

Jean Latka  
Chair

Brandice Eslinger  
Vice Chair

Bob Schilling  
City Council Representative



## Planning & Zoning Commission

David Webb

Brian Lucas

Raymond Seybold

### A-15-02

**TO:** City of Pueblo, Planning and Zoning Commission  
**FROM:** Kelly Grisham, Planner  
**THROUGH:** Steven Meier, Director of Planning and Community Development  
**DATE:** August 12, 2015  
**SUBJECT:** **MVD Annexation**  
**APPLICANT:** **Pueblo Suburban Development, LLC**  
**PROPERTY OWNER:** Van Der Drift USA, LLC  
Norstate USA, LLC  
AGTO, Ltd.  
**LOCATION:** **East of Greenhorn Drive, north of Lots 1 and 2, Vestas Towers America  
Subdivision**  
**EXISTING ZONE:** County A-1, Agricultural One District  
**CONCURRENT  
REQUESTS:** None

**REQUEST:**

The applicant has filed a petition to annex the subject property, containing approximately 685 acres into the City of Pueblo to facilitate the construction of an indoor production agricultural facility.

**ANALYSIS:**

The future land use designation of the area proposed to be annexed is Employment Center – Industry. While the proposed use is of a large-scale agricultural nature, the agricultural grow facilities are anticipated to generate up to 1,500 employment opportunities when fully developed. Due to the number of jobs anticipated to be generated through this development and the large-scale indoor greenhouse facilities, the proposed annexation request conforms to the Pueblo Comprehensive Plan designation and applicable Municipal Codes.

**RECOMMENDED ACTION:**

Staff recommends the Planning and Zoning Commission forward a recommendation to City Council that the annexation be **APPROVED** with the following conditions:

1. Applicant must sign an Annexation Agreement, including the provisions included in Exhibit C of Section XIV. Special Improvements and Dedications.

**STAFF REVIEW AND FINDINGS:**

The applicant is proposing to annex the subject property into the City of Pueblo in order to facilitate the construction of an agricultural greenhouse production complex, including a series of large-scale greenhouse structures. When the greenhouse facilities are fully developed it is estimated that approximately 1,500 jobs could be provided within this complex. Zoning of the property, as well as subdivision, will be brought before

the Commission within the next several months. The applicant is proposing a rezoning to A-1, Agricultural One Zone District, which would allow agricultural products to be grown within the greenhouse complex. The proposed zoning designation does not permit grow facilities for marijuana or other marijuana products. Primary access to the property will be provided through the extension of Greenhorn Drive south to the property. Water and sanitary sewer service that was installed to serve the Vestas Towers Plant is currently extended along the western boundary of the property.

Staff is working with the Applicant to include language in the Annexation Agreement that will allow the Administrative Official the ability to make modifications to the Zoning Code regarding the architecture of the greenhouse structures. In lieu of the modifications to the architecture requirements, Staff would require landscaping in the parking lot as well as along the public right-of-ways.

**PLANNING AND COMMUNITY DEVELOPMENT COMMENTS**

**CHARACTER AND COMPATIBILITY:**

❑ **Site Character:**

The property is currently vacant prairie land.

❑ **Neighborhood Compatibility:**

- North County A-1, vacant
- East County A-1, vacant
- South A-1, vacant and I-3, Vestas Towers
- West County A-1, vacant

The property is located within the planned St. Charles Industrial Park and is required to be zoned into a City of Pueblo Zone District within 90 days following annexation of the property into the City. The use will be compatible Employment Center- Industry future development of the area within the City of Pueblo. The large-scale greenhouse complex is compatible with the existing Vestas Towers manufacturing facility located to the south of the property.

❑ **Comprehensive Plan Compliance:**

The project site has been designated by the Pueblo Comprehensive Plan as “Employment Center - Industry.”

The *Employment Center - Industry* land use designation identifies areas of the City that “are strategically located near rail and highways...Zoning should limit foundries, refineries, petroleum storage, large assembly, and asphalt and concrete plants to areas designated by the zoning district map; many new heavy industrial uses may be made subject to special permits or other review processes”

**The proposed large-scale indoor agricultural greenhouse complex is in conformance with Comprehensive Plan designation.**

**SPECIAL INFORMATION:****□ Statutory requirements which exist for annexing purposes (Colorado Revised Statutes):**

1. **Section 31-12-104** – That not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous to the existing City limits.
  - *The proposed annexation totals 685 acres. The required one-sixth (1/6) contiguity of the area proposed to be annexed is established on the Annexation Plat and meets the requirements for annexation. All of the property is within three (3) miles of the existing city limits.*
2. **Section 31-12-105[1]-[e]** – The municipality shall have a three-mile annexation plan which is updated on an annual basis. The proposed development should be compatible with this plan.
  - *The City of Pueblo adopted the updated “City of Pueblo Annexation Master Plan for the year 2014” on February 12, 2014. The proposed annexation is within the defined 3-mile annexation limits of the City of Pueblo.*
3. **Section 31-12-108.5** – An Annexation Impact Report is required for all annexations over ten acres.
  - *A report was submitted to the Planning and Community Development Department and the content of the report fulfills the statutory requirements.*

**□ City of Pueblo Annexation Requirements:**

1. **The proposed annexation must be a logical extension of the City’s boundary and municipal services:**
  - *The proposed area to be annexed currently has domestic water service provided by the Pueblo Board of Water Works and sanitary sewer service provided by the City of Pueblo Wastewater Enterprise. The domestic water and wastewater lines are located along the western boundary of the property. The City has the capacity to provide fire and police services to the property. Based on the comments received from City staff, the proposed annexation appears to be a logical extension of the City’s boundary and municipal services.*
2. **The property shall be zoned and subdivided in conformity with the Code of Ordinances for the City of Pueblo.**
  - *The applicant has proposed to zone the property A-1, Agricultural District.*
3. **The petitioner shall dedicate land and rights of way for public uses and facilities required by the City.**
  - *The dedication of land and rights of way for roads and utility lines will be completed at the time of subdivision.*

4. The petitioner shall comply with all applicable requirements of the City of Pueblo's Public Works Department and other City utility companies for the installation of mains, lines, stations, or other utility facilities.

- *The petitioner will be required to comply with the City's Code of Ordinances for any subdivision of the property.*

□ **Conclusion:**

*The City staff has reviewed the annexation request and recommends approval of the annexation with the condition that the applicant signs an Annexation Agreement, including the provisions included in Exhibit C of Section XIV. Special Improvements and Dedications.*

**ATTACHMENTS:**

- A. Aerial Photograph
- B. Zoning Map
- C. Comprehensive Plan Map
- D. Site Photographs
- E. Annexation Plat
- F. Impact Report

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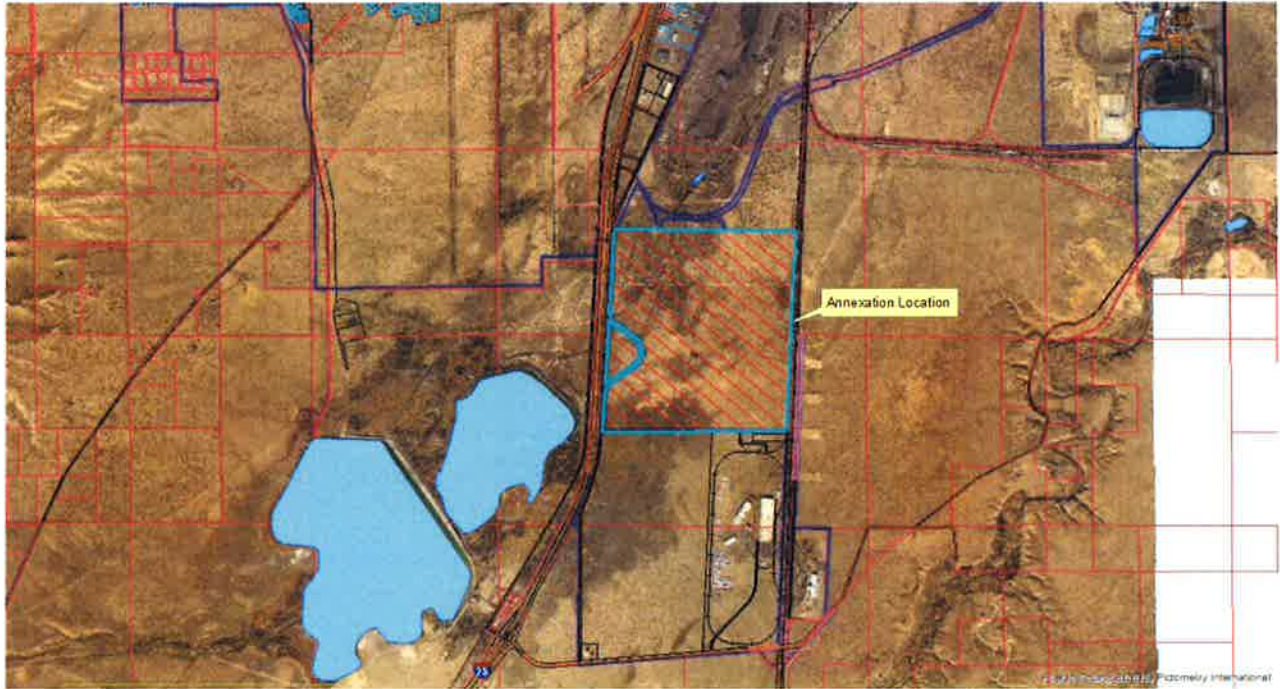
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City Council Representative

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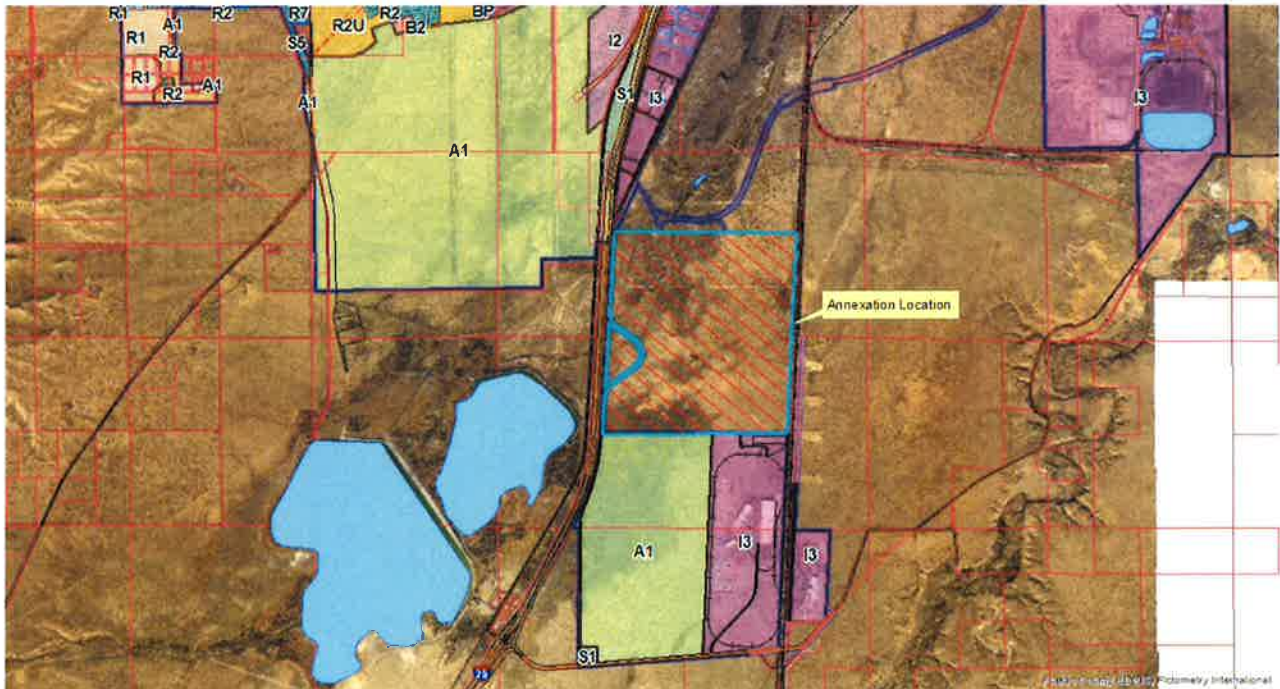
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**A-15-02**



**Exhibit A. Aerial Overview**



**Exhibit B. Zoning Map**

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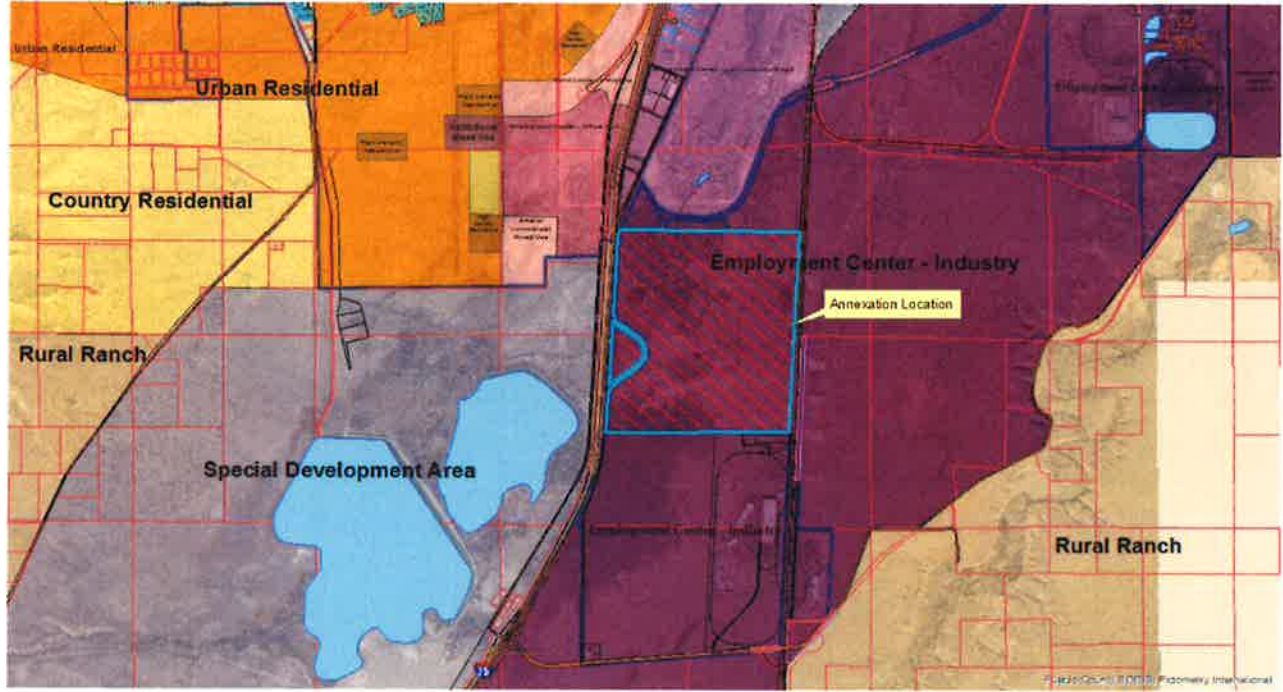
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**Exhibit C. Comprehensive Map**

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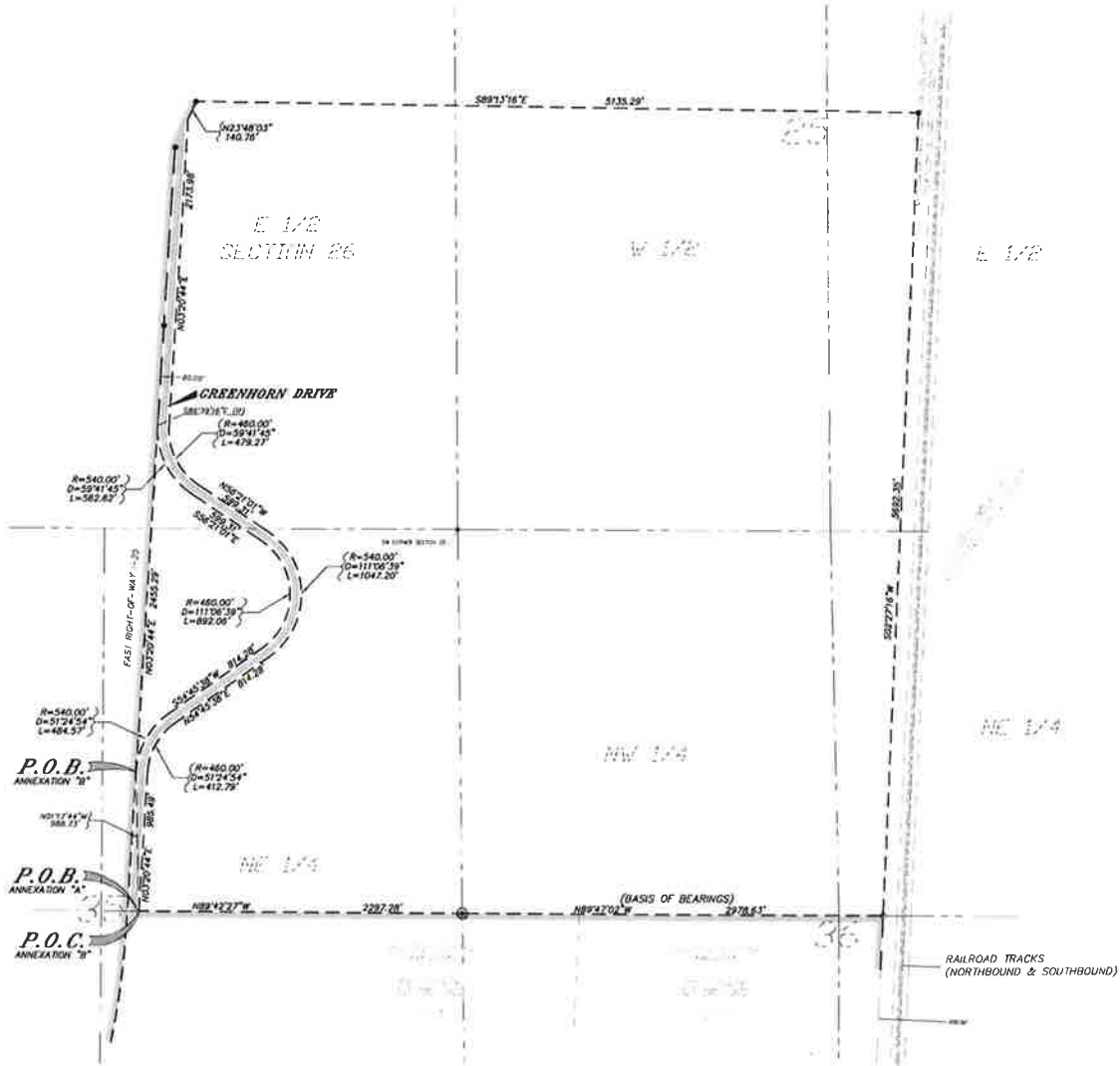
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**Site looking east from I-25**

# MVD ANNEXATION TO THE CITY OF PUEBLO

A PORTION OF THE SECTION 25, E 1/2 OF SECTION 26, NE 1/4 OF SECTION 35 AND N 1/2 OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 65 WEST, OF THE 6TH P.M. COUNTY OF PUEBLO, STATE OF COLORADO



**1. AREA TO BE ANNEXED**  
**ANNEXATION A**  
A portion of the Section 25, E 1/2 of Section 26, NE 1/4 of Section 35 and N 1/2 of Section 36, Township 21 South, Range 65 West of the 6th P.M. in the County of Pueblo, State of Colorado.  
Beginning of the Northwest corner of Lot 2, Vestco Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; and point one being on the Eastern right-of-way line of the Greenhorn Drive; hence along the Eastern right-of-way line of Greenhorn Drive the following seven (7) courses:  
1. thence N. 63°04'46" E., a distance of 985.49 feet;  
2. thence along the arc of a curve to the left whose radius is 460.00 feet, a distance of 412.70 feet;  
3. thence N. 54°45'28" 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 1047.20 feet;  
5. thence N. 36°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 429.27 feet;  
7. thence N. 03°20'44" E., a distance of 2121.98 feet.  
thence N. 23°48'03" E., a distance of 140.78; thence S. 89°17'16" E., a distance of 5135.29 feet to a point on the Eastern right-of-way line of the Burlington Northern and Santa Fe Railroad (See Segment No. 5475); thence S. 02°27'16" E., along the Eastern right-of-way line of the Burlington Northern and Santa Fe Railroad a distance of 3,881.76 feet to the Northwest corner of said Vestco Towers America; thence westerly along the North line of said Vestco Towers America the following two (2) courses:  
8. thence N. 89°47'02" E., a distance of 2978.63 feet;  
9. 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 656.65 acres, more or less.

**ANNEXATION B**  
A portion of the E 1/2 of Section 26 and NE 1/4 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, Vestco Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; and point one being on the Eastern right-of-way line of the Greenhorn Drive; hence along the Eastern right-of-way line of the 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 left whose radius is 460.00 feet, a distance of 412.70 feet;  
3. thence N. 54°45'28" 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 1047.20 feet to a point on the Eastern right-of-way line of Colorado Interstate No. 25; a distance of 2453.29 feet; thence along the Eastern right-of-way line of Greenhorn Drive the following five (5) courses:  
5. thence along the arc of a curve to the left whose radius is 540.00 feet and whose center bears S. 86°39'26" E., a distance of 562.62 feet;  
6. thence S. 59°21'01" E., a distance of 599.31 feet;  
7. thence along the arc of a curve to the right whose radius is 460.00 feet, a distance of 429.27 feet;  
8. thence N. 54°45'28" E., a distance of 814.28 feet;  
9. thence along the arc of a curve to the left whose radius is 540.00 feet, a distance of 1047.20 feet to a point on the Eastern 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 Northwest corner of Lot 2, Vestco Towers America, according to the recorded plat thereof, as filed for record at Reception No. 1821580 in the Pueblo County records; and point one being on the Eastern right-of-way line of the Burlington Northern and Santa Fe Railroad (See Segment No. 5475); thence S. 02°27'16" E., westerly right-of-way line of the Burlington Northern and Santa Fe Railroad, a distance of 1,626.38 feet; thence N. 89°17'16" E., a distance of 5,135.29 feet to a point on the Present City Limits line and Point of Beginning.

**3. CERTIFICATION OF PERIMETER:**  
At least one-sixth of the boundary of the tract described in paragraphs one (1) above, is now existing City Limits line.  
NORTHSTAR ENGINEERING AND SURVEYING, INC.  
111 E. 5th Street  
Pueblo, Colorado 81001

**LEGEND**  
① FOUND NO. 3 REBAR WITH 1/2" DIAMETER ALUMINUM CAP, L.S. 33200 (APPROXIMATELY 5' SQUARE)  
② FOUND NO. 6 REBAR WITH 1/4" DIAMETER ALUMINUM CAP, (APPROXIMATELY 5' SQUARE)  
③ FOUND NO. 4 REBAR WITH 1" DIAMETER WHITE PLASTIC CAP, LUGGABLE (APPROX. 8" DIAMETER STEEL PIPES)  
④ FOUND NO. 4 REBAR WITH 1" DIAMETER YELLOW PLASTIC CAP, 21.5' 18288  
— EXISTING CITY LIMITS LINE  
- - - PROPOSED CITY LIMITS LINE

**GRAPHIC SCALE**  
1 INCH = 400 FEET

**NEARBY MAP**  
1:25,000 SCALE

**BASES OF BEARINGS**  
A LINE BETWEEN THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 21 SOUTH, RANGE 65 WEST OF THE 6TH P.M. AND THE NORTHWEST CORNER OF LOT 1, BLOCK 1 WEST TOWER AMERICA ACCORDING TO THE RECORDED PLAT THEREOF, AS FILED FOR RECORD AT RECEPTION NO. 181580 IN PUEBLO COUNTY RECORDS BEARS S. 89°47'02" E.

**DAVID M. STEWART**  
Colorado Registered Professional Land Surveyor - No. 12921  
For and on behalf of NORTHSTAR ENGINEERING & SURVEYING, INC.



**CITY OF PUEBLO**  
**ANNEXATION INFORMATION SHEET**

Attached is a blank Petition for Annexation to be completed and filed with the City Clerk of the City of Pueblo together with an original and twenty-four (24) prints of an annexation map and satisfactory evidence of the names and addresses of all the owners of land within the area proposed to be annexed. All petitioners must sign the Petition for Annexation within 180 days before the date of filing with the City Clerk. Prior to filing with the City Clerk all documents must be reviewed by the City's Director of Land Use.


**TO BE COMPLETED BY PETITIONERS**

Name of Annexation: **MVD Annexation**

Location and size in acres: Sections 25, 26, 35 and 36, Township 21 South,  
Range 65, West of the 6<sup>th</sup> P.M., County of Pueblo, Colorado,  
684 acres.

100 % of Owners 1 : Less than 100% of owners 0  
School District No. 60 : Special District: (1)

**Annexation Agreement:** The City requires the Petitioner to enter into an Annexation Agreement prior to the effective date of the annexation. Such Agreement shall constitute conditions of annexation as effectively as if set forth in the Petition For Annexation.

For Office Use Only: Date Reviewed by Director of Land Use July 7, 2015   
Date Petition Filed 7/6/2015 Filing Fee \$3,870.00 Paid ck # 1001  
Resolution Finding Substantial Compliance adopted \_\_\_\_\_  
Date of Public Hearing \_\_\_\_\_; Notice of Public Hearing Published: \_\_\_\_\_

Copy of published Notice and Petition For Annexation sent by Registered Mail on \_\_\_\_\_  
to Pueblo County Board of County Commissioners, Pueblo County  
Attorney, School District \_\_\_\_\_, Southeastern Water Conservancy District, Pueblo Library  
District, Other \_\_\_\_\_ and special district \_\_\_\_\_

Upon receipt of this Annexation Information Sheet, Petition For Annexation, 24 prints of the annexation map, and evidence of ownership, the City Clerk will forward copies of the Annexation Information Sheet and Petition for Annexation together with the evidence of ownership and 20 prints of the annexation map to the Director of Land Use and refer the Petition For Annexation to the City Council as a communication.

- (1) Pueblo City/County Library District
- South East Water Conservancy District
- Lower Arkansas Valley Water Conservancy District



**CITY OF PUEBLO  
PETITION FOR ANNEXATION**

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TO THE CITY COUNCIL OF PUEBLO, COLORADO:

Pursuant to the Municipal Annexation Act of 1965 and C.R.S. §31-12-107(1) the undersigned landowners within the area proposed for annexation hereby petition the City Council of the City of Pueblo for annexation to the City of Pueblo (herein "City") of the following described unincorporated area located in the County of Pueblo, State of Colorado:

**See Attached Exhibit A**

As ground for this annexation, Petitioners state:

1. It is desirable and necessary that the area herein described be annexed to the City.
2. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with existing boundaries of the City.
3. This petition for annexation has been signed by persons comprising more than fifty percent (50%) of the landowners in the area proposed to be annexed and owning more than fifty percent (50%) of the area, excluding public street, alleys, and any land owned by the City.
4. A community of interest exists between the area proposed to be annexed and the City.
5. The area proposed to be annexed is urban or will be urbanized in the near future.
6. The area proposed to be annexed is integrated with or is capable of being integrated with the City.
7. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
  - (a) is divided into separate parts or parcels without the written consent of the landowners thereof, unless such tracts or parcels are separated by a dedicated street, road or other public way; or,
  - (b) comprises twenty (20) acres or more and which, together with the buildings and improvements situated thereon has an assessed value in excess of \$200,000.00 for ad valorem tax purposes for the year preceding the annexation, is included within the



territory proposed to be annexed without the written consent of the landowner or landowners.

8. The mailing address of each signer, the legal description of the land owned by each landowner and the date of signing of each signature are shown on this petition.
9. Attached to this petition is the affidavit of the circulator of this petition that each signature hereon is the signature of the person whose name it purports to be.
10. Accompanying this petition are an original and twenty-four (24) prints of an annexation map containing the following information:
  - (a) A written legal description of the boundaries of the area proposed to be annexed;
  - (b) A map showing the boundary of the area proposed to be annexed. (Such map shall be prepared by and contain the seal of a Colorado registered engineer or land surveyor);
  - (c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;
  - (d) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the City and the area proposed to be annexed with the dimension of such boundary.
11. The area proposed to be annexed is not presently a part of any incorporated city or town.
12. No part of the area proposed to be annexed is more than three miles in any direction from any point of the boundaries of the City as such was established more than one year before this annexation will take place.
13. As condition of and in consideration of the City annexing the area proposed to be annexed, Petitioners, for themselves and their heirs, personal representatives, successors and assigns:
  - (a) Waive and release all previously acquired or existing vested property rights attached to or established with respect to the area proposed to be annexed and acknowledge and agree that the annexation of the area proposed to be annexed is not a site specific development plan and no vested property right shall attach to or be established with respect to the area proposed to be annexed.
  - (b) Acknowledge and agree that upon the annexation of the area proposed to be annexed and, subject to the provisions of the Annexation Agreement, the area shall become subject to the Charter, ordinances, resolutions, rules and regulations of the City, but that the City shall have no obligation to furnish or extend municipal services; including, but not limited to sanitary sewer services, to the area proposed to be annexed.



- (c) "Vested property right" and "site specific development plan" shall have the same meaning as set forth in Chapter 12 of Title XVII of the 1971 Code of Ordinances of the City and Article 60, Title 24, C.R.S.

14. Petitioners consent and agree to the following conditions:

- (a) Petitioners and the City shall enter into an Annexation Agreement prior to the effective date of this annexation.
- (b)
- (c)
- (d)
- (e)

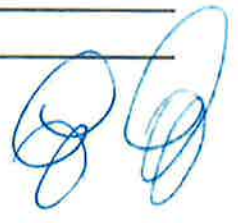
**WHEREFORE, Petitioners request that the City Council of Pueblo approve the annexation of the above described area to the City of Pueblo (all Petitioners must sign this Petition within 180 days prior to the date of filing with the City Clerk.**



<u>SIGNATURE</u>	<u>MAILING ADDRESS</u>	<u>LEGAL DESCRIPTION</u>	<u>DATE OF SIGNING</u>
			July 01 <sup>st</sup> 2015

Gerardus P M van Der Drift, Manager

Pueblo Suburban	503 N. Main Street,	See Attached Exhibit A
Development, L.L.C.	Suite 740, Pueblo CO.	
a Colorado Limited	81003	
Liability Company		



**CIRCULATOR'S OATH**

STATE OF COLORADO     )  
                                          ) ss.  
COUNTY OF PUEBLO     )

The undersigned of lawful age being first duly sworn upon oath deposes and states that I circulated the foregoing Petition For Annexation and that each signature therein is the signature of the person whose name it purports to be.

  
\_\_\_\_\_  
Circulator's Signature

Subscribed and affirmed, or sworn to, before me in the County of Pueblo,  
State of colo., this 2nd day of July,  
2015,  
By Donna L. Walker.

Witness my hand and official seal.  
My commission expires: 5/14/2018.

(SEAL) Donna L. Walker  
Notary Public (or official title)

**DONNA L WALKER  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19904005598  
MY COMMISSION EXPIRES 05/14/2018**



McPherson,  
Breyfogle,  
Daveline &  
Goodrich, PC  
Certified Public  
Accountants

503 N. Main St.  
Suite 740  
Pueblo, CO 81003  
Phone (719) 543-0516  
Fax (719) 544-2849

June 30, 2015

Memo From: Roy H. Breyfogle, CPA  
Kim Koch, Northstar Engineering & Surveying, Inc.

**The Manger authorized to conduct all business and sign all documents and contracts on behalf of Pueblo Suburban Development, LLC is:**

Gerardus P M van Der Drift, Manager  
Pueblo Suburban Development, LLC  
503 N. Main St, Suite 740  
Pueblo, CO 81003

**Owners of Pueblo Suburban Development, LLC as of June 30, 2015 are:**

Van Der Drift USA, LLC                      80%  
503 N. Main St, Suite 740, Pueblo, CO 81003  
Manager is Gerardus P M van der Drift  
Kleine Achterweg 35  
Naaldwijk 2671 LT, the Netherlands

Norstate USA, LLC                              10%  
503 N. Main St, Suite 740, Pueblo, CO 81003  
Manager is Fredrik W. Hoek  
Hondsdrif 2  
2671 DM Naaldwijk, the Netherlands

AGTO, Ltd.                                              10%  
Manager is Thomas Larssen  
4273 Couples Cr.  
Burlington, Ontario L7M 4Z2, Canada

Best Regards,

*Roy H. Breyfogle*