the criteria and general outline specified by the City Traffic Engineer and shall be supported by studies and reports prepared by Professional Engineers competent in the field of transportation and registered in the State of Colorado. Associated impacts on City's existing and proposed traffic and roadway systems shall be identified in the Transportation Plan and studies, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through traffic improvements constructed and installed by and at the expense of the Petitioner (such as, but not limited to, traffic signals, signal interconnect, conduit and wire, deceleration/acceleration lanes, and median islands). The Transportation Plan shall include a phasing plan or schedule of such traffic improvements. If street improvements through or adjacent to property outside the Property are required to be constructed, the Petitioner will pay the entire cost of such improvements and thereafter be eligible for such cost recovery as may be provided under Section 12-4-12 of the Pueblo Municipal Code or as same may hereafter be amended, but shall not be eligible for any cost recovery from the City. Notwithstanding the foregoing provisions of this Section 4, the obligation of the Petitioner for the improvements

referenced in this Section 4 will not exceed the specific provisions of Exhibit “C” to this Annexation Agreement.

(5) Environmental Studies. In addition to the requirements of Section 12-4-6(b)(3) of the Pueblo Municipal Code, if the Property includes any land that is adjacent to or has previously been used for solid waste disposal by land filling, the Petitioner at its expense, shall provide the City with a Phase I Environmental Study of the Property and a further in-depth study of any potential methane gas presence on, or migration from or to the Property. Such studies shall be performed by Professional Engineers competent in environmental engineering. The boundaries of the landfill area shall be identified on the Master Development Plan and shall be tested for the presence of methane gas in accordance with procedures approved by the appropriate State Agencies and the results summarized as a comparison to State and Federal regulatory limits of the landfill area and at the exterior boundary of the landfill area.

Petitioner may submit the Master Development Plan to the Planning and Zoning Commission for approval any time after the City Council has found the petition for annexation of the Property to be valid in accordance with the provisions of section 31-12-107, C.R.S. The City may refuse to approve any building or occupancy permit for any portion or all of the Property until after a Master Development Plan is approved.

III. ZONING AND SUBDIVISION

(1) No application for subdivision of part of the Property shall be submitted to or considered by the City until after a Master Development Plan has been approved by the Planning and Zoning Commission. An application for all of the Property to be included in a single subdivision may be approved following the approval of the ordinance annexing the Property. No subdivision of the Property shall be approved prior to the time the ordinance annexing the Property is approved on final presentation.

(2) No later than ninety (90) days after the effective date of the ordinance annexing the Property, Petitioner shall cause the Property to be zoned an Agricultural District (A-1) which constitutes the land use classification most nearly corresponding to the land use classification into which the Property has been classified or will in the reasonable future be classified under the Pueblo Regional Comprehensive Development Plan. If the Property is not so zoned, no building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department for any building or structure within any part of the Property.

(3) A petition to zone the Property may be filed at any time after the petition for annexation has been found to be valid in accordance with the provisions of Section 31-12-107, C.R.S. The Planning and Zoning Commission may hear the petition for zoning and make its recommendations thereon prior to annexing the Property, but the proposed zoning ordinance shall not be passed on final presentation prior to the date the ordinance annexing the Property is approved on final presentation.

(4) The zoning provisions of this Article III relate to the initial zoning of the Property after annexation. Such zoning is not guaranteed and the City Council of City retains its full

discretion with respect to such zoning. Nothing contained in this Article III shall be construed to limit the power of the City Council of City to rezone the Property or any part thereof after approval of the initial zoning of the Property after annexation.

IV. PUBLIC FACILITIES

The Petitioner shall dedicate land and right-of-way for public uses and facilities necessary and required to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, sanitary and storm sewers, drainage ways and facilities, utilities, streets, roadways, trail systems, parks and open space. The Petitioner at its expense shall construct and install all on-site and off-site improvements necessary and required to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, streets, street lights, curbs and gutters, sidewalks, bridges, traffic control devices, sanitary sewers, storm sewers, drainage and channel improvements and facilities, but excluding public buildings such as fire stations. All such improvements shall meet and comply with applicable City Ordinances in effect at the time of installation of such improvements.

V. UTILITIES

The Petitioner shall comply with all applicable City of Pueblo (sanitary and storm sewers), Xcel Energy (natural gas), the applicable electric utility franchised and holding a Certificate of Public Convenience and Necessity for electric service within the annexed area, Comcast of Colorado IV, LLC (cablevision), Pueblo Board of Water Works (water), and authorized ILEC and CLEC (telephone/data transmission) for the installation of mains, lines, stations, and any other appurtenant utility facilities in effect at the time of such installation. All existing and new power lines less than 30,000 volts and all other overhead utilities (1) within the Property, (2) within the public rights-of-way adjoining the Property, and (3) within the areas adjacent to the Property which serves the Property shall be placed underground.

VI. COMPLIANCE WITH ORDINANCES

Except as otherwise specifically provided in this Annexation Agreement to the contrary, the development, subdivision and zoning of the Property shall meet and comply with all applicable ordinances, resolutions, regulations, and standards of the City now existing or hereinafter enacted or amended.

VII. BINDING EFFECT

The covenants, restrictions, and agreements herein set forth are covenants running with the Property, shall run with and bind the Property, and shall extend to and be binding upon the Petitioner and its legal representatives, successors, assigns and transferees. The Petitioner expressly accepts and agrees to the covenants, restrictions, and agreements set forth herein by execution of this Annexation Agreement and by the filing of its petition for annexation. If Petitioner defaults in any of its obligations under this Annexation Agreement, including, without limitation, land dedication obligations, City, upon notice given to Petitioner specifying the default,

may withhold all subdivision, special area plan, and other development approvals as well as building and occupancy permits for any building or structure within the Property until such default has been corrected to the satisfaction of the City.

VIII. AMENDMENTS

Amendments to this Annexation Agreement may only be made through formal petition to and approval by Ordinance of the City Council after such amendment has been submitted to and reviewed by the appropriate City Departments and such Departments have submitted their findings and recommendations to the City Council. All amendments to the Master Development Plan must be approved by the Planning and Zoning Commission after review and recommendation by the appropriate City Departments.

IX. SEVERABILITY

If any section, clause, or other provision of this Annexation Agreement is for any reason determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect any of the remaining provisions of this Annexation Agreement.

X. VESTED RIGHTS

As a condition of and in consideration of the City annexing the Property, the Petitioner, for itself and its successors and assigns waives and releases all previously acquired or existing vested property rights attached to or established with respect to the Property.

The Petitioner acknowledges and agrees that neither this Annexation Agreement nor any provision hereof, nor the annexation of the Property to the City, nor the approval of the Master Development Plan, zoning or subdivision, either separately or jointly (a) creates or establishes a vested property right in or for the benefit of the Petitioner or its successors or assigns, or with respect to the Property; or (b) constitutes a site-specific development plan. The terms “vested property right” and “site-specific development plan” shall have the same meaning as set forth in Section 17-12-2 of the Pueblo Municipal Code and §24-68-101, et seq., C.R.S.

XI. BUILDING PERMITS

No building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department to occupy, construct or install any building, structure or other improvement on the Property except within a subdivision approved by the City after adoption of the ordinance annexing the Property which meets and complies with this Annexation Agreement and City’s ordinances, standards, and regulations.

XII. DISCONNECTION

(1) Disconnection by Petitioner. Petitioner acknowledges and agrees that upon annexation of the Property, the Property shall become subject to this Annexation Agreement, the

Charter, ordinances and rules and regulations of the City, but that City shall not have any obligation to furnish or extend municipal services to the Property until the subdivision of the Property is complete. Petitioner may, three (3) or more years after annexation, petition under §31-12-119 C.R.S. for disconnection from the City if the City does not, upon demand, provide the same municipal services to the Property on the same general terms and conditions as the rest of the City receives.

(2) Disconnection by City. If Petitioner defaults in any provision or condition of this Annexation Agreement and such default is not cured within ninety (90) days after written notice specifying the default is given by City to Petitioner, or, if the default is one which cannot be cured within said 90-day period, and Petitioner fails to undertake the cure of such default within said 90-day period and diligently prosecutes same to completion, proceedings may be instituted by the City to disconnect the Property from the City, and for such purpose, the Petitioner irrevocably consents to such disconnection proceedings and waives any and all rights to contest such disconnection.

XIII. CONTRACTUAL NATURE OF ANNEXATION AGREEMENT

The terms, conditions and obligations of this Annexation Agreement are and shall be construed to be purely contractual in nature, as terms, conditions and obligations voluntarily agreed to by City and Petitioner prior to annexation of the Property to the City. The terms, conditions and obligations imposed on Petitioner and the Property by this Annexation Agreement are not nor shall they individually or cumulatively be construed to be conditions upon granting land-use approvals within the meaning of sections 29-20-201 to 29-20-204, C.R.S.

XIV. SPECIAL IMPROVEMENTS AND DEDICATIONS

In addition to the on-site and off-site improvements and land dedications required to be made by the provisions of this Annexation Agreement, Petitioner will construct and install the improvements, dedicate the land, and pay or cause to be paid the impact fees described in Exhibit "C" attached hereto and incorporated herein. The improvements and dedication, and fees described in said Exhibit "C" are in addition to and not in substitution for any improvements or dedications otherwise required by this Annexation Agreement.

XV. MISCELLANEOUS

(1) Notice. All notices or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered, or mailed by registered or certified mail, postage prepaid, addressed as follows:

- (a) if to the City: Department of Public Works - City of Pueblo
211 East "D" Street, Pueblo, Colorado
Attention: Director of Public Works
- (b) if to the Petitioner: Gerardue P M van Der Drift
Manager
Pueblo Suburban Development, LLC

503 N. Main Street, Suite 740
Pueblo, CO 81003

(c) copies to:

Joseph D. Bower
Banner & Bower, PC
115 E Riverwalk, Suite 400
Pueblo, CO 81003

Michael Cuppy
NorthStar Engineering and Surveying, Inc.
111 E. 5th Street
Pueblo, CO 81003

or to such other address as either party by written notice given hereunder may designate.

(2) Governing Law and Venue. This Annexation Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without regard to conflict of law principles. Venue for any action arising out of this Annexation Agreement shall be Pueblo County, Colorado.

(3) No Third Party Beneficiaries. Nothing in this Annexation Agreement expressed or implied is intended to or shall be construed to confer upon, or to give to, any person other than the City and the Petitioner any right, remedy or claim under or by reason of this Annexation Agreement or any covenant, condition or stipulation hereof; and all the covenants, agreements and stipulations in this Annexation Agreement contained by and on behalf of the City or the Petitioner shall be for the exclusive benefit of the City and the Petitioner.

(4) Singular, Plural. Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural. Words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting the other gender, if applicable.

(5) Entire Agreement. All prior discussions, representations, understandings and agreements, whether oral or written, between the parties with respect to the subject matter of this Annexation Agreement are merged in this Annexation Agreement, which constitutes the entire agreement between the parties.

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

PUEBLO, a Municipal Corporation

[S E A L]

By _____
President of the City Council

Attest: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

PETITIONER:

PUEBLO SUBURBAN DEVELOPMENT,
LLC, A COLORADO LIMITED LIABILITY
COMPANY:

By: _____
Gerardus P M van Der Drift,
Manager

Attest: _____
By _____
Title _____

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____ as President of City Council and
_____ as City Clerk of Pueblo, a Municipal Corporation.

Witness my hand and official seal.

My commission expires: _____

[S E A L]

Notary Public

Exhibit A

AREA TO BE ANNEXED:

ANNEXATION A

A portion of the Section 25, E ½ of Section 26, NE ¼ of Section 35 and N ½ of Section 36, Township 21 South, Range 65 West of the 6th P.M. in the County of Pueblo, State of Colorado.

Beginning at the Northwest corner of Lot 2, Vestas Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; said point also being on the Easterly right-of-way line of the Greenhorn Drive; thence along the Easterly right-of-way line of Greenhorn Drive the following seven (7) courses:

1. thence N. 03°20'44" E., a distance of 985.49 feet;
2. thence along the arc of a curve to the right whose radius is 460.00 feet, a distance of 412.79 feet;
3. thence N. 54°45'38" E., a distance of 814.28 feet;
4. thence along the arc of a curve to the left whose radius is 540.00 feet, a distance of 1,047.20 feet;
5. thence N. 56°21'01" W., a distance of 599.31 feet;
6. thence along the arc of a curve to the right whose radius is 460.00 feet, a distance of 479.27 feet;
7. thence N. 03°20'44" E., a distance of 2,173.98 feet;

thence N. 23°48'03" E., a distance of 140.76; thence S. 89°13'16" E., a distance of 5,135.29 feet to a point on the Westerly right-of-way line of the Burlington Northern and Santa Fe Railroad (Line Segment No. 0477); thence S. 02°27'16" W., along the Westerly right-of-way line of the Burlington Northern and Santa Fe Railroad, a distance of 5,692.35 feet a the Northwest corner of said Vestas Towers America; thence westerly along the North line of said Vestas Towers America the following two (2) courses:

1. thence N. 89°47'02" E., a distance of 2978.63 feet;
2. thence N. 89°47'02" E., a distance of 2978.63 feet; to the Point of Beginning and the Northwest corner of Said Lot 2.

Containing 656.62 acres, more or less.

ANNEXATION B

A portion of the E ½ of Section 26 and NE ¼ of Section 35, Township 21 South, Range 65 West of the 6th P.M. in the County of Pueblo, State of Colorado.

Commencing at the Northwest corner of Lot 2, Vestas Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; said point also being on the Easterly right-of-way line of the Greenhorn Drive; thence N. 01°17'44" W., a distance of 988.73 feet to a point on the Westerly right-of-way line of the Greenhorn Drive and the Easterly right-of-way line of Colorado Interstate No. 25 as presently located and Point of Beginning; thence N. 03°20'44" E., along the Easterly right-of-way line of

Colorado Interstate No. 25, a distance of 2455.29 feet; thence along the Easterly right-of-way line of Greenhorn Drive the following five (5) courses:

1. thence along the arc of a curve to the left whose radius is 540.00 feet and whose center bears S. 86°39'16" E., a distance of 562.62 feet;
2. thence S. 56°21'01" E., a distance of 599.31 feet;
3. thence along the arc of a curve to the right whose radius is 460.00 feet, a distance of 892.06 feet;
4. thence S. 54°45'38" W., a distance of 814.28 feet;
5. thence along the arc of a curve to the left whose radius is 540.00 feet, a distance of 484.57 feet to a point on the Easterly right-of-way line of Colorado Interstate No. 25 and Point of Beginning.

Containing 27.72 acres, more or less.

2. PROPOSED NEW CITY LIMITS LINE:

Beginning at the Northeast corner of Lot 1, Vestas Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; said point also being on the Westerly right-of-way line of the Burlington Northern and Santa Fe Railroad (Line Segment No. 0477); thence N. 02°27'16" E., Westerly right-of-way line of the Burlington Northern and Santa Fe Railroad, a distance of 5,692.35 feet; thence N. 89°13'16" W., a distance of 5,135.29 feet to a point on the Present City Limits line and Point the of Terminus.

3. CERTIFICATION OF PERIMETER:

At least one-sixth of the boundary of the land described in paragraphs one (1) above, is now existing City Limits Line.

EXHIBIT B

None

EXHIBIT "C"

SPECIAL IMPROVEMENTS AND DEDICATIONS

**MVD ANNEXATION (A-15-02)
ANNEXATION AGREEMENT**

1. Off-Site Roadways

In compliance with the Pueblo Roadway Development Plan and the Pueblo Area Council of Governments Roadway Corridor Preservation Plan, the City of Pueblo will identify for the Petitioner the alignment of off-site freeways, arterials and collectors, which provide connectivity to the Property. Petitioner will cause all local roadways within the Property to connect with all adjoining publicly dedicated local roadways. "Identify" does not mean or include surveying or engineering services.

2. Access to Property

Greenhorn Drive extending south of State Highway 45 (Pueblo Blvd.) as shown on the attached Exhibit C-1 is the primary access roadway to the Property. Greenhorn Drive is classified as a mixed-use collector with an eighty (80) foot right-of-way and easement as shown on the attached Exhibit C-1. The alignment of the roadway shall comply with the General Provisions for Roadway Classification Design Standards and Policies and the City's Standard Construction and Standard Details (Revised: March 28, 2005) or as same may be hereafter amended and in accordance with construction plans, all which shall be approved by the Director of Public Works.

3. Secondary Access Road

The petitioner, in accordance with the 2009 International Fire Code and amendments provided for in City Ordinance 8278, and at the discretion of the Public Works Director based on the Property development plan, shall provide for secondary access to the property. It is the

responsibility of the Petitioner to designate a secondary access point, which shall be approved by the Director of Public Works. The construction of a secondary access road shall be a minimum of two (2) lanes of travel not less than twelve (12) feet in width. All other provisions for the alignment, construction and installation of a secondary access road shall be in compliance with the General Provisions for Roadway Classification Design Standards and Policies and the City's Standard Construction and Standard Details (Revised: March 28, 2005) or as same may be hereafter amended and in accordance with construction plans, all which shall be approved by the Director of Public Works. Petitioner may be eligible for Cost Recovery from adjoining property owners for secondary access constructed outside the Property as provided in Section 12-4-12 of the Pueblo Municipal Code. City may refuse to approve any subsequent subdivision or issue building permits until such secondary access is provided.

4. Large Scale Development Performance Standards

The Administrative Official shall have the authority to approve requested modifications and exceptions to the requirements of Section 17-4-46 of the City's Code of Ordinances regarding the large-scale architecture standards of the proposed large-scale agricultural greenhouse structures. Notwithstanding the foregoing, the Facilities identified on Exhibit C-2, attached hereto and incorporated by reference as fully set forth herein, as Facility B1, E1 thru E4, and G1 thru G4 shall not be subject to the requirements of Section 17-4-46.

5. St. Charles Industrial Park Special Improvement Maintenance District

Petitioner shall, at the request of the City, sign a petition pursuant to Chapter 9, Title XII, of the Pueblo Municipal Code to include the Property within a special district for the purpose of providing for the maintenance of all landscaping within the right-of-way along Greenhorn Drive and the East Roadway/Utility Corridor as located and constructed in the future. In order to implement this covenant, Petitioner shall place restrictions of record sufficient to bind all the land

within the Property and subsequent owners thereof to this covenant.

6. On-site Landscaping

All living and non-living landscape materials, design, construction, plan review and approval of required landscaping shall meet and comply with Title XVII, Section 17-4-7 Landscaping Performance Standard of the Pueblo Municipal Code except as otherwise specifically provided in this Annexation Agreement.

Petitioner and any subsequent owner of all or any part of the Property shall provide and maintain, at its sole cost and expense, the minimum on-site landscaping, as described below, within the Property at all times.

Petitioner shall be required to provide landscaping of the public rights-of-way of Greenhorn Drive and the East Roadway/Utility Corridor. The landscape area shall be a minimum of ten (10) feet wide and contain at least one (1) shade tree and one hundred sixty (160) square feet of living ground cover in the landscape setback area for every two hundred (200) linear feet, or portion thereof, of frontage, excluding Site Roadway Entrances and Sign Landscaping areas. Site Roadway Entrance Landscaping requirements are included in Section 6.a. below. Sign Landscaping requirements are included in Section 6.c. below. Trees planted in the landscape setback area can be located in groups of up to three (3) trees or in irregular alignment instead of uniform spacing.

a. Site Roadway Entrance Landscaping

A landscape setback area shall be a minimum of twenty (20) feet wide and one hundred (100) feet long along both sides of the roadway entrance into the Property measured from the public right-of-way. One (1) shade tree for every five-hundred (500) square feet of area within the landscape setback area shall be planted along with ground cover. Living ground cover is encouraged but not required.

b. Parking Lot Landscaping

Parking lot islands for facilities A1-A3, D1-D3, and F1-F3 shall be installed at the end caps of each row of parking spaces and throughout the parking lot, where there are no more than twenty-five (25) consecutive parking spaces without a landscape island. Each island shall be at least nine (9) feet wide and eighteen (18) feet long or equal to the length of the adjacent parking stall if angled parking is used. One (1) shade tree shall be planted in each island along with ground cover. Living ground cover is encouraged but not required. Landscape shall be protected by standard curb head.

c. Sign Landscaping

Area surrounding free standing pole or monument sign, if any, shall be landscaped with trees, shrubs and ground cover, living or not, for a minimum distance of ten (10) feet all around. Sign landscape area may be incorporated and count towards the Site Roadway Entrance Landscape area.

Notwithstanding the foregoing, the City agrees to limit the landscaping requirements for the project to landscape requirements for similar projects located within in close proximity to the project, including but not limited to ROCLA, and Pewag. Additionally, Petitioner shall not be required to use any landscaping materials that would be likely to increase or create additional: (i) habitat for pests and other nuisance on or about the Property; nor (ii) debris on the glass roof of any structure located on the Property.

7. Sanitary Sewer

Prior to the approval of the subdivision of any portion of the Property, Petitioner at its sole expense will be responsible to design the off-site sanitary sewer line connecting to the existing sewer line as identified within the Sanitary Sewer Master Plan, in such size, location and alignment approved by the Director of Waste Water. The sanitary sewer system must be designed by a

Colorado Licensed Professional Engineer and approved by the Director of Waste Water. Depending upon the point of connection to the sanitary sewer system, the Petitioner may incur and have to pay and/or be eligible for Cost Recovery per Section 16-5-5 of the City's Code of Ordinances for all or a portion of the cost of the sewer main extension or improvements to the existing sanitary sewer system.

8. Stormwater

All stormwater flows from subdivisions within the Property must be detained or retained as determined by the Director of Public Works. All stormwater releases shall meet NPDES stormwater quality requirements. The Petitioner shall acquire and dedicate at its sole expense all easements for such purposes. The Petitioner also shall construct and install at its sole expense a stormwater drainage system and detention facility in compliance with the City's Drainage Criteria Manual (June 9, 1997) and the City's Standard Construction Specifications and Standard Details (March 25, 2005) or as same may be later amended and as shown on construction plans approved by the Director of Public Works.

To the maximum extent practicable as determined by the Director of Public Works, Petitioner must reduce the peak flows and run-off volumes from the Property through stormwater detention and retention facilities to levels that existed before the Property was developed, or to levels that are capable of being handled by the downstream drainage facilities, whichever is less.

Prior to the approval of any subdivision of land within the Property, the subdivision drainage report and drainage facilities must be approved by the City's Director of Public Works.

Exhibit C-1

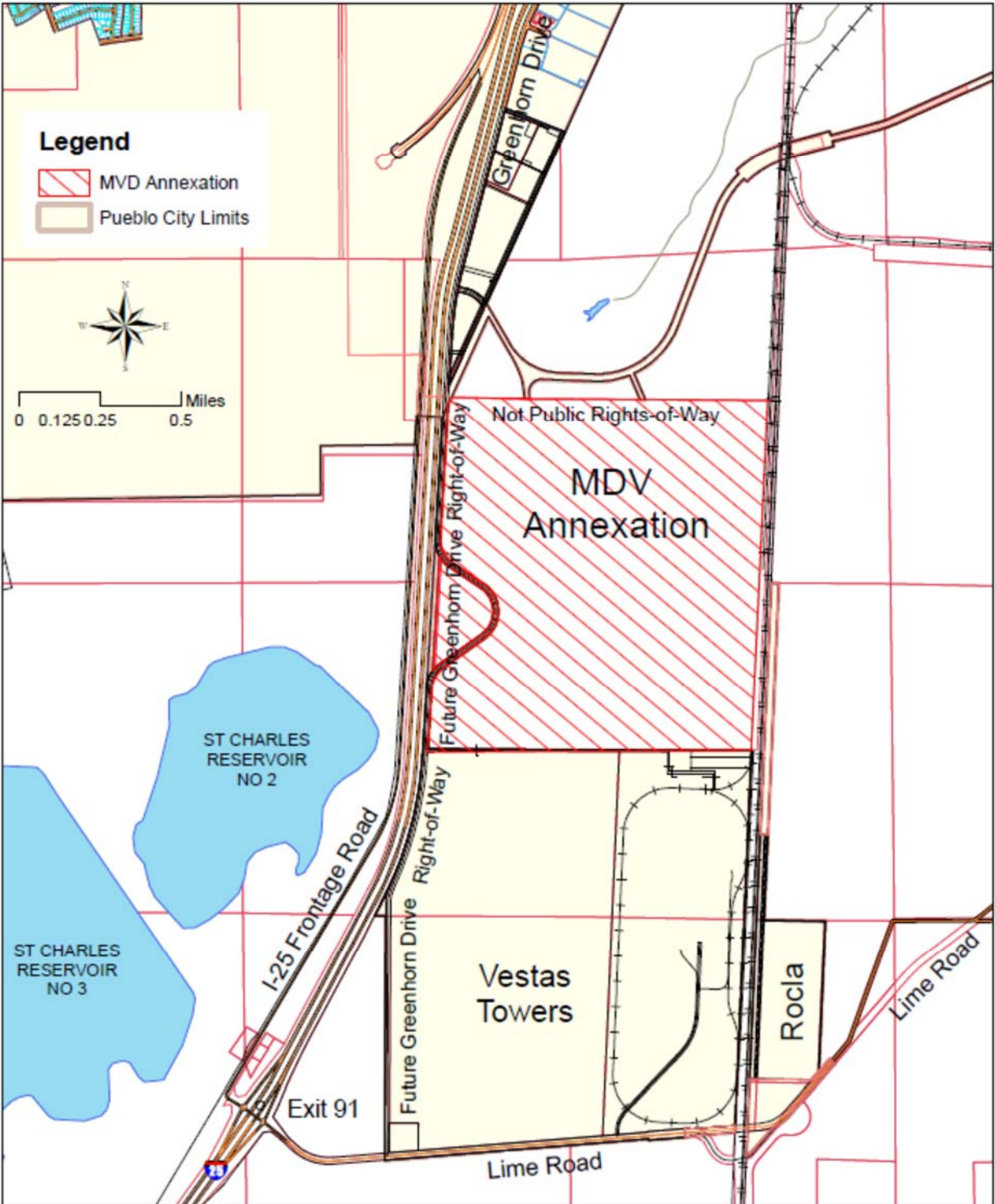
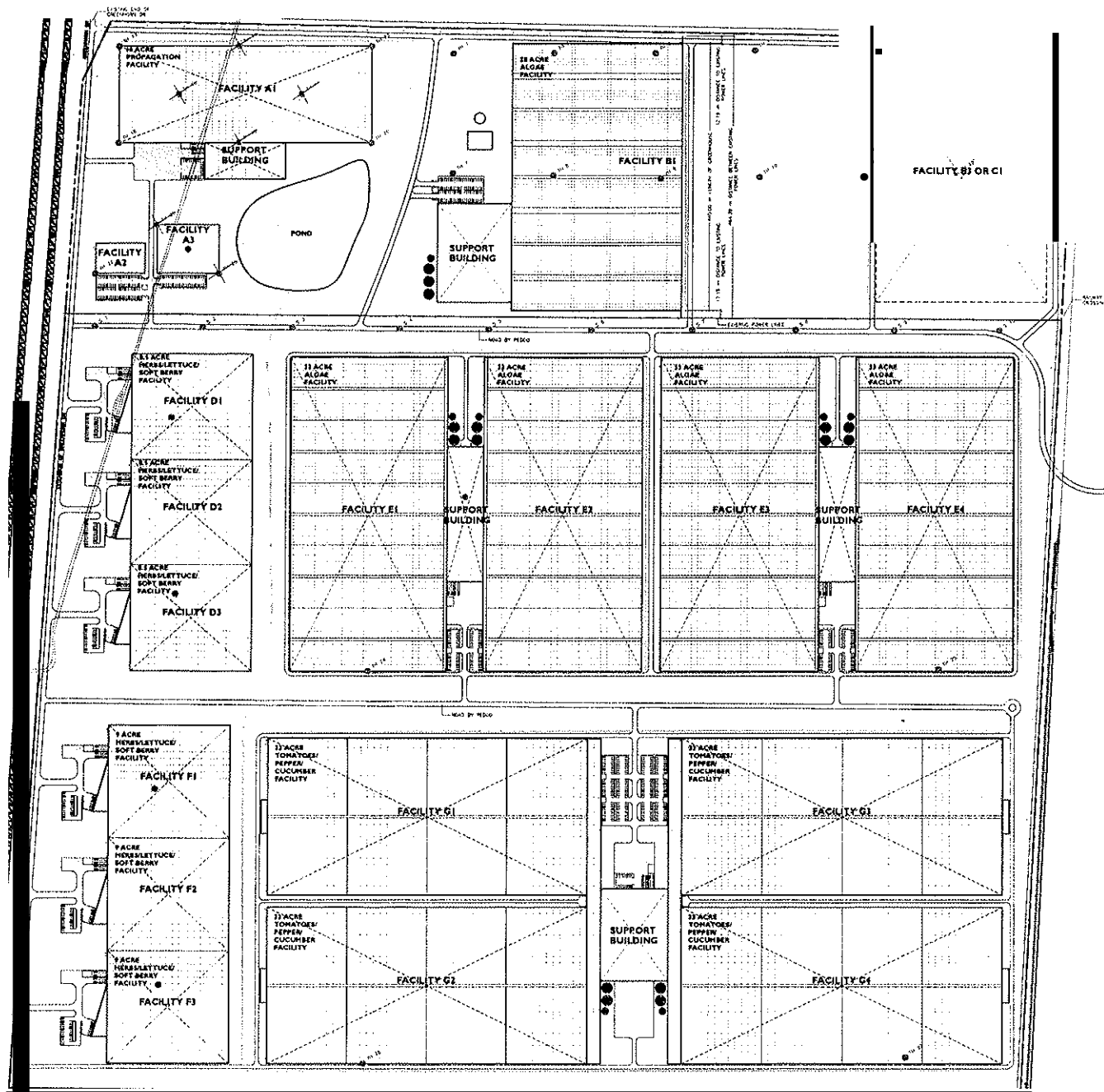
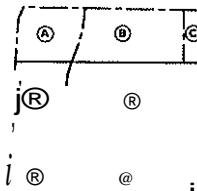


EXHIBIT C-2



TRACT	ACRES	APPROX. VALUE	APPROX. VALUE	APPROX. VALUE	APPROX. VALUE
TRACT A1	14.00	1,400,000	1,400,000	1,400,000	1,400,000
TRACT A2	1.00	100,000	100,000	100,000	100,000
TRACT A3	1.00	100,000	100,000	100,000	100,000
TRACT B1	18.00	1,800,000	1,800,000	1,800,000	1,800,000
TRACT C1	18.00	1,800,000	1,800,000	1,800,000	1,800,000
TRACT D1	1.00	100,000	100,000	100,000	100,000
TRACT D2	1.00	100,000	100,000	100,000	100,000
TRACT D3	1.00	100,000	100,000	100,000	100,000
TRACT E1	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT E2	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT E3	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT E4	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT F1	1.00	100,000	100,000	100,000	100,000
TRACT F2	1.00	100,000	100,000	100,000	100,000
TRACT F3	1.00	100,000	100,000	100,000	100,000
TRACT G1	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT G2	11.00	1,100,000	1,100,000	1,100,000	1,100,000
TRACT G3	11.00	1,100,000	1,100,000	1,100,000	1,100,000



Larsen Ltd
 4333 Center St.
 Burlington, ON L7M 1G2
 Canada
 Phone: +1 905 335 3887
 Fax: +1 905 335 3333

PUEBLO COUNTY

15-14	15-23
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