

ANNEXATION AGREEMENT

CASE NO. A-20-04 WILDHORSE ANNEXATION

This Annexation Agreement is made effective as of _____, 2022, by and between the City of Pueblo, a Municipal Corporation, (the “City”), for the use and benefit of Wildhorse Land and Holdings, LLC a Colorado limited liability company, (“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 above, and the following covenants and conditions, the City and Petitioner agree as follows:

I. REPRESENTATIONS 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 and comply with this Annexation Agreement.

(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.

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 Community 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 shall address the identified uses and infrastructure requirements for 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.

The Master 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. Stormwater flows from subdivisions within the Property must be detained and/or retained as determined by the Director of Public Works. The Petitioner shall construct, at its sole expense, such detention and retention facilities, along with the complete stormwater conveyance system (collectively the "Drainage Facilities") in full compliance with the MANUAL and the City's Standard Construction Specifications and Standard Details, published March 28, 2005, or as either may be hereafter amended and as shown on the construction plans approved by the Director of Public Works. The Petitioner, at its sole expense, shall be responsible for the acquisition and dedication of

all on-site and off-site easements to facilitate the installation of the Drainage Facilities on and off the Property and to provide conveyance for site stormwater run-off to downstream receiving waters.

The Drainage Plan shall address surface water drainage within the Property, upstream drainage tributary to the Property, as well as effects of the development of the Property upon downstream properties and drainage facilities. Negative impacts on the surrounding properties, as determined by the City's Director of Public Works, which are reasonably attributable to the development shall be mitigated through stormwater drainage improvements installed by and at the expense of the Petitioner. Additionally, if off-site downstream storm drainage facilities are determined to be inadequate, supplemental detention and retention facilities must be constructed by the Petitioner. The Drainage Plan shall include a phasing plan or schedule addressing proposed drainage improvements for the Property.

Stormwater releases, water quality management, and erosion control measures shall be incorporated into the Drainage Plan to meet current and future NPDES requirements.

The Petitioner must reduce peak flows and run-off volumes from the Property, to the maximum extent practicable, to levels that existed prior to any development within the Property, or to levels that are capable of being handled by the downstream drainage facilities, whichever is less, as determined by the Director of Public Works.

Prior to the approval of any subdivision of land within the Property, a subdivision drainage report must be submitted to the City's Director of Public Works for approval.

(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-principal sanitary sewer 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 or are designed and constructed off-site of the Property but within the sewer drainage basin, an Agreement to recover an equitable share of the cost of constructing oversized and off-site sewer collection system improvements ("Agreement") may 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 later 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 has been prepared by professional engineers competent in the field of transportation and registered in the State of Colorado and submitted to the City Traffic Engineer. Associated impacts on City's existing and proposed traffic and roadway systems are identified in the Transportation Plan and studies, and those impacts which are reasonably attributable to the development of the Property as determined by the Transportation Plan shall be mitigated through traffic improvements constructed and installed by and at the expense of the Petitioner (including, but not limited to, traffic signals, signal interconnect, conduit and wire, deceleration/acceleration lanes, and median islands). The Transportation Plan includes a general phasing plan or schedule of such traffic improvements. 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 §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 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). 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.

(2) For any land use that is not a permitted use in the Agricultural District (A-1) or is allowed upon the approval and issuance of a special use permit by the Zoning Board of Appeals, 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 until after that portion of the Property is zoned into the land use classification most nearly corresponding to the land use classification identified in the Pueblo Regional Comprehensive Development Plan, as amended.

(3) No rights shall exist in Petitioner nor with respect to the Property arising from its preexisting subdivision or use at the time of annexation. No application for subdivision of all or any part of the Property shall be submitted to or considered by the City until after the Master Development Plan has been approved by the Planning and Zoning Commission; provided, however, that if the Property is intended to be included in a single subdivision, the application for such subdivision may be submitted at the time the Master Development Plan is submitted to the Planning and Zoning Commission. No subdivision of the Property shall be approved prior to the time the ordinance annexing the Property is approved on final presentation.

(4) An application to rezone 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 §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.

(5) 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 Pueblo 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 Pueblo 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 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, trails, travel systems, parks and open space. The Petitioner at its expense shall timely construct and install all on-site improvements, and all offsite improvements as set forth in this Agreement (as well as those where an essential nexus exists between the offsite improvement and a legitimate government interest, and the cost of the improvement is roughly proportionate both in nature and extent to the impact of the proposed development of the Property), “that are necessary 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, trails, parks, 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 within the Property shall be installed 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 reasonable 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. 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 reasonable 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 prosecute 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 §§29-20-201 to 29-20-204, C.R.S.

XIV. SPECIAL IMPROVEMENTS AND DEDICATIONS AND SYSTEM DEVELOPMENT FEES

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 system development fees described in Exhibit C attached hereto and incorporated herein. The improvements, dedications, and system developments 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: Mayor, City of Pueblo
1 City Hall Place, 2nd Floor
Pueblo, CO 81003
- (b) copy to: City Attorney
1 City Hall Place, 3rd Floor
Pueblo, CO 81003
- (c) if to the Petitioner: Warren Dean
Wildhorse Land and Holdings, LLC
P.O. Box 64140
Colorado Springs, CO 80962
- (d) copies to: 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.

CITY OF PUEBLO, a Municipal Corporation

[S E A L]

Attest: _____
City Clerk

By: _____
Mayor

APPROVED AS TO FORM:

City Attorney

PETITIONER:

WILDHORSE LAND AND HOLDINGS,
LLC, A COLORADO LIMITED LIABILITY
COMPANY:

By: _____
Warren Dean
Manager

Attest: _____
By _____
Title _____

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Nicholas A. Gradisar as Mayor of the City of Pueblo and Marisa Stoller as City Clerk of Pueblo, a Municipal Corporation.

Witness my hand and official seal.

My commission expires: _____

[S E A L]

Notary Public

STATE OF COLORADO)
COUNTY OF EL PASO) ss.

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Warren Dean, as Manager of Wildhorse Land and Holdings, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

[S E A L]

Notary Public

Exhibit A

AREA TO BE ANNEXED:

A parcel of land located in Section 9, Township 20 South, Range 65 West, of the 6th Principal Meridian, said parcel being more particularly described as follows:

PARCEL 1

Beginning at a point on the North line of the SE $\frac{1}{4}$ of said Section 9 from which the E $\frac{1}{4}$ corner of said Section 9 bears S 89 degrees 58 minutes 50 seconds E, a distance of 1264.04 feet; Thence N 80 degrees 58 minutes 50 seconds W, along said north line, a distance of 991.13 feet to a point on the center line of the Kansas and Colorado Railroad abandoned right of way; thence N 42 degrees 45 minutes 25 seconds W, along center line, a distance of 187.73 feet to the beginning of a curve to the right having a radius of 2864.93 feet; thence northwesterly continuing along said center line, along the arc of said curve, through a central angle of 11 degrees 29 minutes 26 seconds, a distance of 574.56 feet; thence N 31 degrees 15 minutes 59 seconds W continuing along said center line a distance of 26.24 feet; thence S 02 degrees 50 minutes 30 seconds W, leaving said center line, a distance of 379.22 feet; thence S 11 degrees 18 minutes 36 seconds E, a distance of 290.64 feet; thence S 25 degrees 47 minutes 14 seconds E, a distance of 494.22 feet, thence S 74 degrees 07 minutes 07 seconds E, a distance of 738.18 feet; thence S 45 degrees 35 minutes 07 seconds E, a distance of 1107.39 feet; thence S 29 degrees 38 minutes 54 seconds E, a distance of 1265.26 feet to a point on the west line of the E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of said Section 9; thence N 00 degrees 43 minutes 31 seconds E, along said west line, a distance of 1368.99 feet to a point on a non tangent curve, having a radius of 1019.00 feet, a radial line bears N 39 degrees 23 minutes 00 seconds E from said point; thence northwesterly along the arc of last said curve through a central angle of 14 degrees 17 minutes 21 seconds, a distance if 254.13 feet; thence N 36 degrees 19 minutes 39 seconds W, tangent to last said curve, a distance of 1258.51 feet to the point of beginning, Pueblo County, Colorado.

Said parcel contains 50.47 acres, more or less

PARCEL 2

The W $\frac{1}{2}$ of the SW $\frac{1}{4}$ and the W $\frac{1}{2}$ of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 10, Township 20 South, Range 65 West; also the E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 9, Township 20 South, Range 65 West of the 6th P.M., County of Pueblo, State of Colorado, 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 contains 128.91 acres, more or less.

2. PROPOSED NEW CITY LIMITS LINE:

Beginning at the Northeast corner of the W $\frac{1}{2}$ of E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of section 10 and the present City limits line; thence S 88 degrees 57 minutes 11 seconds W, along the north line, a distance of 665.40 feet, to the Northwest corner of the W $\frac{1}{2}$ of the E $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 10 and present City limits lines; thence S 88 degrees 54 minutes 17 seconds W, along the north line, a distance of 1331.50 feet, to the Northeast corner of the E $\frac{1}{4}$ of section 9; thence S 89 degrees 58

minutes 21 seconds W, along the north line, a distance of 328.94 feet to the NW corner of the E ½ of the E ½ of the E ½ of the SE ¼ of Section 9; thence S 0 degrees 40 minutes 42 seconds W, along the west line, a distance of 1198.59 feet to a point on a non tangent curve, having a radius of 1019.00 feet, a radial line bears N 39 degrees 23 minutes 00 seconds E from said point; thence northwesterly along the arc of last said curve through a central angle of 14 degrees 17 minutes 21 seconds, a distance of 254.36 feet; thence N 36 degrees 19 minutes 40 seconds W, tangent to last said curve, a distance of 1258.29 feet, to a point on the north line of the SE ¼ of said Section 9; thence N 89 degrees 59 minutes 03 seconds W, along said north line, a distance of 991.53 feet to a point on the center line of the Kansas and Colorado Railroad abandoned right of way; thence N 42 degrees 46 feet 50 seconds, along said center line, distance of 187.77 feet to the beginning of a curve to the right having a radius of 2864.93 feet; thence northwesterly, continuing along said center line, along the arc of said curve, through a central angle of 11 degrees 19 minutes 26 seconds, a distance of 574.22 feet; thence N 31 degrees 39 minutes 05 seconds W continuing along said center line a distance of 26.62 feet; thence S 02 degrees 50 minutes 55 seconds W, leaving said center line, a distance of 379.17 feet; thence S 11 degrees 18 minutes 19 seconds E, a distance of 290.71 feet; thence S25 degrees 46 minutes 43 seconds E, a distance of 494.36 feet; thence S 74 degrees 06 minutes 44 seconds E, a distance of 738.34 feet; thence S 45 degrees 34 minutes 43 seconds E, a distance of 1107.74 feet; thence S 29 degrees 39 minutes 59 seconds E, a distance of 1269.12 feet to a point on the west line of the E ½ of the E ½ of the E ½ of the SE ¼ of said Section 9; thence S 89 degrees 24 minutes 00 seconds E, a distance of 183.40 feet; thence N 78 degrees 28 minutes 30 seconds E, a distance of 152.30 feet; thence 'N 78 degrees 08 minutes 30 seconds E, a distance of 313.00 feet; thence N 68 degrees 32 minutes 30 seconds E, a distance of 309.70 feet; thence 'N 11 degrees 27 minutes 30 seconds, a distance of 460.20 feet; thence S 73 degrees 51 minutes 0 seconds E, a distance of 441.30 feet; thence S 05 degrees 25 minutes 00 seconds E, a distance of 385.30 feet; thence S 22 degrees 58 minutes 00 seconds E, a distance of 141.40 feet; thence S 53 degrees 51 minutes 30 seconds E, a distance of 168.40 feet to a point on the south line of W ½ of the E ½ of the SW ¼ of said section 10; thence N 89 degrees 10 minutes 16 seconds E, along said south line, a distance of 612.25 feet to the SE corner of the W ½ of the E ½ of the SW ¼ of said Section 10, and present city limits line.

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

WILDHORSE ANNEXATION (A-20-04) ANNEXATION AGREEMENT

1. Off-Site Roadways

In compliance with the latest version of the Pueblo Area Council of Governments Long Range Transportation Plan, the City of Pueblo will identify for the Petitioner the alignment of off-site expressways, 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.

2. Roadway Design, Alignment and Accesses to Property

The primary existing roadway accesses to the Property, shown on the attached Exhibit C-1, are from Pueblo Boulevard and Wildhorse Road which are described in paragraphs a and b below. Future roadway network connectivity with the Property may be provided via a future extension of Industrial Boulevard from Pueblo West Municipal District and is described in paragraph c below.

a. Pueblo Boulevard. Pueblo Boulevard extending from the southern boundary of the Property to the northern boundary of the Property shall be designed to accommodate the City's Major Arterial/NR-C Non-Rural Arterial standards, as described and shown on Exhibit C-5, with a one hundred fifty (150) foot right-of-way, with full movement intersection spacing as shown on the attached Land Use Plan, Exhibit C-2, and shall be accepted by the City as a City street. The one hundred fifty (150) foot right-of-way may be expanded to no greater than a maximum of one hundred seventy-five (175) feet in specific roadway segments if the traffic study results warrant additional width. The right-of-way will include sufficient width for a center median which allows for the

installation of full movement turn lanes and intersections. A development plan providing for the general phasing of the construction of Pueblo Boulevard is included in Petitioner's Traffic Study. Provisions for the phased roadway development plan for Pueblo Boulevard shall also be included within any Subdivision Improvement Agreement pertaining to the future subdivisions within the Property.

b. Wildhorse Road. Wildhorse Road's proposed alignment from the north-western boundary of the Property to the intersection with Pueblo Boulevard shall be designed as a Mixed-Use Collector roadway with an eighty (80) foot right-of-way. The eighty (80) foot right-of-way may be expanded to no greater than a maximum of one hundred ten (110) feet in specific roadway segments if the traffic study results warrant additional width. Wildhorse Road is currently constructed with a 24 foot wide asphalt roadway within a right-of-way that varies between 40 feet and 80 feet. Any extension of Wildhorse Road from Pueblo Boulevard toward the eastern boundary of the Property shall be determined in connection with the development of Areas PA-1 and PA-2 as shown on the approved Land Use Plan.

A development plan providing for the general phasing of the construction of Wildhorse Road is included in Petitioner's Traffic Study. Provisions for the phased roadway development plan for Wildhorse Road shall also be included within any Subdivision Improvement Agreement pertaining to the future subdivisions within the Property.

c. Industrial Boulevard (future extension). Industrial Boulevard is an existing roadway in Pueblo West that predominantly runs parallel to US Highway 50 West and currently extends from the western boundary of the Pueblo West Metropolitan District, just west of Clintwood Drive, east approximately 4.5-miles to the intersection with Vineyard Drive. The dedicated right-of-way for Industrial Boulevard ends on the west side of Williams Creek approximately 1,300 feet west of the boundary of the Property. Road improvement plans for the Property shall include reserving an eighty

(80) foot right-of-way to accommodate the future expansion of Industrial Boulevard east to Wildhorse Road, extended to provide transportation network connectivity between Pueblo West and the Property.

A development plan providing for dedication of the reserved right-of-way for Industrial Boulevard upon Industrial Boulevard being extended to the west boundary of the Property shall be drafted by the Petitioner. The development plan shall be based on projected development and anticipated traffic and safety considerations and shall be approved by the Director of Public Works. Provisions for the phased roadway development plan for the proposed roadway shall also be included within any Subdivision Improvement Agreement pertaining to the future subdivisions within the Property.

All Road Improvements will be constructed in conjunction with the development of each Planning Area shown on attached Exhibit C-2 and as otherwise provided in the Annexation Agreement. All such roadways shall be designed and aligned in accordance with the 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 designs and plans shall be approved by the Director of Public Works.

Petitioner acknowledges and agrees that, if Petitioner fails to construct the Roadway Improvements as herein agreed or defaults on any other provision of this Exhibit C or the Annexation Agreement, the City shall have all legal remedies available at law or in equity to enforce Petitioner's construction obligation and any other obligations including but not limited to a legal action against Petitioner for breach of contract and/or default on an indebtedness. In addition, and as set forth elsewhere in the Annexation Agreement, the City may withhold building permits, occupancy permits, subdivision approvals, zoning approvals and all other governmental grants of authority until such time as Petitioner shall have cured any default in performance under Exhibit C or the

Annexation Agreement as a whole.

If not previously done, the Petitioner, at its sole cost, shall dedicate or convey by general warranty deed the necessary right-of-way in an alignment that is acceptable to the Director of Public Works. Such dedication or conveyance shall be completed within one hundred (180) days after the adjacent portion of the Property is subdivided.

The on-site roadway right-of-way reservation for Industrial Boulevard required to be dedicated by Petitioner is in excess of what would be required just to serve development of the Property, and is intended to be part of a planned regional transportation network. Consequently, in consideration for the reservation of said right-of-way, Petitioner shall not be required to contribute to the construction of any off-site transportation infrastructure for the connection of Industrial Boulevard to the Property.

3. Off-Site Roadway and Sanitary Sewer Right-of-Way Acquisition

If not already dedicated to the public or deeded to the City, it will be the Petitioner's responsibility, at its sole cost and expense, to dedicate to the public or deed to the City, by warranty deed any off-site sanitary sewer rights-of-way to connect from a point on the City's existing sanitary sewer system or off-site roadway rights-of-way to comply with primary roadway and secondary access requirements in widths and alignments acceptable to the Director of Public Works and any required rights-of-way for stormwater flow and/or detention/retention facilities.

If Petitioner, after good faith efforts, is not able to acquire from the property owners off-site sanitary sewer, off-site roadway rights-of-way and/or stormwater rights-of-way in alignments acceptable to the City, the City will, to the extent legally authorized, exercise its power of eminent domain to acquire the off-site sanitary sewer and/or off-site roadway rights-of-way. Petitioner shall be responsible for and shall pay all compensation for the land taken; damages, if any, to the residue of the owner's property, relocation assistance and costs, if any, and all other costs and expenses of

condemnation, including, without limitation, appraisals, title insurance, engineering, expert witness, and attorney costs and fees (“Condemnation Costs”). Petitioner shall within ten (10) days, after request by the City, deposit with the City an estimate of Condemnation Costs as determined by the City Attorney before the City will commence condemnation proceedings. Petitioner shall pay the balance of the Condemnation Costs within ten (10) days after request therefor. If Petitioner fails to exercise good faith in acquiring the off-site sanitary sewer, or off-site roadway rights-of-way and/or off-site stormwater rights-of-way or fails to timely pay the estimate of Condemnation Costs or the balance of Condemnation Costs, City may refuse to approve the issuance of building permits to construct structures or buildings within the Property.

4. Sanitary Sewer

If not already installed, an 18’ diameter sanitary sewer main extending east from Manhole No. 406397.7 (104°39’17.32” W 38°18’40.38” N) crossing Wildhorse Creek to the junction of the two 18” lines to the southern boundary of the Southern Colorado Clinic Annexation property shall be designed and installed by Petitioner. Additionally, Petitioner will design and install a 21” line from the junction of the two 18” lines to the southern boundary of the Southern Colorado Clinic Annexation to connect with the City’s new 21” line (collectively, the “South Extension”). The two sewer mains shall be designed and installed in a location and alignment approved by the Director of Wastewater.

Such additional sewer lines and mains shall be installed as part of the public improvements required for subdivisions within the Property as determined by the Director of Wastewater.

Petitioner will be entitled to cost recovery for the South Extension, as provided by Pueblo Municipal Code based on the acreage of other users’ property utilizing the South Extension compared to the total acreage of land which could be served by the South Extension, payable upon a building permit being issued to such other users. The Director of Wastewater will verify the

acreage utilized by such other users submitted by the Developer.

The City shall install the 21” sanitary sewer line at its cost and expense extending from the southern boundary of the Southern Colorado Clinic Annexation Property within the following easements granted to the City that extend south to Manhole No. 415823.4 (104°38’57.22”W 38°17’40.43”N) as shown on attached Exhibit C-3:

a. Easement granted by YMCA Community Campus, LLC, dated April 24, 2017 and recorded on June 14, 2017, Reception No. 2073123 in the office of the Pueblo County Clerk and Recorder.

b. Easement granted by Glenn H. Kittinger, Trustee of the Glenn H. Kittinger Trust, and Betty J. Kittinger, Trustee of the Betty J. Kittinger Trust, dated June 26, 2015 and recorded on June 14, 2017, Reception No. 2073119 in the office of the Pueblo County Clerk and Recorder.

c. Easement granted by Elaine R. Hayes and Bryan G. Ruberson as Trustees of the Emma Ruberson Bamber Revocable Trust, dated May 26, 2015 and recorded on June 14, 2017, Reception No. 2073121 in the office of the Pueblo County Clerk and Recorder.

The installation of the 21” diameter sanitary sewer main by the City shall be initiated and completed within a 24-month period of time following the final approval of the redesign of the sanitary sewer line from an 18” to a 21” diameter, paid for by Petitioner, extending from the southern boundary of the Southern Colorado Clinic Annexation Property to Manhole No. 415823.4 (104°38’57.22”W 38°17’40.43”N) as shown on attached Exhibit C-3 paid by the Petitioner.

Until the portion of 21” diameter sanitary sewer main from MH 415823.4 (104°38’57.22”W 38°17’40.43”N) to the southern boundary of the Southern Colorado Clinic Annexation Property is completed by the City, Petitioner may connect, on a temporary basis, to the existing sanitary sewer main at Manhole No. 406397.7 (104°39’17.32”W 38°18’40.38”N) as shown on Exhibit C-3 to provide a sanitary sewer connection for the Property.

Upon the completion of the 21” diameter main by the City described above, Petitioner will be required to construct the main to direct the flow to the 21” diameter main within 180 days from the first building permit or the next building permit if building permit(s) have been issued and the temporary sanitary sewer connection is utilized. The temporary sanitary sewer connection will no longer be allowed to be utilized once the main line connection is completed on or before the 180-day period. Petitioner may request an extension to the timeframe for the temporary connection that may be approved by the Director of Wastewater.

5. 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 facilities 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.

6. Landscaping Setback Areas Within Public Rights-of-Way

In accordance with Section 17-4-7 (3) (a) 3. of the Pueblo Municipal Code – Landscape

Performance Standards, Landscape Setback Area, the Petitioner shall be allowed to extend the landscape requirements into the public rights-of-way, or portions thereof, in a manner that meets the general intent of this section of the Pueblo Municipal Code.

7. Recreational Trail Right-of-Way Dedication

Within one hundred eighty (180) days following the issuance of the first building permit within Planning Area PA-2A, Petitioner shall dedicate a 20' wide recreational trail right-of-way along the east bank of the Wildhorse Creek Arroyo as generally shown on attached Exhibit C-4 and will record a memorandum applicable to all the Property to the east of this trail right-of-way requiring the then owner of such Property to construct a recreational trail with 7" thick concrete at a width of 12' upon this trail right-of-way being connected to the City's offsite trail system. The right-of-way shall be located outside the prudent line setback of the 100-year flood plain paralleling the arroyo. If previously dedicated, the alignment of the trail right-of-way shall align with other trail rights-of-way along the east bank of the Wildhorse Creek Arroyo dedicated to the City north or south of the boundary of the annexation and shall be in an alignment acceptable to the Director of Parks and Recreation. The Petitioner shall be responsible for all costs incurred for the dedication of the trail right-of-way and the then owner of the portion of the Property to the east of the right-of-way shall be responsible for construction of the recreational trail as provided above.

EXHIBIT C-1

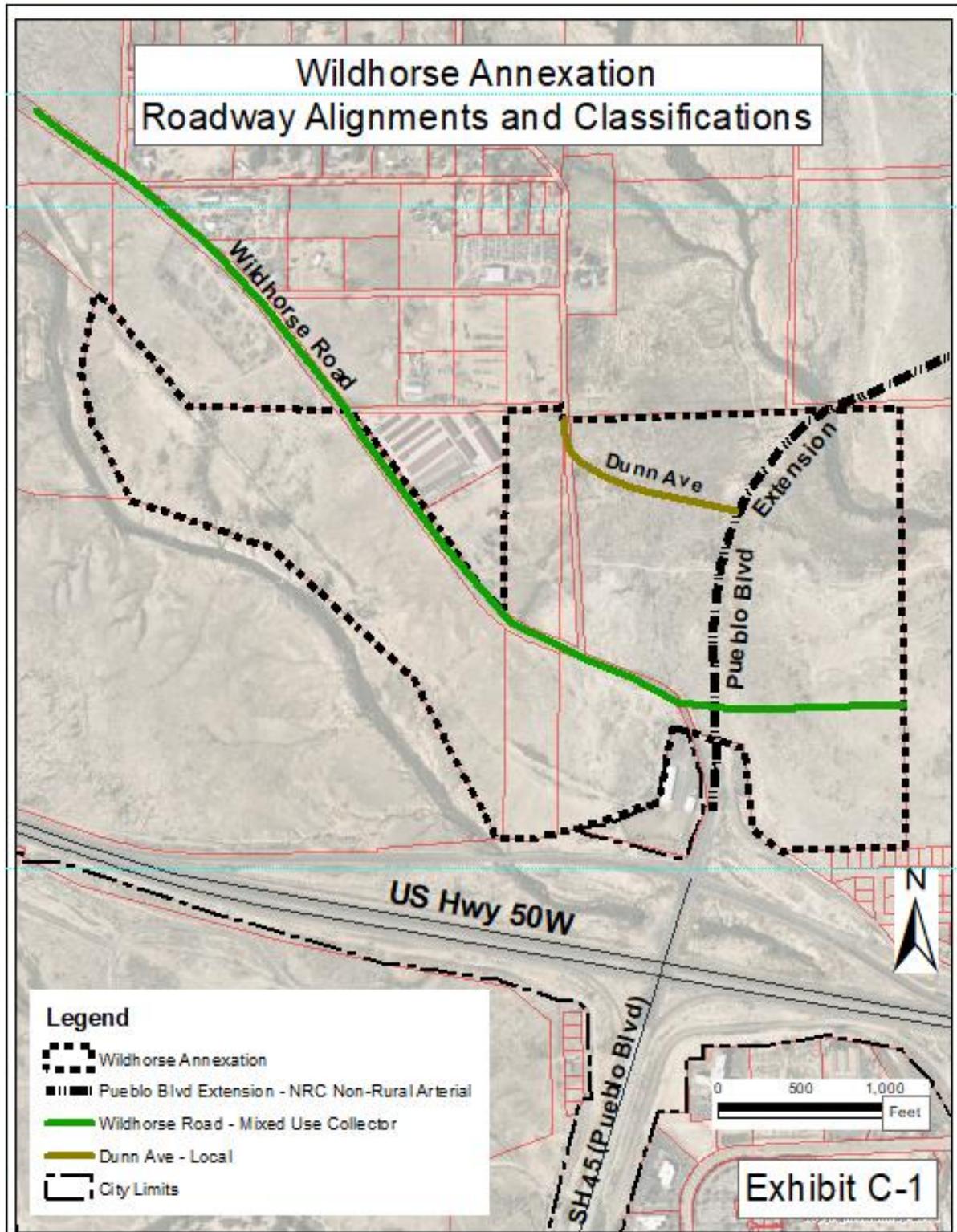


EXHIBIT C-2

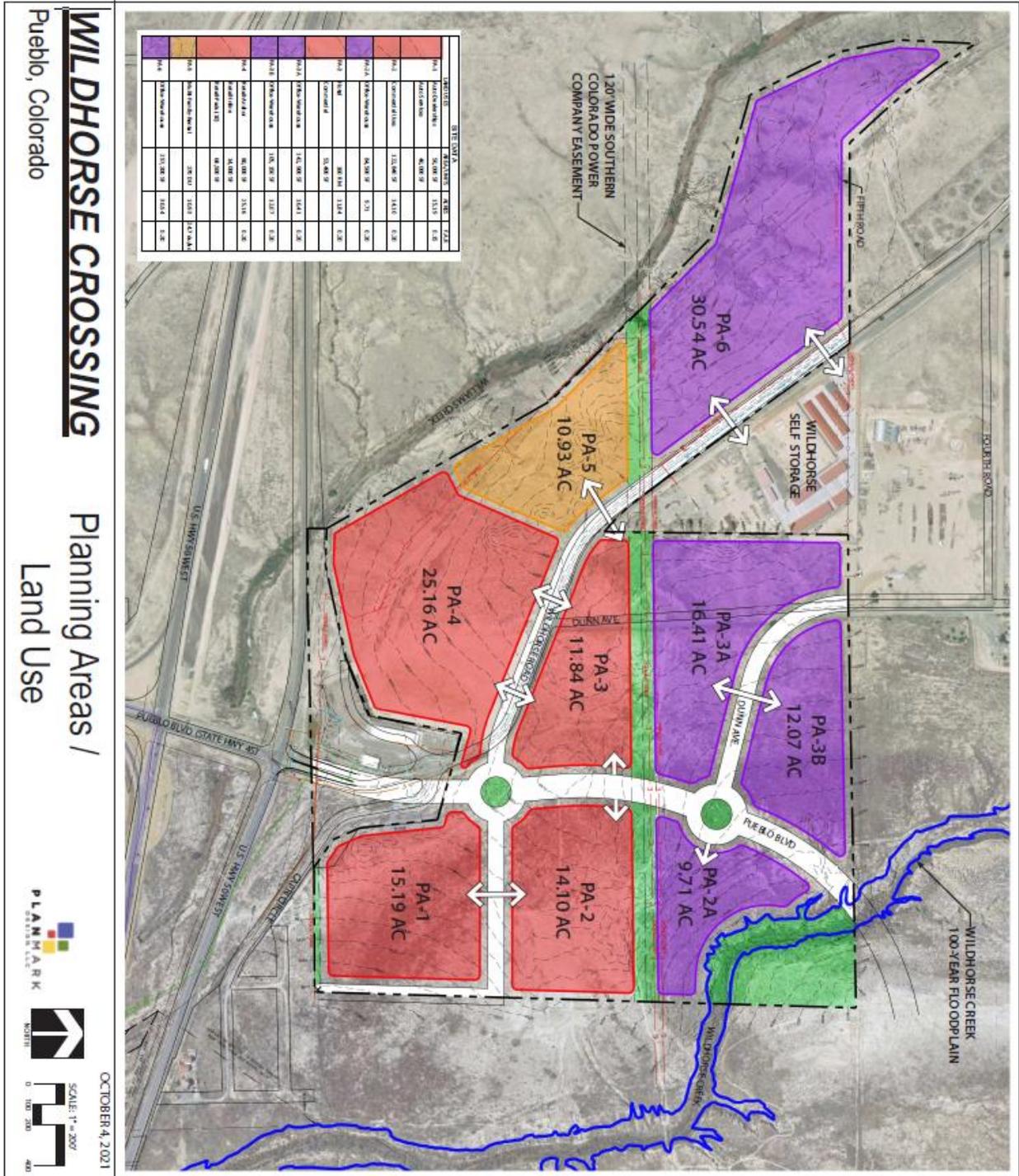


EXHIBIT C-3

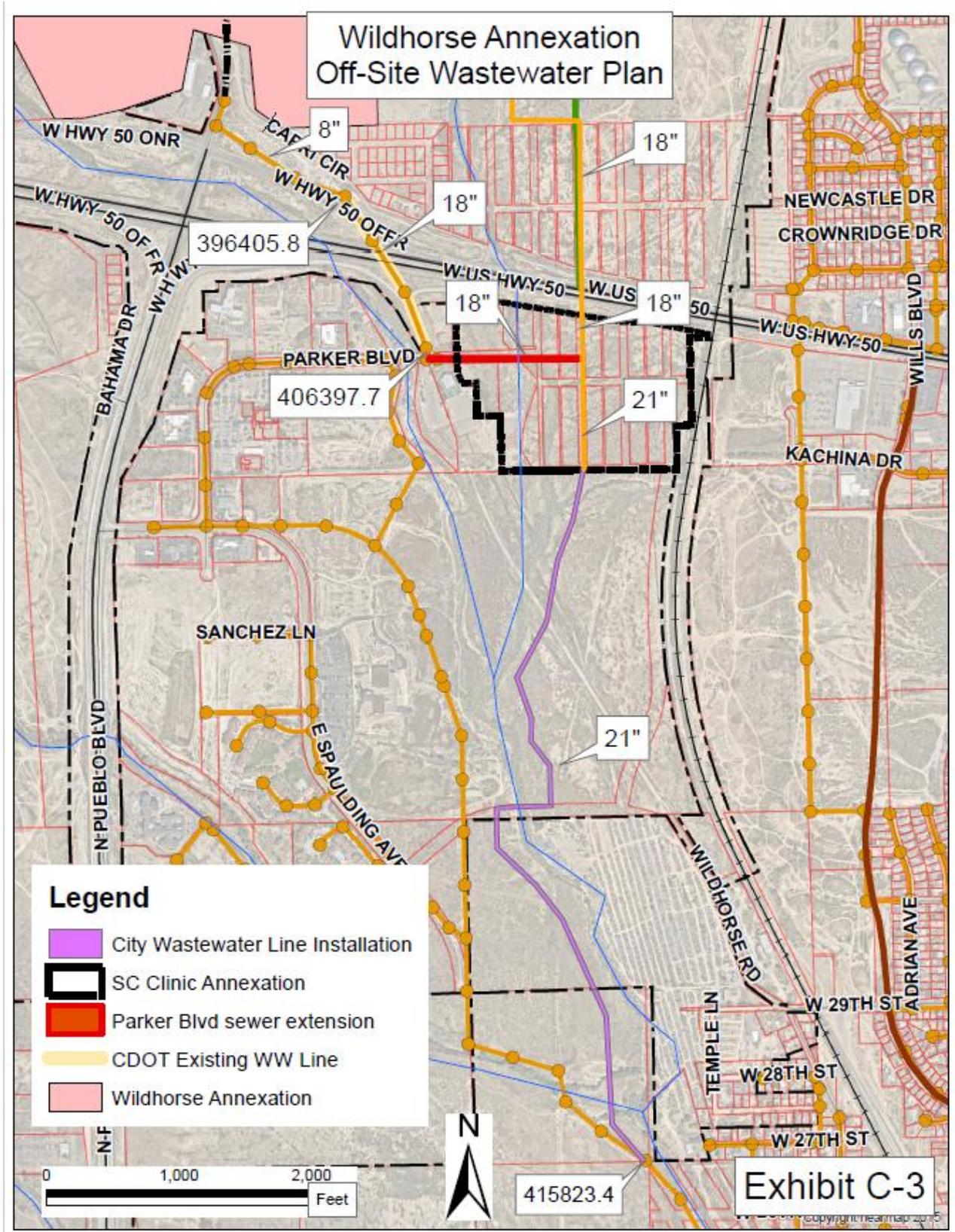


EXHIBIT C-4

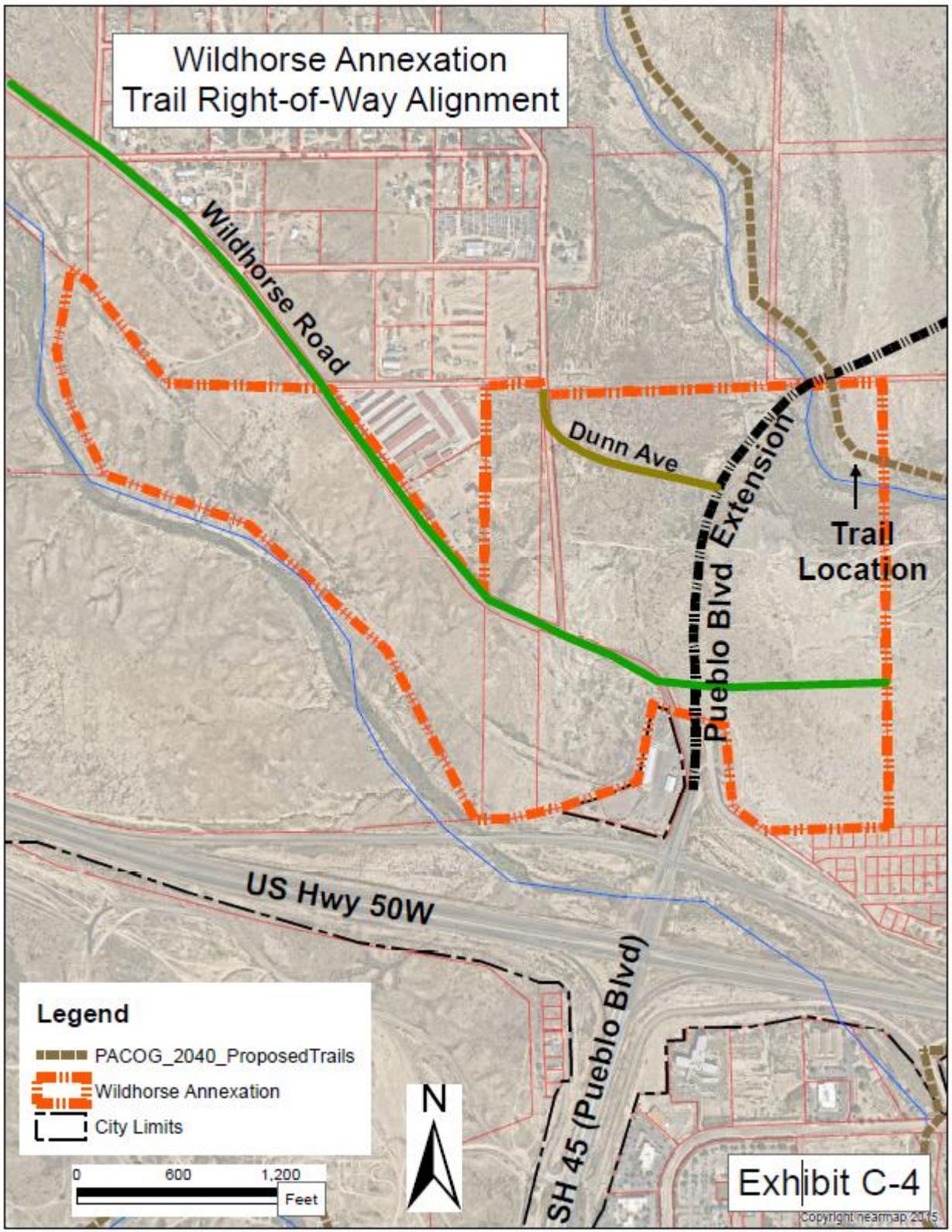


EXHIBIT C-5

To be included prior to final approval
of the annexation ordinances