

**DEPOSIT AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022 by and between the CITY OF PUEBLO, a Municipal Corporation, hereinafter referred to as “City”, and LEGENDS SUBDIVISION, LLC., a Utah limited liability company, STEPHANIE J. SUMMERS, DALE MAJORS, and ALAN ROSE, hereinafter referred to collectively as “Subdividers”.

**W I T N E S S E T H:**

WHEREAS, Subdividers are the owners and/or developers of Block 3, Lots 33-48; Block 5, Lots 9-30; and Block 6, Lots 40-62 (“Subdividers’ Lots”) located within the River’s Run Subdivision, City of Pueblo, Colorado and legally described as set forth in Exhibit “A”, which is attached hereto and incorporated herein; and

WHEREAS, Subdividers are required, pursuant to Section 12-4-7(j) of the Code of Ordinances of the City, to construct certain public improvements including those set forth in Exhibit “B”, which is attached hereto and incorporated herein; and

WHEREAS, Subdividers’ predecessor-in-interest, CSM Investments, LLC, and City entered into a Subdivision Improvements Agreement dated December 7, 2005, which requires Subdividers to construct and install at its sole cost all required public improvements within a specified timeframe; and

WHEREAS, Paragraph 2 of the Subdivision Improvements Agreement requires that the Subdividers or any subsequent owner of the land or any portion thereof shall deposit cash or other collateral if said improvements are not installed within the specified timeframe; and

WHEREAS, the Subdividers agree that the estimate of the City Director of Public Works to construct and install improvements necessary to satisfy Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdividers’ Lots is reasonable; and

WHEREAS, Subdividers agree to establish a Deposit Account with the City to guarantee payment of the costs of installation and construction of said public improvements according to City’s Subdivision Regulations and the Subdivision Improvement Agreement.

NOW THEREFORE, in consideration of the foregoing in consideration of the foregoing and mutual

covenants contained herein, the City and Subdividers agree as follows:

**I. Subdividers agree:**

1. To deposit with the City Director of Finance \$155,857.56, being an amount equal to the estimate of the public improvements necessary to satisfy Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdividers' Lots and the City Subdivision Regulations. Such estimate and improvements are set forth in Exhibit "B", which is attached hereto and incorporated herein.
2. To install the required public improvements in said Subdivision as described in Exhibit "B".
3. That the funds deposited by Subdividers shall be held by the City in a non-interest-bearing Deposit Account to be established by the Director of Finance who may disburse said funds only as herein provided. The Director of Finance shall release from said Deposit Account and pay out therefrom only such deposited funds as directed in writing by the Director of Public Works. That the funds deposited with the Director of Finance may be withdrawn at the discretion of the Director of Public Works upon written request to the Director of Finance.
4. When Subdividers complete all or a portion of the improvements described in Exhibit "B", Subdividers may apply to the City for a partial or full release of the deposited funds and upon written notice of the City's Director of Public Works to the Director of Finance, the Director of Finance shall release said funds to the Subdividers as directed by the Director of Public Works.
5. In the event that Subdividers fail to install all or any part of the required public improvements described in Exhibit "B", on or before one (1) year from the date of application for the first building permit issued on any of the Subdividers Lots, the Director of Public Works may, upon written notice to the Director of Finance, withdraw the deposited funds to complete all or any part of the said improvements.

**II. The City agrees:**

6. To have the Director of Public Works or his designee periodically inspect said improvements while under construction and inspect completed improvements within a reasonable time after receiving written notice that the improvement has been completed. The Director of Public Works shall notify the Subdividers within 10 days after inspection of the required public improvements if the same are satisfactorily completed and approved by the City and if so satisfactorily completed and approved, the Director of Public Works shall authorize a partial release and payment of said escrowed funds to be made to Subdividers in an amount determined by the Director of Public Works based on the percentage of improvements completed and approved.

**III. The City and Subdividers agree:**

7. That this Deposit Agreement shall constitute full satisfaction of the covenants set forth in Paragraph 2 of the Subdivision Improvement Agreement with respect to Subdividers' Lots only. Nothing contained herein is intended to be, relied upon or otherwise act as an amendment of the Subdivision Improvement Agreement.

CITY OF PUEBLO

By: \_\_\_\_\_

Nicholas A. Gradisar, Mayor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

LEGENDS SUBDIVISION, LLC

By: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

STEPHANIE J. SUMMERS

By: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

DALE MAJORS

By: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

ALAN ROSE

By: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

My commission expires: \_\_\_\_\_

\_\_\_\_\_

Notary Public

## EXHIBIT "A"

A parcel of land being a portion of Mattice and Gibson's Addition, filed for record November 10, 1899, in Book 13 at Page 17, in the records of the Pueblo County Clerk and Recorder, and a portion of the SW  $\frac{1}{4}$  of Section 32, Township 20 South, Range 64 West of the Sixth Principal Meridian, being more particularly described as follows:

BEGINNING at a point on the easterly line of said Mattice and Gibson's Addition, from which the southwest corner of said Section 32 bears S 02°05'32" E (Bearings based upon the Colorado State Plane Coordinate System, South Zone, North American Datum 1927; said bearings based upon the line between the said southwest corner of Section 32, also known as Pueblo County GPS Monument No. 1405, being a Lead Plug and Tack in a Stone, in a cast iron monument box, and Pueblo County GPS Monument No. 7, being a No. 7 rebar, which bears S 04°32'49" E), a distance of 88.20 feet, said point being the north corner of that portion of said Section 32, described in that document filed for record January 9, 1967, in Book 1608 at Page 04, in the records of the Pueblo County Clerk and Recorder; thence N 34°23'10" W a distance of 74.87 feet to the northeast corner of Block 57 of said Mattice and Gibson's Addition; thence continuing N 34°23'10" W a distance of 18.28 feet to a point on the northeasterly line of that portion of Block 56 of said Mattice and Gibson's Addition, described in said, in Book 1608 at Page 04, if produced southeasterly, said line also being the northeasterly right of way line of Colorado State Highway No. 227 (also known as Joplin Street); thence northwesterly along the northeasterly lines of the parcels described in said Book 1606 at Page 04, and said right of way line of Colorado State Highway No. 227 the following eight (8) courses:

1. N 69°44'22" W a distance of 370.01 feet to a point on the westerly line of said Block 56;
2. N 66°30'49" W a distance of 89.17 feet, to the northeast corner of Lot 28 in Block 55 of said Mattice and Gibson's Addition;
3. N 75°20'09" W a distance of 53.30 feet, to the southwest corner of Lot 2 in said Block 55;
4. N 61°45'08" W a distance of 232.68 feet, to the northwest corner of Lot 10 in said Block 55;
5. N 34°41'14" W a distance of 94.24 feet, to the southeast corner of Lot 16 in Block 51 of said Mattice and Gibson's Addition;
6. N 09°37'55" W a distance of 257.91 feet, to the northeast corner of the west 20.00 feet of Lot 14 in said Block 51;
7. N 09°52'53" W a distance of 80.62 feet to the southeast corner of the west 10.00 feet of Lot 15 in Block 48 of said Mattice and Gibson's Addition;
8. N 02°45'22" W parallel with the west line of said Block 48, a distance of 266.08 feet, to a point 10.00 feet northerly, and perpendicular to the north line of said Block 48, said point being on the north line of the southerly portion of vacated Fir Street, according to the recorded Road and Alley Vacation Plat thereof, in the records of the Pueblo County Clerk and Recorder;

Thence along said north line of southerly portion of vacated Fir Street the following two (2) courses:

1. N 87°14'15" E a distance of 53.34 feet;
2. Along the arc of a curve to the right, having a radius of 220.00 feet, a central angle of 17°20'29", a distance of 66.59 feet, to a point on said north line of Block 48;

Thence N 87°14'15" E, along said north line, a distance of 119.63 feet to a point on the south line of the northerly portion of said vacated Fir Street, thence along said south line along the arc of a non-tangent

curve to the left, whose center bears S 38°38'50" W, having a radius of 280.00 feet, a central angle of 14°38'39", a distance of 71.56 feet to a point on the centerline of vacated Fir Street, according to the said recorded Road and Alley Vacation Plat thereof; thence N 87°14'15" E, along said centerline, a distance of 61.19 feet, to a point on the west line of Lot 25 in Block 43 of said Mattice and Gibson's Addition, if produce southerly; thence N 02°44'04" W, along said west line, a distance of 167.99 feet to the center line of the vacated alley in said Block 43, according to the said recorded Road and Alley Vacation Plat thereof; thence N 87°14'24" E, along said centerline, a distance of 140.88 feet, to a point on the centerline of vacated Kingston Avenue (platted as Capitol Street), according to the said recorded Road and Alley Vacation Plat thereof; thence N 02°43'33" W, along said centerline, a distance of 127.98 feet, to a point on the south right of way line of vacated Evergreen Street (platted as Elm Street), according to ordinance Number 1228, dated April 4, 1927; thence S 87°14'33" W, along said right of way line, a distance of 40.00 feet to the northeast corner of said Block 43; thence N 02°43'33" W a distance of 80.00 feet to the southeast corner of Block 40 of said Mattice and Gibson's Addition, said point being on the southerly right of way line of the AT & SF Railroad; thence easterly along said right of way line the following five (5) courses:

1. N 87°14'33" E a distance of 485.97 feet to a point on the east line of said Mattice and Gibson's Addition;
2. N 02°05'32" W, along said east line, a distance of 29.50 feet;
3. N 87°55'43" E a distance of 722.25 feet;
4. N 02°04'17" W a distance of 113.00 feet;
5. N 87°55'43" E a distance of 604.30 feet to a point on the west line of Wiley and Chamberlain's Subdivision, filed for record June 9, 1887, in Book 2A at Page 40, in the records of the Pueblo County Clerk and Recorder;

Thence S 02°04'17" E, along said west line, a distance of 1462.39 feet to a point on the apparent northerly right of way line of Portland Avenue; thence along said right of way line the following two (2) courses:

1. Along the arc of a non-tangent curve to the right, whose center bears N 28°09'59" W, having a radius of 1785.73 feet, a central angle of 28°02'57", a distance of 874.20 feet;
2. S 88°59'51" W a distance of 470.34 feet, to a point on the easterly line of said portion of Section 32 described in Book 1608 at Page 04;

Thence N 37°45'25" W, along said easterly line, a distance of 20.65 feet to the POINT OF BEGINNING;

Said Parcel contains 69.60 acres, more or less.

**EXHIBIT “B”**

Subdividers shall deposit funds in the amount of \$155,857.56 with the City’s Director of Finance as the Subdividers’ guarantee of the completion of the public improvements listed below:

<b>Description</b>	<b>Estimated Cost</b>
Construction of Georgann Lane including pavement, curb and gutter, sidewalk, water main, wastewater main, and streetlighting in accordance with approved Subdivision construction drawings.	\$95,404.05
Perform pavement crack sealing to repair existing paved sections of Fir Street, Rivers Run Avenue, Georgann Court, Bradley Street, Brewery Road, and Pineda Court.	\$29,282.24
Additional 25% of estimated construction cost as required per Pueblo Municipal Code §12-4-7 (j) (1)	\$31,171.57
<b>TOTAL AMOUNT OF DEPOSIT</b>	<b>\$155,857.56</b>