



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: September 12, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Daniel C. Kogovsek, City Attorney
SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT NO. 3 TO AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEW CF&I INC., A DELAWARE CORPORATION

SUMMARY:

Attached is an Ordinance approving and authorizing the Mayor to sign an Amendment No. 3 to an employment agreement with New CF&I Inc., as Delaware corporation (the "Company").

PREVIOUS COUNCIL ACTION:

On October 22, 2018, by Resolution No. 14071, City Council approved an original employment agreement with the Company which authorized the advancement of funds in the amount of \$15 million to the Company in exchange for the Company's commitment to employ, for a seven (7) year period, at least one thousand (1,000) full-time employees whose pre-benefit salaries would average at least \$60,000.

On November 11, 2019, by Ord. No. 9588, City Council approved an amendment to the employment agreement ("Amendment No. 1") which extended the Company's "off ramp" deadline from December 1, 2019 until April 1, 2020.

On March 23, 2020, by Ord. No. 9691, City Council approved an amendment to the employment agreement ("Amendment No. 2") which extended the Company's "off ramp" deadline from April 1, 2020 until July 1, 2020.

BACKGROUND:

Paragraph 2.2 of October 22, 2018 Employment Agreement provided as follows:

2.2. The Parties agree that upon proper application therefor, the City agrees to reimburse Company in an amount not to exceed Eight Hundred Thousand Dollars (\$800,000.00) for the purpose of providing employment training of Company's current and future employees at Pueblo Community College, Pueblo, CO ("PCC"). The maximum amount for training for each employee shall not exceed Eight Hundred Dollars (\$800.00). The Parties further

agree that reimbursement of training expenses is not addressed in or covered by this Agreement but will be the subject of a future amendment to this Agreement upon request of the Company.

Company has requested the attached Amendment No. 3 be approved by the City in order to begin implementation of employee training at PCC.

FINANCIAL IMPLICATIONS:

The attached Ordinance authorizes the transfer of \$800,000 from the City's so-called "Half-Cent Economic Development Fund" to pay for the Company's training expenses at PCC.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the Company's training expenses at PCC will not be reimbursed and it could be argued that the City would be in breach of the October 22, 2018 Employment Agreement.

RECOMMENDATION:

The Pueblo Economic Development Corporation recommends approval of this Ordinance.

Attachments:

Proposed Ordinance

Proposed Amendment No. 3 to Employment Agreement

ORDINANCE NO. _____

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT NO. 3 TO AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND NEW CF&I INC., A DELAWARE CORPORATION

RECITALS

The following recitals are incorporated in and made a part of this Ordinance:

WHEREAS, On October 22, 2018, by Resolution No. 14071, City Council approved an original employment agreement with New CF&I Inc., as Delaware corporation (the "Company") which authorized the advancement of funds in the amount of \$15 million to the Company in exchange for the Company's commitment to employ, for a seven (7) year period, at least one thousand (1,000) full-time employees whose pre-benefit salaries would average at least \$60,000; and

WHEREAS, Paragraph 2.2 of October 22, 2018 Employment Agreement provided as follows:

2.2. The Parties agree that upon proper application therefor, the City agrees to reimburse Company in an amount not to exceed Eight Hundred Thousand Dollars (\$800,000.00) for the purpose of providing employment training of Company's current and future employees at Pueblo Community College, Pueblo, CO ("PCC"). The maximum amount for training for each employee shall not exceed Eight Hundred Dollars (\$800.00). The Parties further agree that reimbursement of training expenses is not addressed in or covered by this Agreement but will be the subject of a future amendment to this Agreement upon request of the Company.

and

WHEREAS, Company has requested the City to approve the attached Amendment No. 3 in order to begin implementation of employee training at PCC; NOW, THEREFORE,

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

SECTION 1.

The City Council finds and determines that the expenditure of Eight Hundred Thousand Dollars (\$800,000.00) for the purpose of providing employment training of Company's current and future employees at Pueblo Community College, Pueblo, CO ("PCC") described in the attached Amendment No. 3 to Employment Agreement ("Amendment No. 3") is for a public purpose and in furtherance of a municipal function and will create employment opportunities justifying the expenditure of public funds. The City Council further finds the economic incentive

granted to the Company hereby meets the standards established by Section 14-4-85 of the Pueblo Municipal Code.

SECTION 2.

The Amendment No. 3 to Employment Agreement, dated September 26, 2022, between the City and the Company, a copy of which is attached hereto and is incorporated herein by this reference, having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver said Amendment No. 3 in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the aggregate amount of \$800,000.00 are hereby authorized to be transferred, expended and made available out of the 1992-2026 Sales and Use Tax Capital Improvement Projects Fund for the sole purpose of the job training project authorized herein and in the manner described in the attached Amendment No. 3. The funds hereby authorized to be transferred and expended shall be released, disbursed and paid by the City's Director of Finance as specified in the attached Amendment No. 3.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Amendment No. 3 which are necessary or appropriate to implement the transactions described therein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

- Approved on _____.
- Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

- Council did not act to override the Mayor's veto.
- Ordinance re-adopted on a vote of _____, on _____
- Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk