

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: ESA, Pueblo LLC 1375 Remington Blvd, Suite E Schaumburg, IL 60173 (630) 774-6736
2. Permitted Area: 6020 North Elizabeth Street right of way
3. Purpose of Revocable Permit: Installation of parkway trees.
4. Authorized Improvements: N/A
5. Commencement Date: 06/30/2022 Time: 08:00 AM
6. Ending Date: Indefinite Time:

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

- (a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit. No use of the Permitted Area shall be made before the time of the Commencement Date.
- (b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.
- (c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.
- (d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.
- (e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.
- (f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.
- (g) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.
- (h) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) Trees, landscaping and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation.

(k) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

- (i) If to Permittee, at the address shown in paragraph 1 above.
- (ii) If to City, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee.

Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove any and all Permittee's Improvements in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Improvements within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or non-use by Permittee for a period of three (3) consecutive months, (iii) surrender or cancellation of the Permit in writing by Permittee, (iv) automatic revocation as provided in paragraphs (h) and (i) above; or (v) revocation or termination of this Permit by resolution of the City Council of City. The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

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

Signed in SCHUMBERG, IL Pueblo, Colorado this 8TH day of JUNE, 2022.

PEBY

PERMITTEE:

Organization: ESA Pueblo LLC

By: PAUL BUSCHING

Title: MEMBER

Illinois
STATE OF ~~COLORADO~~
COUNTY OF ~~PUEBLO~~) ss.
COOK

The foregoing instrument was acknowledged before me the 08 day of JUNE, 2022 by PAUL ERIC BUSCHING as member.

My commission expires: 01-13-2024

[SEAL]



Fabrice L. Gidler
Notary Public

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

By _____
Nicholas A. Gradisar, Mayor

To Whom It May Concern:

The reason for the request of the revocable permit is to place required landscape trees from the property into the City public right of way due to site constraints, according to Zoning Code Chapter 4, Section 17-4-7, Landscape Performance Standards.

(3) Landscape Locations.

a. Landscape Setback Area.

- 3. On such sites where landscaping of the public right-of-way would comply with the general intent of this Section, the transfer of the area requirements, or a portion thereof, from within the property line to the public right-of-way may be approved by the designated review agency; provided that:*
 - a) The area measurement shall not be less than that required by Subparagraph (b)(3)a. and shall comply with all other design standards and requirements of this Section.*
 - b) The general planning of the City, with particular respect to the transportation system, will not be jeopardized.*
 - c) Execution of a revocable permit between the City and the owner for the use of right-of-way for the purpose of landscaping, with the owner accepting full financial responsibility for all costs for the movement, replacement and relocation of the landscaping thereon to the landscape setback should such permit be revoked by the City. In cases where the City requests a tree-lawn with a detached sidewalk that is located on property, a revocable permit shall not be required.*

The revocable permit is requesting the placement of a total of five trees into the public right of way tree lawn area to fulfill the landscape requirement. Three trees were relocated from the landscape setback on property to the public right of way tree lawn area due to the construction of the required ADA public access sidewalk from public sidewalk to front entrance of building. In addition, two parking lot shade trees were relocated to the public right of way tree lawn area due to 1) conflict of the ADA access sidewalk located in a parking island and 2) conflict with utilities located in a parking lot island. All five trees were located in the public tree lawn area on N. Elizabeth Street.



AGENCY CUSTOMER ID: 7068

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

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AGENCY Adams Insurance Solutions		NAMED INSURED ESA Pueblo LLC	
POLICY NUMBER 3FD8083		25587 Conifer Road Suite 105-313	
CARRIER Evanston Insurance Company	NAIC CODE	Conifer CO 80433	
		EFFECTIVE DATE: 06/24/2022	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

The City of Pueblo is listed as an Additional Insured. A Waiver of Subrogation has been issued in favor of The City of Pueblo.