

TOWN OF PARKER COUNCIL AGENDA

September 3, 2024

Notes:

Town Council meeting packets are prepared several days prior to the meeting. This information is reviewed and studied by the Councilmembers eliminating lengthy discussions to gain a basic understanding. Timely action and short discussion on agenda items do not reflect lack of thought or analysis on the part of Council.

Ordinances listed for first reading are being approved to introduce them. Public comment will be held upon second reading.

Public comment for items that are not on the agenda may be made in person or electronically at <http://parkerCO.gov/CouncilPublicComment>. For those unable to provide comments in person or electronically through the website, please contact the Clerk's Office to make alternative arrangements. The Town Clerk can be reached at 303-805-3198. Public comments submitted electronically through the website that are received by 5:00 p.m. on the day of the regular or special Town Council meeting will be provided to the Town Council and will be included with the approved minutes of the Town Council meeting.

Public Viewing Only - YouTube: Town Council meetings may be viewed live on YouTube at www.youtube.com/townofparkerco.

PLEASE NOTE: Public participation is NOT available through YouTube.

1. TOWN COUNCIL MEETING SCHEDULE

- A. 5:00 P.M. – Call to Order Town Council Meeting and Roll Call
- B. Executive Session – Immediately following Call to Order/Roll Call – (See Attached)
- C. Council Updates/Work Session - Immediately following Executive Session, if time allows.
- D. Reconvene Town Council Meeting at 7:00 P.M. or as soon thereafter as the regular public meeting can be conducted.

2. **PUBLIC COMMENTS** (No action will be taken on these items.) *Public Comment is an opportunity for Town residents and other interested individuals to speak about items that are NOT on the agenda. This comment period is limited to 30 minutes total time, with each individual allowed a maximum of 3 minutes to speak. You must sign up ahead of time in order to comment, and that sign up begins 30 minutes before the start of the meeting. The Council will accommodate as many speakers as possible during this time—with preference to Town residents—but if public comment extends beyond the allotted 30 minutes, Town Council will continue the comment period at the end of the meeting, prior to adjourning for those who signed up before the meeting.*

3. REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

4. CONSENT AGENDA

Consent Agenda Items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless Council votes to remove an item for individual discussion. Ordinances on the Consent Agenda are for introduction only and will not be removed for discussion.

- A. *APPROVAL OF MINUTES - August 19, 2024*

- B. *ORDINANCE NO. 9.378 - First Reading*
A Bill for an Ordinance to Approve the Statement of Responsibilities Regarding Preparation of an Environmental Assessment for the Douglas County Regional Habitat Conservation Plan Between the Board of County Commissioners of the County of Douglas, the Town of Castle Rock, the Town of Parker, the United States Fish and Wildlife Service, and ERO Resources Corporation
Department: *Engineering and Public Works, Michael Grabczyk*
Second Reading: *September 16, 2024*
- C. *ORDINANCE NO. 9.379 - First Reading*
A Bill for an Ordinance to Approve the Intergovernmental Agreement by and between the Town of Parker and the Board of County Commissioners of Douglas County Regarding Cost Sharing for a Drone Show
Department: *Communications, Brooke Spain*
Second Reading: *September 16, 2024*
- D. *ORDINANCE NO. 9.380 - First Reading*
A Bill for an Ordinance to Approve the Intergovernmental Agreement Regarding Joint Management of Proposition 123 Funding and Credits, by and between the Douglas County Housing Partnership, Douglas County, the City of Castle Pines, the City of Lone Tree, the Town of Parker, and the Town of Castle Rock
Department: *Community Development, Bryce Matthews*
Second Reading: *September 16, 2024*
- E. *ASSIGNMENT AND ASSUMPTION AGREEMENT (Roth Lang Engineering Group Agreement)*
Department: *PAR & Economic Development, Weldy Feazell*
- F. *RESOLUTION NO. 24-043*
A Resolution Approving the Form of Revenue Pledge Agreement Between Anthology West Metropolitan District No. 4 and Anthology West Metropolitan District No. 2.
Department: *Town Attorney, Jamie Wynn*
- G. *CONTRACTS OVER \$100,000*
1. *Procurement of Traffic Signal Poles for the Hess Road/Tammy Lane and Dransfeldt Road/Parkglenn Way Signals*
Amount: *\$167,704*
Manufacturer: *Millerbernd MFG*
Department: *Engineering and Public Work, Nathan Klass*

5. **ORDINANCES**

A. **ORDINANCE NO. 1.289.8 – Second Reading**

A Bill for an Ordinance to Approve the First Amendment to the Second Amended and Restated Cooperation Agreement Between the Town of Parker, Colorado, and the Parker Authority for Reinvestment

Department: PAR and Economic Development, Weldy Feazell

B. **ORDINANCE NO. 9.377 - Second Reading**

A Bill for an Ordinance to Approve the Memorandum of Agreement Between the Regional Transportation District and the Town of Parker Regarding the Lincoln Avenue Widening Project

Department: Engineering and Public Works, Patrick Burke

C. **ORDINANCE NO. 9.359.1 - Second Reading (*Continued from August 19, 2024*)**

A Bill for an Ordinance Approving the First Amendment to Agreement Regarding Construction of Development Improvement Project Drainage and Flood Control Improvements for Brandy Gulch Upstream of Spirit Trail Boulevard (Agreement No. 23-04.15A Project No. 109776) By and Between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker

Department: Engineering and Public Works, Alex Mestdagh

6. **CONTRACTS OVER \$500,000**

Dransfeldt Road & Parkglenn Way Traffic Signal (CIP23-007) & Hess & Tammy Traffic Signal (CIP24-012)

Amount: \$936,914.50

Contractor: Dynalectric Company of Colorado

Department: Engineering and Public Works, Nathan Klass

7. **PUBLIC COMMENTS CONTINUED IF NECESSARY**

8. **ADJOURNMENT**

**A PARKER AUTHORITY FOR REINVESTMENT MEETING WILL
IMMEDIATELY FOLLOW THE TOWN COUNCIL MEETING.**

Parker Town Council

Executive Session Agenda

September 3, 2024 - AMENDED

“To hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).”

1. PNC Bank acquisition of Parker Road sidewalk near intersection of Clubhouse Drive
2. Robinson Ranch easements – notice of intent

“To hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b)” and “to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).”

3. Lincoln Avenue widening project – acquisition discussion

“To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).”

4. Proposed construction contract between CD-Parker, LLC, and Confluence Builders, LLC, for the construction of the PACE parking garage

5. Follow-up on contract negotiations related to a proposed redevelopment agreement between the Town, Parker Authority for Reinvestment, and the Parker Meadows Condominium Association concerning improvements to Becket Drive, Woodman Drive and the extension of Brompton Way

6. Discussion re: Lutheran High School athletic fields proposal for use of Town-owned land

“To hold a conference with the Town’s attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).”

7. Discussion re: economic development matter

**TOWN OF PARKER COUNCIL
MINUTES
AUGUST 19, 2024**

Mayor Jeff Toborg called the meeting to order at 5:30 p.m. All Councilmembers were present, except for Brandi Wilks.

Town Attorney Jamie Wynn announced that there were two topics for discussion in the Executive Session to hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b). The first topic was a discussion regarding Senate Bill 24-131 – sensitive spaces and potential local exceptions, and the second topic was about the Anthology West Metropolitan District Nos. 4 and 2 concerning the 2024 Revenue Pledge Agreement.

EXECUTIVE SESSION

Joshua Rivero moved and John Diak seconded to enter into Executive Session sat 5:31 p.m. to hold a conference with the Town's Attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).

The motion was approved unanimously.

Joshua Rivero moved and Anne Barrington seconded to come out of Executive Session at 6:09 p.m.

The motion was approved unanimously.

COUNCIL UPDATES/WORK SESSION

The Town Council discussed the following items:

- Joshua Rivero would like to have a discussion regarding HOAs and Metro Districts. Jamie Wynn stated the item would be appropriate for an executive session at this point.
- Anne Barrington has been invited to the Oklahoma Fall National conference by an Oklahoma Councilmember she met at the Sacramento NLC Committee Meeting. There is no cost to her or the Town. She will be out September 25-27, 2024.
- Joshua Rivero reminded Council about the CML District 3 meeting to be held in Cherry Hills Village on September 12.
- There was a brief discussion regarding trespass issues at nearby parking lots.
- There will be a Study Session discussion on Douglas County Economic Development Incentives on September 23.

Laura Hefta moved and Anne Barrington seconded at 6:30 p.m. to recess the regular meeting until 7:00 p.m.

The motion was approved unanimously.

REGULAR SESSION

Mayor Toborg reconvened the meeting at 7:00 p.m.

Mayor Toborg led the Council and audience in the Pledge of Allegiance.

PUBLIC COMMENTS

The Mayor entered three written public comments into the record.

The following spoke regarding Pridefest held on August 4, 2024 and some requested a public meeting regarding the matter: Tina De Los Santos, Parker; Tiffani (no last name given), Parker; Meredith Rudolph, Parker; Dana Bonham, Douglas County; Holly M. (no last name given), Parker; Amy Windju, Castle Rock; Jonathan Bonham, Castle Rock; and Aleta Yiou, Parker.

Chris Opfer, Parker, spoke regarding enforcement of parking in public rights-of-way by homeowner's associations, including Stroh Ranch.

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Councilmember Rivero read a statement into the record regarding: arrests made at Pridefest and how they would be addressed in municipal court; the Mayor's role as the spokesperson for the Town Council; and the preparedness of the Parker Police Department, which he commended.

Each Councilmember reported on meetings and activities they had attended since the last Town Council meeting.

CONSENT AGENDA

A. *APPROVAL OF MINUTES - August 5, 2024 & August 12, 2024*

B. *ORDINANCE NO. 1.289.8 – First Reading*

A Bill for an Ordinance to Approve the First Amendment to the Second Amended and Restated Cooperation Agreement Between the Town of Parker, Colorado, and the Parker Authority for Reinvestment

Department: PAR and Economic Development, Weldy Feazell

Second Reading: September 3, 2024

C. *ORDINANCE NO. 9.377 - First Reading*

A Bill for an Ordinance to Approve the Memorandum of Agreement Between the Regional Transportation District and the Town of Parker Regarding the Lincoln Avenue Widening Project

Department: Engineering and Public Works, Patrick Burke

Second Reading: September 3, 2024

D. *RESOLUTION NO. 24-038*

A Resolution Accepting the Conveyance of a Public Sidewalk Easement from Hidden River II Homeowners Association for a Parcel of Land Over and Across Tract A, Hidden River Subdivision Filing No. 4

Department: Engineering and Public Works, Tom Gill

E. *RESOLUTION NO. 24-040*

A Resolution Finding Substantial Compliance of the Town Tract H, Meridian International Business Center Filing No. 7C, 5th Amendment Right-of-Way Property's Annexation Petition with C.R.S. § 31-12-107 and Setting a Public Hearing on October 7, 2024, for the Purpose of Considering Said Annexation

Department: Community Development, Julia Duncan

Trakit No.: ANX24-004

F. *PARKER PAVILIONS*

1. *RESOLUTION NO. 24-031.1*

A Resolution Accepting the Conveyance of Real Property from JDN Intermountain Development, Parker Pavilion, LLC, for Tracts E and F, Parker Pavilions Final Plat Filing No. 1 First Amendment (Parcel Numbers 223322301028 and 22332230141, respectively)

Department: Engineering and Public Works, Chris Hudson

2. *RESOLUTION NO. 24-032.1*

A Resolution Accepting the Conveyance of Real Property from JDN Intermountain Development, Parker Pavilion, LLC, for a Portion of Property Lying Within Lot 9, Parker Pavilions, Filing No. 1 First Amendment (Parcel Number 223322300020)

Department: Engineering and Public Works, Chris Hudson

G. *CONTRACTS OVER \$100,000*

1. *Comprehensive Master Plan Update - Contract for Services*

Amount: \$249,967

Contractor: Cushing Terrell

Department: Community Development, Stefi Szrek

2. *High Plains Trail-Segment 2 Final Design Second Amendment*

Amount: \$44,496 in addition to the original contract amount of \$193,344 for a revised total of \$237,840

Contractor: Stanley Consultants, Inc.

Department: Parks, Recreation and Open Space, Brett Collins

3. *Parker Road Sidewalk - Pine Drive to Stroh Road - Preliminary Design Contract Modification*

Amount: \$5,109 additional for a revised contract amount of \$180,858

Contractor: Merge Resource Group Ltd.

Department: Engineering and Public Works, Patrick Burke

Joshua Rivero moved and Todd Hendreks seconded to approve Consent Agenda Items 4A through 4G.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

ORDINANCES

A. ORDINANCE NO. 9.376 - Second Reading

A Bill for an Ordinance Approving the Intergovernmental Agreement Between the Town of Parker and the Board of County Commissioners of Douglas County Regarding Cost Sharing for the Construction of the Traffic Signal at the Intersection of Lincoln Avenue and Village Creek Parkway

Department: Engineering and Public Works, Chris Hudson

The purpose of this ordinance was to approve the Intergovernmental Agreement (IGA) with Douglas County for partial construction funding for the proposed Lincoln Avenue and Village Creek Parkway traffic signal construction project. This IGA is needed to formalize negotiations to jointly fund the construction effort.

Public Comments: None.

Todd Hendreks moved and Laura Hefta seconded to approve Ordinance No. 9.376 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

B. ORDINANCE NO. 9.374 - Second Reading

A Bill for an Ordinance to Approve the Intergovernmental Agreement By and Between the Town of Parker and the Downtown Parker Business Improvement District Regarding Cost Sharing for the Creation, Installation and Maintenance of Place-Making Improvements in the Downtown Parker Commercial Area

Department: Cultural, Carrie Glassburn

This ordinance approved the Intergovernmental Agreement between the Town of Parker and the Downtown Parker Business Improvement District (BID) to cooperate on designing, creating, and funding public art improvement projects intended to positively impact the overall appeal of downtown Mainstreet.

Tony Mango answered questions on behalf of the BID

Public Comments: None.

Anne Barrington moved and Joshua Rivero seconded to approve Ordinance No. 9.374 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

C. ORDINANCE NO. 8.20.7 - Second Reading

A Bill for an Ordinance to Amend Chapter 4.07 of the Parker Municipal Code Concerning Development Excise Tax

Department: Town Attorney, Jim Maloney

Chapter 4.07 of the Parker Municipal Code established a credit against the development excise tax as an incentive for the construction of certain recreational facilities. This ordinance revised the definitions for "regional park facility" and "recreational facility" to align with the Town's development standards contained in the Parker Land Development Ordinance.

Public Comments: None.

Joshua Rivero moved and Laura Hefta seconded to approve Ordinance No. 8.20.7 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

D. ORDINANCE NO. 9.375 - Second Reading

A Bill for an Ordinance Approving the Intergovernmental Agreement Between the Town of Parker and The Board of County Commissioners of Douglas County Regarding Cost Sharing for the Construction of the Lincoln Avenue Widening and Improvement Project (Jordan to Parker Road)

Department: Engineering and Public Works, Patrick Burke

The purpose of this ordinance was to approve the Intergovernmental Agreement (IGA) with Douglas County for construction funding associated with the proposed Lincoln Avenue Widening Project. This IGA is needed to formalize negotiations and jointly fund the construction effort.

Public Comments: None.

Anne Barrington moved and Todd Hendreks seconded to approve Ordinance No. 9.375 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

- E. ORDINANCE NO. 9.359.1 - Second Reading *(To be continued to September 3, 2024)***
A Bill for an Ordinance Approving the First Amendment to Agreement Regarding Construction of Development Improvement Project Drainage and Flood Control Improvements for Brandy Gulch Upstream of Spirit Trail Boulevard (Agreement No. 23-04.15A Project No. 109776) By and Between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker
Department: Engineering and Public Works, Alex Mestdagh

Staff has requested that this item be continued to a date certain of September 3, 2024.

Joshua Rivero moved and Todd Hendreks seconded to continue Ordinance No. 9.359.1 for second reading to a date certain of September 3, 2024.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

- F. ORDINANCE NO. 12.05.14 - Second Reading**
A Bill for an Ordinance to Amend Section 2.04.040 of the Parker Municipal Code Concerning Rules and Procedures of the Cultural and Scientific Commission
Department: Cultural, Carrie Glassburn

The initiatives that the Parker Cultural and Scientific Commission (PCSC) oversees have continued to expand. Therefore, there has been a need to create new subcommittees to help plan and put on cultural events. In addition to the original "Art in Public Places" Committee (renamed the Public Art Committee), the PCSC now has several other committees under its purview.

Ordinance No. 12.05.14 acknowledges the numerous committees and changes the Code to use the generic term "committee" rather than naming a specific committee.

Public Comments: None.

Laura Hefta moved and Anne Barrington seconded to approve Ordinance No. 12.05.14 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

G. ORDINANCE NO. 9.358.1 - Second Reading

A Bill for an Ordinance to Approve the First Amendment to Inter-Governmental Agreement By and Between the Douglas County Board of County Commissioners and the Town of Parker, Parker Police Department for Services

Department: Police Department, Joe Degenhart

This ordinance approved an amendment to the Intergovernmental Agreement (IGA) between the Town and Douglas County for the expansion of the Community Response Team increasing the reimbursement amount to the Town by \$4,000 for a new total of \$171,880, and extending the term of the IGA through December 31, 2024, to provide the County additional time to pay invoices to the Town pursuant to the IGA.

Public Comments: None.

Joshua Rivero moved and Todd Hendreks seconded to approve Ordinance No. 9.358.1 on second reading.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

RESOLUTIONS

RESOLUTION 24-039

A Resolution to Exempt Certain Real Property Commonly Known as the E-470 Applegreen Travel Plaza Property from the Definition of Subdivision and Subdivided Land as Contained in the Town of Parker Land Development Ordinance

Department: Community Development, Amber Wood Hicken

Mayor Pro Tem Diak inquired if he should recuse himself from the matter since he serves on the E-470 Board but does not vote on issues related to Parker. Council found no conflict of interest on this matter.

The Town is proposing to plat 7.7 acres of E-470 Highway Authority property to be used as a travel plaza within the E-470 Area Planned Development zone. The subject property is currently part of a larger area owned by the Highway Authority that consists of 249.7 acres of unplatted E-470 right-of-way (ROW). The proposed 7.7 acre lot is located on the north side of E-470 between Chambers Road and Peoria Street. The site was originally developed as part of Toll Plaza A that was used to support manned toll booths along the highway. Toll Plaza A is no longer used as a result of the E-470 Highway Authority's implementation of automated tolling. The Town is processing an Exemption Plat to assist the Highway Authority with their project by platting the travel plaza property as one lot. This will enable the Highway Authority to avoid the need to plat the larger area consisting of 249.7 acres of ROW. Passage of this resolution approved the Travel Plaza Property Subdivision Exemption Plat.

Public Comments: None.

Joshua Rivero moved and Laura Hefta seconded to approve Resolution No. 24-039, as part of the regular agenda.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

CONTRACTS OVER \$500,000

Hilltop Road Sidewalk - Hidden River Lane to Tallman Drive (CIP22-052-CI)

Amount: \$557,598

Contractor: ABC Asphalt, Inc.

Department: Engineering and Public Works, Tom Gill

This item was to award a trade contractor agreement with ABC Asphalt, Inc., in the amount of \$557,598 for the Hilltop Road Sidewalk from Hidden River Lane to Tallman Drive (CIP22-052-CI).

Public Comments: None.

Anne Barrington moved and Todd Hendreks seconded approve the staff recommendation, as a part of the regular agenda.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Laura Hefta - yes

The motion was approved unanimously.

ADJOURNMENT

Mayor Toborg adjourned the meeting at 8:34 p.m.

Susan L. Irvine, Deputy Town Clerk

Jeff Toborg, Mayor



Request for Town Council Action

Date: September 3, 2024

Submitted By: Michael Grabczyk, Project Engineer

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.378 - First Reading**
A Bill for an Ordinance to Approve the Statement of Responsibilities Regarding Preparation of an Environmental Assessment for the Douglas County Regional Habitat Conservation Plan Between the Board of County Commissioners of the County of Douglas, the Town of Castle Rock, the Town of Parker, the United States Fish and Wildlife Service, and ERO Resources Corporation
Department: Engineering and Public Works, Michael Grabczyk
Second Reading: September 16, 2024

EXECUTIVE SUMMARY

This ordinance is to approve an agreement between the US Fish & Wildlife Service (US F&W), the Town of Parker, the Town of Castle Rock, and Douglas County (Permittees) regarding the renewal of a Habitat Conservation Plan (HCP) and Environmental Assessment (EA) for the Preble's Meadow Jumping Mouse. This agreement is to formalize the creation of a new EA by ERO Resources Corporation under the direction of US F&W, which will cover a proposed HCP amendment.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

In response to the proposed 1996 listing of the Preble's Meadow Jumping Mouse under the Endangered Species Act, the Permittees entered into a HCP and EA with the US F&W. This plan outlines protection measures for the Preble's Meadow Jumping Mouse while also allowing certain activities to occur within potential habitat through the use of an Incidental Take Permit (ITP). The plan became effective in 2006 and outlined 10 years of probable impacts to Preble's habitat from infrastructure and trail projects along the South Platte River, Cherry Creek, and Plum Creek. Due to the Permittees' impacts being significantly less than estimated, the HCP, EA, and ITPs were administratively extended by the US F&W until a renewal or amendment was applied for by the Permittees.

In 2021, the Permittees engaged US F&W to amend the HCP in order to formalize administrative practices that have evolved over the years. During this time, the US F&W and Permittees have been coordinating the details of an amended HCP and EA, including the

extension of the ITPs for an additional 30 years. This agreement outlines the timeline and responsibilities for the US F&W to issue an EA document for the proposed HCP amendment. This EA document is created by a consultant (ERO Resources Corporation) who is directed by the US F&W but paid by the Permittees. This agreement does not approve the execution of a contract with the consultant but only outlines the responsibilities for the creation of the EA document. The consultant will be contracted through the standard Town contracting process and paid for under an approved budget line item.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)

INNOVATE WITH
COLLABORATIVE
GOVERNANCE



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

1. Ordinance No. 9.378

RECOMMENDED MOTION

I move to approve Ordinance No. 9.378 on first reading and to schedule second reading for September 16, 2024, as part of the consent agenda.

ORDINANCE NO. 9.378, Series of 2024

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE STATEMENT OF RESPONSIBILITIES REGARDING PREPARATION OF AN ENVIRONMENTAL ASSESSMENT FOR THE DOUGLAS COUNTY REGIONAL HABITAT CONSERVATION PLAN BETWEEN THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, THE TOWN OF CASTLE ROCK, THE TOWN OF PARKER, THE UNITED STATES FISH AND WILDLIFE SERVICE, AND ERO RESOURCES CORPORATION

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Statement of Responsibilities Regarding Preparation of an Environmental Assessment for the Douglas County Regional Habitat Conservation Plan between the Board of County Commissioners of the County of Douglas, the Town of Castle Rock, the Town of Parker, the United States Fish and Wildlife Service, and ERO Resources Corporation, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this _____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

STATEMENT OF RESPONSIBILITIES REGARDING PREPARATION OF AN ENVIRONMENTAL ASSESSMENT FOR THE DOUGLAS COUNTY REGIONAL HABITAT CONSERVATION PLAN

A. Purpose

1. THIS STATEMENT OF RESPONSIBILITIES (“Agreement”) is between the Board of County Commissioners of the County of Douglas, State of Colorado (“Douglas County”); the Town of Castle Rock, a Colorado municipal corporation (“Castle Rock”); the Town of Parker, a Colorado municipal corporation (“Parker”); the United States Fish and Wildlife Service (“USFWS”); and ERO Resources Corporation, a Colorado corporation (“Contractor”). The County, Castle Rock, Parker, USFWS and Contractor may be collectively referred to herein as “Parties”.

2. Douglas County and the towns of Castle Rock and Parker (collectively referred to herein as “Applicants”) are developing a Habitat Conservation Plan (HCP) in Douglas County, Colorado and intends to apply to the USFWS for a permit under Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.) (ESA).

3. The USFWS has determined that an Environment Assessment (EA) must be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) (NEPA) and the Council on Environmental Quality Regulations for Implementing the Procedural Requirements of NEPA, 40 C.F.R. 1500-1508, and the Department of Interior regulations implementing NEPA, 43 C.F.R. Part 46, and related guidance. This process is necessary prior to making a decision on the Section 10 permit action for the Douglas County Regional HCP, in accordance with 50 C.F.R. parts 13, 17.22, and 17.32. The EA must comply with all provisions of NEPA and all implementing regulations for the federal agency.

4. An EA can be prepared by the USFWS or a contractor acting under the direction of the USFWS in accordance with 40 C.F.R. 1506.5(b)-(c) and 43 C.F.R. Part 46 (subpart D). When a contractor prepares an EA, the contractor shall prepare a disclosure statement for inclusion in the draft and final EA to ensure the avoidance of any conflict of interest.

5. The Contractor reports directly to the Colorado Field Office Supervisor of USFWS in the Colorado Field Office. The requirements of 40 C.F.R. 1506.5(c) relating to conflicts of interest must be followed.

6. The USFWS requires services for the preparation of the Douglas County Regional HCP EA; and the Contractor is willing to perform these services pursuant to the terms and conditions set out in this Agreement.

7. It is the purpose of this Agreement to establish an understanding between the Parties regarding the procedures to be followed and the responsibilities of the Parties in the preparation of the EA.

B. Requirements for Preparation of the EA

1. *General Requirements.* A number of requirements are set forth in 40 C.F.R. 1500-1508, CEQ Regulations for Implementing the Procedural Provisions of NEPA, and the Department of Interior's Regulations Implementing NEPA in 43 C.F.R. Part 46, and various Secretarial Orders, all relating to USFWS compliance with NEPA. Additional requirements are set forth in 516 DM 1-4, 8, Fish and Wildlife Service Manual, and 550 FW 1-5, relating to USFWS compliance with NEPA for its own actions, including the preparation of a joint permit EA by a contractor chosen by the USFWS where applicable. The Parties agree to satisfy each of these requirements as set forth below.

2. *Control of Contractor.* Contractor agrees to report directly to the USFWS. Although the Contractor will be paid by the Applicants, Contractor is obligated to follow the directions of the USFWS in regards to NEPA. The USFWS shall make the final determination on the inclusion or deletion of any material in the EA for purposes of satisfying NEPA requirements. The USFWS is ultimately responsible for assuring compliance with the requirements of NEPA. The Applicants agree to enter into an Agreement for Professional Services ("Contractor Agreement") with the Contractor that is consistent with the terms of this Agreement. The Contractor's scope of work, incorporated into this Agreement as Attachment 1, specifies work tasks and deliverables to complete the EA. All communications between the Applicants and the Contractor relative to NEPA shall be made through the USFWS in order to preserve the independent nature and integrity of the NEPA process. For example, if the Contractor needs information from the Applicants, the Contractor will ask USFWS to obtain that information on the Contractor's behalf, and USFWS will in turn provide that information to the Contractor.

3. *Disclosure Statement.* Contractor cannot have a financial or economic interest in the outcome of the Project. Contractor agrees to execute the Disclosure Statement attached hereto as Attachment 2.

4. *Payment of Contractor.* The Applicants agree to pay Contractor for all services rendered in the preparation of the EA. Contractor agrees that the USFWS is not obligated in any manner to pay for the services rendered by Contractor in relation to the Project. USFWS will authorize changes in the scope of work. The Applicants will pay any additional costs for changes in the scope of work. When requested to do so by USFWS, the Contractor will provide USFWS monthly statements of work anticipated to be performed under this Agreement, copies of Contractor's detailed requests to Applicants for payment to ensure Applicants' payment to Contractor aligns with the tasks performed for USFWS and Contractor's progress on the EA, and to maximize transparency.

5. *Scope of EA.* The general scope of the EA may be determined through an informal scoping process. Although formal scoping is not required for an EA, the CEQ recognizes that scoping may be a useful process. The scope of an EA may be amended from time to time in order to better comply with the intent of NEPA and its implementing regulations. Contractor will be responsible for organizing any public meetings, compiling scoping comments and providing scoping updates to USFWS.

6. *Schedule of EA Preparation.* Execution of this Statement does not initiate the NEPA process start date. The USFWS will initiate the NEPA document [*via publication in the Federal Register of the/NOA*] only after the USFWS determines that it is in receipt of a completed ITP application, and initiation of the NEPA process accords with applicable law and government policies. At its option, the Contractor may proceed with gathering data, undertaking preliminary effects analysis, collaborating with USFWS staff, etc., in anticipation of the Applicants' submission of a completed application. Any such work would be considered part of NEPA pre-scoping phase of the Project and would not initiate the formal NEPA process start date. The anticipated schedule for the preparation of the NEPA document will be determined by the USFWS, in coordination with the Applicants, the Contractor, and any NEPA cooperating agencies, after the USFWS is in receipt of a completed application. The schedule will conform to all applicable laws and government policies. The Parties agree to use reasonable effort to meet the NEPA schedule. In consultation with the Applicant, the Contractor, and any NEPA cooperating agencies, and in accordance with applicable law, the NEPA schedule may be revised by the USFWS from time-to-time to, without limitation, reflect new information or interpretations, changed circumstances, staffing limitations, or to meet legal requirements.

For purposes of 42 USC 4336(g)(2), which establishes deadlines for the completion of the NEPA process, if the USFWS reasonably determines that a delay in completing the NEPA process was caused in whole or in part by the acts or omission of the Contractor or the Applicant, or was otherwise caused by circumstances outside the USFWS's control (including, without limitation, new information obtained during a comment period that necessitates investigation or substantive revision to the NEPA document), the Parties agree that the USFWS will, after consultation with the Contractor (if the Contractor is still providing services to USFWS) and Applicant and any cooperating agency and participating agencies, establish a new NEPA schedule that provides only so much additional time as is necessary to complete the NEPA document, and the Applicant will support and abide by the USFWS's revised NEPA schedule.

7. *Draft EA.* Contractor will have the primary responsibility for writing and revising the EA at the direction of USFWS. The USFWS will be given the opportunity to comment on and make changes to the EA at agreed upon stages of its development and completion as set forth in the Schedule of EA Preparation described in section (B)6 above. The requirements for production of the Administrative Drafts, Draft, and Final EA and deliverables are specified in the Contractor Agreement at Attachment 2. The Contractor will be responsible for providing sufficient copies of the documents on a timely basis to meet the USFWS's circulation requirements. The USFWS will be responsible for filing the draft EA for publication of its Notice of Availability in the Federal Register, if such notice is required.

8. *Public Meetings and Comments.* The Contractor will be responsible for compiling all public comments. Upon completion of the Draft EA, the Contractor will be responsible for organizing any necessary public meetings and/or hearings. The USFWS will receive all comments on the draft EA resulting from public review and comment period(s), and will refer them to the Contractor for development of responses. The Contractor will be responsible for drafting initial responses to public comments and provide the same to USFWS.

9. *Final EA.* After the close of the draft EA review and comment period, the USFWS will identify the issues and comments that will require response in the final EA. The

USFWS will refer to Contractor these comments for analysis and reply. The USFWS will determine the necessary modifications to the draft EA. The Contractor will incorporate the comments, responses and modifications into the final EA. The USFWS will review the completed document and file the final EA.

C. Termination and Modifications

1. This Agreement remains in effect until a decision is made on the Section 10(a)(1)(B) permit or until the permit request(s) is/are withdrawn.

2. Any party may terminate this Agreement at any time by giving written notice to the other Parties.

3. This Agreement may be modified or amended only by written instrument signed by all of the Parties hereto.

D. Notice

Any notice or communication that any party desires or is required to give to the others shall be in writing and be served personally or sent by first class mail, postage prepaid, addressed as follows:

APPLICANTS: Douglas County
Attention:
100 3rd Street
Castle Rock, Colorado 80103

Town of Castle Rock
Attention:
100 N. Wilcox Street
Castle Rock, Colorado 80104

Town of Parker
Attention:
20120 E. Mainstreet
Parker, Colorado 80138

USFWS: U.S. Fish and Wildlife Service
Attention: Liisa M. Hernández Niva
P.O. Box 25486, DFC (MS 65412)
Denver, CO 80225-0486

CONTRACTOR: ERO Resources Corporation
Attention: Ron Beane
1626 Cole Boulevard, Suite 100
Lakewood, Colorado 80401

The Parties have executed this Agreement on _____, 202_ (Effective Date). If the Contractor is a corporation, documentation must be provided that the person signing below for the Contractor has the authority to do so.

**SIGNATURE PAGE
TO THE
STATEMENT OF RESPONSIBILITIES**

The parties hereto have caused this Agreement to be executed as of the Effective Date.

APPLICANT:

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF
COLORADO

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**SIGNATURE PAGE
TO THE
STATEMENT OF RESPONSIBILITIES**

The parties hereto have caused this Agreement to be executed as of the Effective Date.

APPLICANT:

TOWN OF CASTLE ROCK, A COLORADO MUNICIPAL CORPORATION

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**SIGNATURE PAGE
TO THE
STATEMENT OF RESPONSIBILITIES**

The parties hereto have caused this Agreement to be executed as of the Effective Date.

APPLICANT:

TOWN OF PARKER, A COLORADO MUNICIPAL CORPORATION

By: _____

Name: Jeff Toborg

Title: Mayor

ATTEST:

By: _____

Name: Chris Vanderpool

Title: Town Clerk

APPROVED AS TO FORM:

By: _____

Name: Jamie Wynn

Title: Town Attorney

**SIGNATURE PAGE
TO THE
STATEMENT OF RESPONSIBILITIES**

The parties hereto have caused this Agreement to be executed as of the Effective Date.

CONTRACTOR:

ERO RESOURCES CORPORATION, A COLORADO CORPORATION

By: _____

Name: _____

Title: _____

**SIGNATURE PAGE
TO THE
STATEMENT OF RESPONSIBILITIES**

The parties hereto have caused this Agreement to be executed as of the Effective Date.

UNITED STATES FISH AND WILDLIFE SERVICE

By: _____

Name: _____

Title: _____

ATTACHMENT 1 – CONTRACTOR’S SCOPE OF WORK

(See attached)

ERO Resources Corporation 2024 Scope of Work Environmental Assessment for the Douglas County Habitat Conservation Amendment

February 6, 2024

Background

Douglas County (County) and the Towns of Castle Rock and Parker (Towns) are in the process of amending and renewing the terms of the 2006 Douglas County Habitat Conservation Plan (DCHCP) and associated incidental take permits (ITPs). ITPs are federal permits issued by the U.S. Fish and Wildlife Service (Service) and constitute a federal action requiring review under the National Environmental Policy Act (NEPA). Based on discussions with the Service, processing the requested DCHCP amendment and its associated ITPs will require submitting a new Habitat Conservation Plan (HCP) and a separate Environmental Assessment (EA). The County and the Towns have the responsibility of producing the HCP, with the Service reviewing and approving the documents. The EA will be prepared by ERO Resources Corporation (ERO) as a third-party contractor under the direct supervision of the Service but paid for by the County and Towns. The County and Towns will have the opportunity to review and comment on the Draft EA prior to any release to the public. The Service is also responsible for ensuring proper review and notification of the EA (e.g., Federal Register notice). The 2006 DCHCP integrated the HCP and EA to reduce duplication and to facilitate review; however, as part of the renewal and major amendment process, the Service requires the HCP and EA be separated into two documents to comply with new Service guidance.

The Service has requested that the preparation of the EA, including ERO personnel and invoicing, be kept separate from the HCP process to maintain a clear and legal distinction between the two documents. Therefore, ERO has created two independent invoicing groups to separate the accounts of the EA from the HCP. A Scope of work and cost estimate for the HCP will be submitted to the County and Towns separately.

Task 1. Prepare EA

Preparing the EA will include updating the purpose and need and alternative actions considered and addressing the proposed 30-year permit term extension. It will be made clear in the draft EA which sections/text is from the 2006 DCHCP/EA and which sections/text has been updated or is new. Taking this approach for the EA will result in documents that reflect the entire HCP process to date. ERO will compile a draft EA document that includes all necessary information to support a thorough analysis of the environmental impacts of the Service issuing ITPs for the DCHCP amendment per Service guidelines and NEPA regulations.

Estimated Cost: \$17,000

Task 2. NEPA Coordination and Meetings

Preparing the EA will require ERO to coordinate with the Service frequently through virtual and in person meetings, phone calls, and email correspondences. This task includes time and estimated costs for this coordination. ERO will also ensure that all documents and figures are reviewed for technical and editorial accuracy. This task also includes items associated with the project coordination such as additional internal team communication, project management, and quality assurance.

Estimated Cost: \$14,000

Assumptions

This Scope of Work and associated estimated costs assume the following:

- Revision of the EA will not require fieldwork or site visits.
- ERO assumes two rounds of review and comment incorporation on the EA.
- ERO will provide electronic copies of the drafts and final documents; no hard copies will be provided.
- The extent and detail of public comments are hard to predict and costs for responding to these comments are not included. Should the Service request assistance on responding to public comments ERO will submit a new Scope of Work for review and approval.

Estimated Costs

EA Invoice Group

All tasks will be completed on a time-and-materials basis for a cost not to exceed \$31,000, including expenses billed at cost plus 8%, based on the following cost sharing ratios:

Town of Parker will contract 50% of the total with ERO = \$15,500

Douglas County will contract 25% of the total with ERO = \$7,750

Town of Castle Rock will contract 25% of the total with ERO = \$7,750

ERO will invoice each entity separately and on a monthly basis at the sharing ratios identified above for the services and expenses incurred during the previous 30 days. ERO will invoice the HCP and EA under separate invoice groups. This will maintain a clear separation of personnel and expenses attributed to each permitting process. ERO will also include a budget tracking spreadsheet each month with the invoices.

ATTACHMENT 2 – DISCLOSURE STATEMENT

(See attached)

**UNITED STATES FISH AND WILDLIFE SERVICE
NATIONAL ENVIRONMENTAL POLICY ACT
CONTRACTOR DISCLOSURE STATEMENT**

The Board of County Commissioners of the County of Douglas, State of Colorado; the Town of Castle Rock; and the Town of Parker (“Applicants”) are developing a Habitat Conservation Plan (HCP) Amendment in Douglas County, Colorado (“Project”). The Applicants intend to apply to the United States Fish and Wildlife Service (“USFWS”) for a permit allowing the incidental take of certain species under section 10(a) of the Endangered Species Act of 1973 (“ESA”; 16 U.S.C. 1539(a)).

ERO Resources Corporation (“Contractor”) proposes to assist the USFWS in expediting USFWS’s National Environmental Policy Act (“NEPA; 42 U.S.C. 4321-4347) compliance for the Project by preparing an Environmental Assessment (EA) (“NEPA document”) under the USFWS’s guidance and control. The NEPA document will conform to the requirements of the NEPA and its implementing regulations (40 CFR 1500-1508); the Department of the Interior NEPA regulations (43 CFR Part 46), the DOI Departmental Manual chapters 1-4 and chapter 8; and other applicable laws and federal government policies.

Pursuant to 40 CFR 1506.5 (c)(4) “The lead agency, or, where appropriate, a cooperating agency shall prepare a disclosure statement for the contractor’s execution specifying that the contractor has no financial or other interest in the outcome of the action.” The phrase “financial or other interest in the outcome of the action” is interpreted broadly to cover any known benefits other than general enhancement of professional reputation (*Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, Question 17a, 46 Fed. Reg. 18026). The disclosure statement “need not include privileged or confidential trade secrets or other confidential business information” (40 CFR 1506.5 (c)(4)).

The Contractor understands that this disclosure statement will be used by the USFWS in determining whether the Contractor’s participation raises any actual or potential conflict(s) of interest that preclude its preparation of the NEPA document. As used here, the term “conflict of interest” means a financial or other interest in the outcome of the project (other than general enhancement of professional reputation) that may prevent or impair the Contractor’s ability to provide, without limitation, impartial and objective analysis, information collection, assistance, or advice to the Government. Indicators of a potential conflict of interest include, without limitation, the following:

1. Any direct financial or other interest of the Contractor in the outcome of the proposed Project. This includes, without limitation, a promise of future construction or design work if the project is approved.
2. Any potential direct or indirect benefit of the Contractor in the outcome of the project, other than the enhancement of the Contractor’s professional reputation. For example, a conflict of interest could exist if project approval could aid third parties

that the Contractor has a special relationship with, such as a client, a partner, a parent, or a subsidiary corporation.

3. Whether the Contractor is receiving payment for any Project-related work from a party other than the Applicants.
4. Whether the Contractor is or was involved in developing initial data, plans, conducting initial analysis, etc., for the Project and, if so, the scope and extent of that work.
5. Whether the Contractor has or proposes to enter a contract or agreement with Applicants (other than a payment contract for the NEPA document) or another party related to the Project including, without limitation, contracts or agreements related to Project planning or development and HCP or CBA development.

The Contractor understands that if any potential conflict of interest is identified, the USFWS may, in its sole discretion, work with the Contractor to develop measures to avoid the conflict and may include those measures as conditions on the Contractor's participation in the Statement of Responsibilities.

In view of the above and after conducting due diligence, I, Nicole Den Herder, NEPA Specialist/Principal and authorized representative of the Contractor, have determined that the Contractor has a potential conflict(s) of interest as described below:

ERO is the contractor that developed the 2006 Douglas County HCP and is working with the Applicants on developing the HCP Amendment. ERO has been fully transparent with the USFWS and has worked closely with the Colorado Ecological Services Field Office and regional USFWS HCP personnel to implement the following safeguards to ensure no conflict of interest exists: 1) ERO personnel working on the HCP Amendment (HCP Team) are completely separate from the personnel working on the NEPA document (NEPA Team); 2) the HCP Team and the NEPA Team will have no direct communication regarding the HCP Amendment, and questions or requests for information between the two teams will flow through the USFWS; 3) contracting and administration of the HCP Amendment and NEPA document will be kept completely separate; and 4) there will be no direct communication between the NEPA Team and the HCP Applicants.

The Contractor recognizes that the USFWS is relying on the Contractor's promise to fully disclose any actual and potential conflicts of interest. The Contractor recognizes that the USFWS will rely on that promise when making personnel and other resource allocations necessary to appropriately, timely, and cost effectively process the Applicants' permit application. The Contractor acknowledges that inadequate or inaccurate disclosures discovered after initiation of NEPA document preparation by the Contractor may, without limitation, cause the USFWS to reinstate, in whole or part, the NEPA document and prohibit further Contractor participation. This could cause the Government to incur significant and unnecessary costs and may cause delay in processing the Applicants' permit request.

Signature: 

Name: Nicole Den Herder

Title: NEPA Specialist/Principal

Date: August 1, 2024



Request for Town Council Action

Date: September 3, 2024

Submitted By: Brooke Spain, Events Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.379 - First Reading**
A Bill for an Ordinance to Approve the Intergovernmental Agreement
by and between the Town of Parker and the Board of County
Commissioners of Douglas County Regarding Cost Sharing for a Drone
Show
Department: Communications, Brooke Spain
Second Reading: September 16, 2024

EXECUTIVE SUMMARY

Douglas County desires to share in the cost of the Town's Fall Fest Drone Show Finale on September 28, 2024, for the benefit of residents. Staff is presenting an intergovernmental agreement between the Town of Parker and the Board of County Commissioners of Douglas County regarding cost sharing for the drone show.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town seeks to build relationships with other organizations and governmental entities to partner on programs and events that benefit the broader community and help offset the costs of such events.

Douglas County desires to share in the cost of the Fall Fest Drone Show Finale on September 28, 2024, for the benefit of residents. In exchange for paying for half of the cost of the Drone Show, the Town will acknowledge the County as a partner in hosting the Drone Show finale.

FINANCIAL IMPACT

The County will contribute \$17,500 payable to the Town of Parker. The total drone show cost is \$35,000.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Ordinance No. 9.379

RECOMMENDED MOTION

I move to approve Ordinance No. 9.379 on first reading and to schedule second reading for September 16, 2024, as part of the consent agenda.

ORDINANCE NO. 9.379, Series of 2024

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE TOWN OF PARKER AND THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY REGARDING COST SHARING FOR A DRONE SHOW

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Intergovernmental Agreement by and between the Town of Parker and the Board of County Commissioners of the County of Douglas Regarding Cost Sharing for a Drone Show, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF PARKER AND THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY REGARDING COST SHARING FOR A DRONE SHOW

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this _____, by and between the Town of Parker, a Colorado home rule municipality (the “Town”), and the Board of County Commissioners of Douglas County, State of Colorado (the “County”), hereinafter collectively referred to as the “Parties.”

RECITALS

WHEREAS, the Town desires to forge relationships with organizations and other governmental entities that are seeking to partner with the Town for programs and events (collectively, “Events”) and thereby provide added benefit to the broader community and help the Town defray the costs of such Events.

WHEREAS, the County desires to make a payment to the Town, which is intended to share in the cost of holding the Fall Fest Drone Show Finale (the “Drone Show”) for the benefit of residents of the Town and extended community (“County Contribution”).

WHEREAS, the County agrees that it is providing the County Contribution to the Town in exchange for the benefits described in this Agreement, including the acknowledgment of the County as a partner of the Drone Show. The County further agrees that none of the benefits provided by this Agreement, either alone or in the aggregate, are intended to constitute a substantial return benefit to County under Section 513(i) of the Internal Revenue Code or Treasury Regulation Section 1.513-4 (codified at 26 C.F.R. § 1.513-4).

AGREEMENT

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Town and the County agree as follows:

1. TERM OF AGREEMENT

A. Subject to the terms and conditions of this Agreement, the term of this Agreement shall commence September 27, 2024, and shall terminate upon completion of the Drone Show, unless earlier terminated as set forth herein.

2. COUNTY CONTRIBUTION

A. The County Contribution shall be Seventeen Thousand Five Hundred and 00/100 (\$17,500.00) payable to the Town. The County Contribution shall be paid on or before September 27, 2024, and is non-refundable, except as otherwise provided in this Agreement.

B. The Town shall provide the County with a record of payment upon request.

3. COUNTY BENEFITS AND RESTRICTIONS

A. Benefits. The County will be provided with the benefits defined in **Exhibit A** of this Agreement as well as the additional benefits described in this paragraph.

B. Use of the County Logo and Name. The County logo provided in **Exhibit B** and name shall also be used as follows:

(i) County Acknowledgment. The Town shall acknowledge the County in Town materials as selected by the Town and in accordance with Exhibit A.

(ii) Marketing Materials. The County's name may be identified on the Town of Parker social media pages, newsletters, special events and other marketing materials as space and design restrictions allow.

C. Use of Town Marketing Materials. The Town shall provide the County with copies of its marketing materials to share on the County website to publicize the Drone Show. The County is asked to share the Town's social media posts on its own channels rather than creating its own posts unless the County first obtain prior written approval by the Town.

D. County Giveaways. Should the County wish to provide giveaways of prizes to attendees at the Drone Show, the County must provide the Town with a detailed description requesting approval prior to the Drone Show.

4. TERMINATION

A. The Town may terminate the Agreement for any of the following reasons:

- (i) County fails to make the payment specified in Paragraph 2;
- (ii) The Town cancels the Drone Show; or
- (iii) A force majeure event that necessitates the cancellation of the Drone Show.

B. If the Town cancels the Drone Show for its convenience and not due to a force majeure event, breach of contract by the Drone Show contractor, or other circumstance out of the Town's control, the Town shall refund the County Contribution to the County within thirty (30) calendar days after it cancels the Drone Show.

C. If the Drone Show is cancelled or postponed to a later date for any other reason, the County shall not be entitled to a refund of the County Contribution.

5. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Douglas County, Colorado.

B. No Waiver. This Agreement or any of its provisions may not be waived except in writing by a party's authorized signatory. The failure of a party to enforce any right arising under this Agreement on one or more occasions will not operate as a waiver of that or any other right on

that or any other occasion. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligations of this Agreement.

C. Integration. This Agreement and any attached exhibits constitute the entire Agreement between the parties, superseding all prior oral or written communications.

D. Third Parties. The enforcement of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Town and the County. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person, nor shall anything contained in this Agreement be construed as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq., as amended. It is the express intention of the Town and the County that any such person or entity, other than the Town or the County, receiving benefits under this Agreement shall be deemed an incidental beneficiary only.

E. Notice.

(i) Key Notices. “Key Notices” under this Agreement are notices regarding Agreement default, contractual dispute, or termination of the Agreement. Key Notices shall be given in writing and shall be deemed received if given by: (1) electronic mail (as set forth in subsection (ii) below) when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; (2) certified mail, return receipt requested, postage prepaid three (3) days after being deposited in the United States mail; or (3) overnight carrier service or personal delivery, when received. For Key Notices, the parties will follow up any electronic mail with a hard copy of the communication by the means described in (i)(2) or (i)(3) above. The requirement for following up a Key Notice made by electronic mail with a hard copy shall be deemed waived by the receiving party upon acknowledgement, via electronic mail, within three business days of transmission of a Key Notice, that the Key Notice has been received. All other communications or notices between the parties that are not Key Notices may be done via electronic mail. Notice shall be given to the parties at the following addresses:

Town of Parker
20120 E. Mainstreet
Parker, CO 80138
Attn.: Brooke Spain, Community Events Manager
Email: bspain@parkerco.gov

with a copy to:
Town of Parker
Attn: Legal/Town Attorney
20120 E. Mainstreet
Parker, CO 80138
legal@parkerco.gov

Douglas County
Attn.: Nick Giaque, Parks Program Manager
9651 S. Quebec St. Littleton, CO 80130
ngiaque@douglas.co.us

With electronic copy sent to: attorney@douglas.co.us

(ii) Electronic Mail. The Parties agree that: (1) any notice or communication transmitted by electronic mail shall be treated in all manner and respects as an original written document; (2) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (3) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The parties further agree that they shall not raise the transmission of a notice or communication, except for Key Notices, by electronic mail as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waives such defense. For purposes of this Agreement, the term “electronic mail” means email.

F. Appropriation. Pursuant to C.R.S. § 29-1-110, the financial obligations of the Town and the County contained herein which are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

G. No Waiver of Governmental Immunity Act. The Parties hereto understand and agree that the Parties, their commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the County.

H. Additional Documents. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

I. Separate Entities. The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

J. Severability. It is understood and agreed by the Parties hereto that if any part, term, or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

K. Recitals. The Recitals to this Agreement are incorporated herein by this reference.

L. Modification. This Agreement may only be modified upon written agreement of the parties.

M. Assignment. Neither this Agreement nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

N. Damages. Neither party shall be entitled to consequential, special, or punitive damages for any breach of this Agreement.

O. Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The parties approve the use of electronic signatures for the execution of this Agreement. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

TOWN OF PARKER, COLORADO

By: _____
Jeff Toborg, Mayor

Date: _____

ATTEST:

Chris Vanderpool Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY

By: _____

Date: _____

ATTEST:

APPROVED AS TO CONTENT:

Douglas J. DeBord, County Manager

_____,
Clerk to the Board

APPROVED AS TO FORM: APPROVED AS TO FISCAL CONTENT:

Chris Pratt, Senior County Attorney

Andrew Copland, Director of Finance

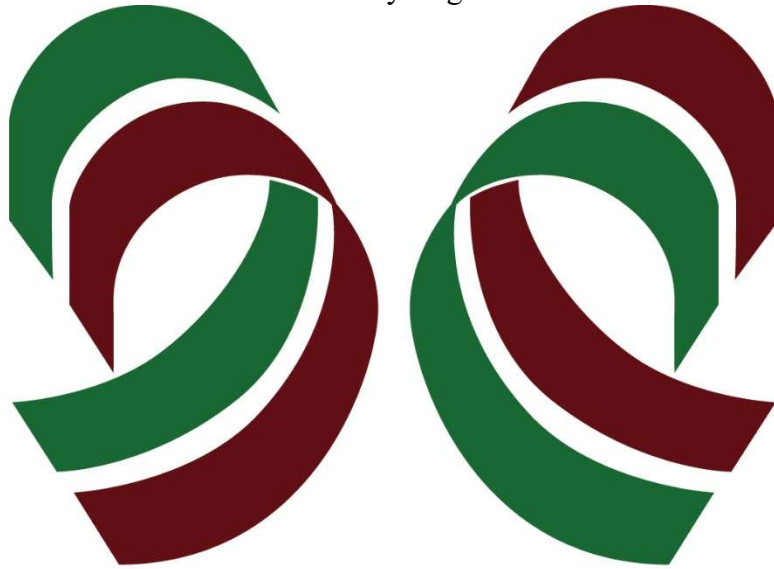
EXHIBIT A

County Benefits

In return for the County's contribution to the Fall Fest Drone Show, the Town will acknowledge the County as a partner in hosting the Drone Show finale. Messaging will be "The Town of Parker and Douglas County have teamed up to host the 2024 Fall Fest Drone Show finale". Co-partner recognition will be consistent in all messaging on social media, website and print marketing.

EXHIBIT B

County Logo



DOUGLAS
COUNTY
COLORADO





Request for Town Council Action

Date: September 3, 2024

Submitted By: Bryce Matthews, Assistant Director - Planning
John Fussa, Community Development Director

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.380 - First Reading**
A Bill for an Ordinance to Approve the Intergovernmental Agreement Regarding Joint Management of Proposition 123 Funding and Credits, by and between the Douglas County Housing Partnership, Douglas County, the City of Castle Pines, the City of Lone Tree, the Town of Parker, and the Town of Castle Rock
Department: Community Development, Bryce Matthews
Second Reading: September 16, 2024

EXECUTIVE SUMMARY

On October 2, 2023, the Town Council directed staff to prepare and file a Proposition 123 Commitment for affordable housing with the State of Colorado. In addition, the Council directed staff to work with Douglas County Housing Partnership (DCHP) and Douglas County jurisdictions to prepare an Intergovernmental Agreement (IGA) to memorialize their commitment to a regional approach that supports affordable housing opportunities, increases affordable housing units and establishes a method of distributing Proposition 123 affordable housing credits in excess of each jurisdiction's baseline goal. The IGA is a coordinated effort between DCHP and Douglas County jurisdictions to address Proposition 123, support affordable housing activities and provide for the distribution of affordable housing credits in excess of each jurisdiction's baseline goal to those communities that may need the credits.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Colorado voters approved Proposition 123 as part of the Statewide election in November 2022. Proposition 123 is intended to increase the supply of affordable housing and support the creation of homelessness assistance programs throughout the state. The initiative directs 0.1 percent of Colorado's income tax revenue to programs that include helping essential workers, such as teachers and nurses, buy homes while providing financial support to local governments for the creation of new affordable housing units. It establishes the goal of increasing affordable housing by three (3) percent each year and nine (9) percent over a three (3) year period for participating jurisdictions. The projects and activities that are eligible for funding under Proposition 123 include: land banking, affordable housing development, concessionary debt,

down payment assistance, homelessness support and local capacity building.

Proposition 123 Funding Available

Staff has prepared and filed a Proposition 123 commitment for the Town as directed by the Town Council on October 2, 2023, to meet the November 1, 2023, deadline. The filing of the Proposition 123 commitment to increase affordable housing has created the opportunity for increased funding from the State to support affordable housing activities by the DCHP for programs and projects in the Town, Douglas County and other municipalities that are members of the DCHP. The State estimated that Proposition 123 generated \$135 million in additional funding to support affordable housing activities in 2023, which was the first year the initiative was in operation. Proposition 123 has generated greater than \$9 million in additional funding to support affordable housing activities throughout Douglas County since the filing of commitments by the Town, Douglas County and other municipalities that are members of the DCHP.

Proposition 123 Commitment

The initial step for a local government to qualify for Proposition 123 funding was to establish a baseline number of affordable housing units and commit to increasing the number of units by 9 percent over the next three (3) years. The U.S. Census Bureau's American Community Survey from 2017 to 2021 was utilized by the State Division of Local Government Affairs (DOLA) to estimate the number of affordable housing units in Douglas County. DOLA provided the following data to assist local governments with determining their baseline and three (3) year commitment.

Jurisdiction Baseline 3 Year Commitment

Jurisdiction	Baseline	3-Year Goal
Castle Pines	206	19
Castle Rock	3,067	277
Larkspur	32	3
Lone Tree	728	66
Parker	2,481	224
Douglas County (unincorporated)	4,820	434
TOTAL	11,334	1,023

Intergovernmental Agreement Summary

The State and DOLA allow jurisdictions to partner to achieve their 3-year affordable housing goals. Consistent with Town Council direction, staff has worked with the DCHP, Douglas County and other municipalities that are members of the DCHP to draft an IGA that establishes parameters focusing on a collaborative approach to Proposition 123, the regional management of

Proposition 123 commitments and the allocation of development credits to the County and each Municipal member. The IGA authorizes the DCHP to seek funding from the State Affordable Housing Fund for local programs and projects, subject to approval by the DCHP Board and the governing body of each DCHP member where a project may be located.

The IGA stipulates that a policy will be developed by the DCHP Board to distribute surplus credits related to the development of affordable housing. The goal of the policy will be to ensure that as many jurisdictions as possible meet their respective goals, so they may be eligible for future funding. The recommendations for the distribution of surplus credits will be presented to the DCHP Board and the governing body of each member jurisdiction for input and direction before a decision is made. The decision-making regarding credit distribution will require a majority vote by the DCHP Board. The IGA makes the DCHP responsible for tracking affordable housing programs, projects and required reporting for compliance purposes. This aspect of the partnership will require the cooperation and participation of the Town, Douglas County and other municipalities that are members of the DCHP.

The IGA will automatically renew annually unless terminated by mutual consent or unilaterally by the DCHP Board. Upon termination or withdrawal of any party, DCHP will oversee the redistribution of affordable housing development credits.

Intergovernmental Agreement Status

The Douglas County Board of County Commissioners approved the IGA on August 13, 2024. At the time of this staff report, the IGA is scheduled to be considered by the governing bodies of Castle Rock, Castle Pines and Lone Tree but has not yet been approved by these jurisdictions.

FINANCIAL IMPACT

None

STRATEGIC GOAL(S)



INNOVATE WITH
COLLABORATIVE
GOVERNANCE



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH



ENHANCE ECONOMIC
VITALITY

ATTACHMENTS

1. Ordinance No. 9.380

RECOMMENDED MOTION

I move to approve Ordinance No. 9.380 on first reading and to schedule second reading for September 16, 2024, as part of the consent agenda.

ORDINANCE NO. 9.380, Series of 2024

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE INTERGOVERNMENTAL AGREEMENT REGARDING JOINT MANAGEMENT OF PROPOSITION 123 FUNDING AND CREDITS, BY AND BETWEEN THE DOUGLAS COUNTY HOUSING PARTNERSHIP, DOUGLAS COUNTY, THE CITY OF CASTLE PINES, THE CITY OF LONE TREE, THE TOWN OF PARKER, AND THE TOWN OF CASTLE ROCK

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Intergovernmental Agreement Regarding Joint Management of Proposition 123 Funding and Credits, by and between the Douglas County Housing Partnership, Douglas County, the City of Castle Pines, the City of Lone Tree, Town of Parker and the Town of Castle Rock, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this _____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

INTERGOVERNMENTAL AGREEMENT REGARDING JOINT MANAGEMENT OF PROPOSITION 123 FUNDING AND CREDITS

This INTERGOVERNMENTAL AGREEMENT REGARDING JOINT MANAGEMENT OF PROPOSITION 123 FUNDING AND CREDITS (“Agreement”) is made, entered into as of the ____ day of _____ 2024, by and between: The DOUGLAS COUNTY HOUSING PARTNERSHIP (“DCHP”), a multi-jurisdictional housing authority, DOUGLAS COUNTY, a Colorado county and political subdivision (“County”), and the following municipalities: CITY OF CASTLE PINES, a Colorado home rule municipality (“Castle Pines”), CITY OF LONE TREE, a Colorado home rule municipality (“Lone Tree”), TOWN OF PARKER, a Colorado home rule municipality (“Parker”), and TOWN OF CASTLE ROCK (“Castle Rock”), a Colorado home rule municipality, collectively referred to as the “Municipal Members.” The DCHP, the County, and Municipal Members are collectively referred to herein as “Parties”.

RECITALS

WHEREAS, in 2022, Colorado voters approved Proposition 123 which has been codified in §29-32-101 et seq. C.R.S. to make additional state funding available to participating local jurisdictions for affordable housing purposes; and

WHEREAS, the County and Municipal Members have a growing need for affordable housing for residents with earned income that is insufficient to secure quality housing in reasonable proximity to their workplace to include workforce housing; and

WHEREAS, the Denver metro area, which includes portions of Douglas County, is experiencing a growing homelessness crisis that will require increasing resources of affordable housing financing and support to help alleviate; and

WHEREAS, vulnerable populations within all of Douglas County including veterans, older adults, children, individuals with disabilities, among others, need a safe and affordable place to call their home; and

WHEREAS, housing needs vary widely between different families and individuals requiring a wide array of housing options from detached single family homes, to condominiums and other multifamily options; and

WHEREAS, the County and the Municipal Members have established the DCHP, a multi-jurisdictional housing authority, through that certain Amended and Restated Establishing Intergovernmental Agreement for the Douglas County Housing Authority, A Multijurisdictional Housing Authority dated December 20, 2020; and

WHEREAS, the purpose of the DCHP is to effect the planning, financing, acquisition, construction, reconstruction or repair, maintenance, management, and operation of housing projects or programs pursuant to a multijurisdictional plan in order to provide dwelling accommodations at rental prices or purchase prices within the means of families of low or moderate income, to provide affordable housing projects or programs for employees of employers located within the jurisdiction of the Authority, and for any other purpose permitted by law; and

WHEREAS, in accordance with the requirements of §29-32-105, C.R.S., the Parties have formally committed to participate in the program for use of a state affordable housing fund (“Fund”) within the boundaries of Douglas County; and

WHEREAS, under §29-32-105, C.R.S., local governments are encouraged to enter into written agreements with each other that allow each jurisdiction to receive partial credit towards the local government's affordable housing unit growth requirement; and

WHEREAS, it would be in the best interest of all of the Parties to participate collectively in the planning, development, and financing of affordable housing projects and programs to ensure that affordable housing is available to their citizens.

NOW THEREFORE, in consideration of the terms and conditions of this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the DCHP, the County, and Municipal Members agree as follows:

1. Each Municipal Member and the County has filed their respective affordable housing commitment with the Division of Housing (“Division”) in the Department of Local Affairs (“Commitment”) pursuant to C.R.S. §29-32-105 for the three year cycle 2024-2026. Each Commitment establishes a baseline number of affordable housing units within each Municipal Member’s and the County’s respective jurisdictions and specifies how the combined number of newly constructed affordable housing units and existing units converted to affordable housing, will be increased by three percent each year for a three year period over the baseline number of affordable housing units.

2. The County and Municipal Members agree that DCHP may assist third parties or apply directly to the Fund for financial support of affordable housing projects located within Douglas County, subject to prior approval of such participation by majority vote of the DCHP Board and, specifically, by those Board representatives of the Party in whose jurisdiction the affordable housing project will be located.

3. The DCHP will develop a policy for approval by the DCHP Board to specify how excess affordable housing development credits, beyond the nine percent (9%) over three (3) years, generated by projects or programs in any one Party’s jurisdiction will be applied to another Party that has not met its three (3) year affordable housing Commitment. The goal of such policy will be to ensure that as many jurisdictions as possible meet their respective Commitments so as to become eligible for money from the Fund.

4. Any action to be taken by the DCHP regarding the allocation of excess affordable housing development credits shall be by majority vote of the DCHP Board and shall be in accordance with this paragraph. The DCHP Board shall make a recommendation on a proposed action at a regular or special meeting. Each Party shall report the recommendation to their respective governing body to obtain direction from such body. At a subsequent meeting of the DCHP Board, the Parties shall take a vote on the recommendation.

5. The DCHP is responsible for tracking affordable housing projects and programs in each Party’s jurisdiction and preparing the triennial Commitment report for each Municipal Member and the County to file with the Division as necessary to meet all state requirements. The County and Municipal Members shall fully cooperate and provide any necessary documents and information that will assist the DCHP in tracking or preparing such reports. Additionally, the County and the Municipal Members agree that they shall provide all necessary data to the DCHP to enable it to submit required compliance documentation to the Division and to carry out the purposes of this Agreement. DCHP shall communicate

to the Parties what data it needs to fulfill its reporting or other requirements and shall make reasonable efforts to provide the Parties with sufficient notice to provide such requested information in a timely manner.

6. Notwithstanding anything herein to the contrary, nothing in this Agreement shall be construed so as to limit the authority vested in any of the Parties with respect to planning for or regulating land use within their respective jurisdictions.

7. Though no Party financial contribution is contemplated by this Agreement, any contribution of funds by the County or any Municipal Member would be subject to the annual appropriations of such jurisdiction for such purpose. No debt or fiscal year financial obligation is created by this Agreement.

8. This Agreement shall become effective upon its full execution by the Parties and shall renew automatically on January 1st of each year thereafter for additional, consecutive one-year terms until terminated by mutual agreement of all Parties or by the unilateral termination by the DCHP Board. Any Municipal Member or the County may individually terminate their participation of this Agreement without terminating the entire Agreement so long as the remaining Parties consent to continue to participate.

9. Any Party may propose an amendment to this Agreement in writing and on reasonable notice to all other Parties. No proposed amendment shall be effective unless approved in writing by all Parties.

10. Upon termination of this Agreement in its entirety or the withdrawal of any individual Party, the DCHP Board will determine if any affordable housing development credits are due to the withdrawing Party or should be redistributed to the remaining Parties.

11. The Parties understand and agree that all Parties, their commissioners, directors, mayors, city councils, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations and other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 to 120, or otherwise available to that jurisdiction.

12. This Agreement contains the entire agreement between and among the County, the DCHP and the Municipal Members. The Parties agree there have been no representations made other than those contained herein; that this Agreement constitutes their entire Agreement; and further agree that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.

13. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. Digital signatures to this Agreement shall be acceptable and binding.

14. The Parties agree that they will act in a fair and reasonable manner with a view to carrying out the intents and goals of this Agreement; provided, however, that nothing herein shall be construed as imposing on the DCHP, the County, or any Municipal Member any greater duty or obligation to any other jurisdiction than that which already exists as a matter of Colorado law.

15. There are no express or implied third-party beneficiaries of this Agreement. No third party has the right to enforce this Agreement.

16. This Agreement shall be interpreted pursuant to the laws of the State of Colorado and venue for any disputes shall be in Douglas County, Colorado.

17. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall remain effective.

18. The Recitals to this Agreement are incorporated by reference herein.

19. This Agreement is not intended to, and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, or formal business association or organization of any kind between the Parties, and the rights and obligations of the Parties shall be only those expressly set forth in this Agreement.

THEREFORE, IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year above written.

[Remainder of page intentionally left blank — signatures on following page]

**CITY OF CASTLE PINES,
A COLORADO MUNICIPAL CORPORATION**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**CITY OF LONE TREE,
A COLORADO MUNICIPAL CORPORATION**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**TOWN OF PARKER,
A COLORADO MUNICIPAL CORPORATION**

By: _____
Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

**TOWN OF CASTLE ROCK,
A COLORADO MUNICIPAL CORPORATION**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____



Request for Town Council Action

Date: September 3, 2024
Submitted By: Weldy Feazell, PAR & Economic Development Director
Reviewed By: Michelle Kivela, Town Manager
Title: **ASSIGNMENT AND ASSUMPTION AGREEMENT (Roth Lang Engineering Group Agreement)**
Department: **PAR & Economic Development, Weldy Feazell**

EXECUTIVE SUMMARY

The Roth Lang Engineering Group Agreement covers engineering design services for the Beckett Drive CIP project. The funds for this project have been transferred from PAR to the Town. The Assignment and Assumption Agreement will transfer the contract to the Town for the remaining payments.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The PAR capital improvement project for improvements to Beckett Drive was initiated in 2023. Following the 2024 budget approval, the engineering design services contract was entered into with PAR in January 2024. As the project progressed, the funding for the project was transferred from PAR to the Town. With the transfer of funding, the existing agreement must also be assigned to the Town. The amount remaining on the contract is roughly \$50,000.

FINANCIAL IMPACT

None. The budget for 2024 has been transferred to the Town from PAR for this project.

STRATEGIC GOAL(S)



ATTACHMENTS

1. Town-PAR Assignment-Assumption Roth Lang 20240806

RECOMMENDED MOTION

I move to approve the Assignment and Assumption Agreement as part of the consent agenda.

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Roth Lang Engineering Group Agreement)

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is made and entered into as of the ____ day of _____, 2024, by and among the Town of Parker (the "Town"), a home rule municipal corporation (the "Town"), and the Parker Authority for Reinvestment (the "Authority"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado.

WITNESSETH:

WHEREAS, the Authority entered into that certain professional services agreement with Roth Lang Engineering Group on January 3, 2024, to provide certain design services for Becket Drive improvements (the "Agreement"); and

WHEREAS, the Authority desires to assign to the Town and the Town desires to accept and assume from the Authority all of the Authority's rights and obligations under the Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment. The Authority hereby assigns, conveys and transfers to the Town, and the Town hereby takes and accepts from the Authority, all of the Authority's rights, title and interest in, to and under the Agreement.

2. Assumption. The Town hereby assumes all of the obligations of the Authority under the Agreement, and agrees to be bound by, all of the terms and conditions of the Agreement.

3. Cooperation. The Authority and the Town agree to take all actions and execute all documents necessary to effectuate the intent of this Assignment.

IN WITNESS WHEREOF, the parties have executed this Assignment and Assumption Agreement on the date set forth hereinabove.

TOWN OF PARKER, COLORADO

By: _____
Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

**PARKER AUTHORITY FOR
REINVESTMENT**

By: _____
Jeff Toborg, Chairman

ATTEST:

Chris Vanderpool, Authority Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Authority Attorney



Request for Town Council Action

Date: September 3, 2024

Submitted By: Jamie Wynn, Town Attorney

Reviewed By: Michelle Kivela, Town Manager

Title: **RESOLUTION NO. 24-043**
A Resolution Approving the Form of Revenue Pledge Agreement
Between Anthology West Metropolitan District No. 4 and Anthology
West Metropolitan District No. 2.

Department: Town Attorney, Jamie Wynn

EXECUTIVE SUMMARY

This resolution approves the form of Revenue Pledge Agreement between Anthology West Metropolitan District Nos. 2 and 4.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

Anthology West Metropolitan District No. 2 ("District 2") and Anthology West Metropolitan District No. 4 ("District 4"), collectively (the "Districts"), are requesting Town Council approve the form of a Revenue Pledge Agreement (the "Pledge Agreement") between the Districts, as required by Section X of the Service Plan (the "Service Plan") for Cherry Creek South Metropolitan District No. 2 (now known as Anthology West Metropolitan District No. 2), Cherry Creek South Metropolitan District No. 3 (now known as Anthology West Metropolitan District No. 3), Anthology West Metropolitan District No. 4, Anthology West Metropolitan District No. 5 and Anthology West Metropolitan District No. 6. The Pledge Agreement supersedes and replaces in its entirety the Pledge Agreement between Districts 2 and 4, dated November 30, 2021, which was approved by Town Council prior to its execution.

Section V.C. of the Service Plan states the Districts, collectively, will undertake the financing and construction of the Public Improvements, and will enter into an intergovernmental agreement to further state and clarify the functions and services provided by the Districts. The Service Plan requires intergovernmental agreements among the Districts to be submitted to the Town Council for review and approval prior to signing.

Attached to the resolution is a copy of the Pledge Agreement.

With this Pledge Agreement, District 4 is proposing to issue a series of Limited Tax (Convertible to Unlimited Tax) General Obligation Refunding Loan, Series 2024 (the "2024 Loan"). The 2024 Loan will be issued to refund the General Obligation Limited Tax Bonds,

Series 2021, and Subordinate Limited Tax General Obligations Bonds, Series 2022. The 2024 Loan will be paid in part from the imposition of a levy of ad valorem property taxes not to exceed 35 mills as adjusted as provided in the Pledge Agreement, which levy will be imposed by both Districts 2 and 4. District 4 will be the issuer of the 2024 Loan, but both Districts will pledge property tax revenue to the repayment of the 2024 Loan. Specifically, under the Pledge Agreement, District 2 will agree to impose a Capital Levy (defined in the Pledge Agreement) and pledge revenue derived therefrom to District 4, for the purpose of securing the 2024 Loan and other parity obligations.

FINANCIAL IMPACT

None.

STRATEGIC GOAL(S)

ATTACHMENTS

1. Resolution No. 24-043
2. White Bear Ankele Letter re Pledge Agreement

RECOMMENDED MOTION

I move to approve Resolution No. 24-043, as part of the consent agenda.

RESOLUTION NO. 24-043, Series of 2024

TITLE: A RESOLUTION APPROVING THE FORM OF REVENUE PLEDGE AGREEMENT BETWEEN ANTHOLOGY WEST METROPOLITAN DISTRICT NO. 4 AND ANTHOLOGY WEST METROPOLITAN DISTRICT NO. 2

WHEREAS, THE TOWN COUNCIL OF PARKER FINDS:

A. By Resolution No. 16-024 adopted on April 4, 2016, the Town Council of the Town of Parker (the “Town Council”) approved the Consolidated Service Plan (the “Service Plan”) dated March 21, 2016 for Cherry Creek South Metropolitan District No. 2 (now known as Anthology West Metropolitan District No. 2), Cherry Creek South Metropolitan District No. 3 (now known as Anthology West Metropolitan District No. 3), Anthology West Metropolitan District No. 4, Anthology West Metropolitan District No. 5 and Anthology West and Anthology West Metropolitan District No. 6.

B. Pursuant to Section X of the Service Plan, all intergovernmental agreements proposed regarding the subject matter of the Service Plan shall be subject to review and approval by the Town prior to execution thereof.

C. In anticipation of the issuance by Anthology West Metropolitan District No. 4 of its Limited Tax (Convertible to Unlimited Tax) General Obligation Refunding Loan, Series 2024, to the repayment of which Anthology West Metropolitan District No. 2 shall pledge its District No. 2 Capital Revenue (as that term is defined in the proposed Revenue Pledge Agreement), the Anthology West Metropolitan District No. 4 (“District 4”) and Anthology West Metropolitan District No. 2 (“District 2” or, collectively, the “Districts”) have submitted to the Town a proposed form of Revenue Pledge Agreement, which is attached hereto as **Exhibit 1** and incorporated herein by this reference.

D. Pursuant to state statute, the Town of Parker Municipal Code and the Service Plan, the Town Council has authority to review the proposed Revenue Pledge Agreement.

E. The Town Council has reviewed the proposed Revenue Pledge Agreement and the related information submitted by and on behalf of the Districts in connection therewith and, based upon the representations of the Districts set forth in the proposed Revenue Pledge Agreement and in such related information, the Town Council has determined to adopt this resolution approving the execution by the Districts of the form of the proposed Revenue Pledge Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated in and made a part of this Resolution.

Section 2. Based upon the representations of the Districts, including the representations set forth in the proposed Revenue Pledge Agreement and in the related information

submitted by and on behalf of the Districts in connection therewith, the Town Council of the Town of Parker hereby approves the Revenue Pledge Agreement in substantially final form as on file with the Town and authorizes the Districts to execute the same, subject to Section 3 hereof. Any modifications other than the completion of principal amount of the proposed bonds, minor typographical edits or scrivener's errors, will be considered a modification to the Revenue Pledge Agreement that will require further Town approval.

Section 3. Town approval herein of the form of the Revenue Pledge Agreement does not in any manner amend, effect, alter, change or constitute any waiver or release of any terms, conditions, provisions, or requirements of the Service Plan or any intergovernmental agreement between the Town and the Districts. Further, Town approval herein of the form of the Revenue Pledge Agreement does not in any manner amend, effect, alter, change or constitute any waiver or release of any terms, conditions, provisions, or requirements of any development plans, annexation agreement, subdivision agreement, and other agreement with the Town governing development and the completion of Public Improvements within the Districts, all of which plans and agreements, including without limitation the Approved Development Plan (as defined in the Service Plan), which remain in full force and effect in accordance with their terms. Town approval herein of the form of the Revenue Pledge Agreement shall not be construed as a waiver of any of the Town's rights or remedies under the Service Plan, any intergovernmental agreement between the Town and any of the Districts, or any plans and agreements, nor shall the Town approval herein be construed as an approval or endorsement of the terms of the Revenue Pledge Agreement.

RESOLVED AND PASSED this _____ day of _____, 2024.

TOWN OF PARKER, COLORADO

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

EXHIBIT 1

2024 REVENUE PLEDGE AGREEMENT

This **2024 REVENUE PLEDGE AGREEMENT** (this “Agreement”) is entered into on this [10th] day of September, 2024 between **ANTHOLOGY WEST METROPOLITAN DISTRICT NO. 4**, in the Town of Parker, Douglas County, Colorado (the “Issuing District” or “District No. 4”), a quasi-municipal corporation and political subdivision of the State of Colorado, and **ANTHOLOGY WEST METROPOLITAN DISTRICT NO. 2**, in the Town of Parker, Douglas County, Colorado (“District No. 2” or the “Pledge District”), a quasi-municipal corporation and political subdivision of the State of Colorado. This Agreement shall take effect as of the Effective Date, as defined herein.

All capitalized terms used in the recitals below and not otherwise defined shall have the meanings assigned to such terms in Section 1.02 hereof.

On the Effective Date, this Agreement will replace and supersede in its entirety the 2021 Revenue Pledge Agreement.

RECITALS

WHEREAS, the Issuing District and District No. 2 (collectively, the “Districts”) are duly organized and existing as metropolitan districts under the constitution and laws of the State of Colorado (the “State”), including particularly Title 32, Article 1, C.R.S. (the “Special District Act”); and

WHEREAS, the Issuing District was organized pursuant to the Order and Decree Organizing Anthology West Metropolitan District No. 4 approved by the Douglas County District Court on May 19, 2016 and recorded with the County Clerk and Recorder on June 30, 2016 at Reception No. 2016042450; and

WHEREAS, District No. 2 was originally organized pursuant to an Order and Decree Creating District In Re the Organization of the Cherry Creek South Metropolitan District No. 2 of the District Court in and for Douglas County, Colorado entered on June 14, 1985 and recorded with the County Clerk and Recorder on June 20, 1985 in Book 580 at Page 869 and at Reception No. 355885 (as so originally named, and during the period in which such district operated under such name, the “CCSMD No. 2”); and

WHEREAS, pursuant to an Order for Name Change of District of the District Court in and for Douglas County, Colorado entered on August 22, 2016 and recorded with the Douglas County Clerk and Recorder on August 31, 2016 at Reception No. 2016059710, CCSMD No. 2’s name was changed from “Cherry Creek South Metropolitan District No. 2” to “Anthology West Metropolitan District No. 2”; and

WHEREAS, the Districts operate under and within the limitations of the Amended and Restated Service Plan for Cherry Creek South Metropolitan District No. 2 and Cherry Creek South Metropolitan District No. 3 and Consolidated Service Plan for Cherry Creek South Metropolitan District No. 2 and Cherry Creek South Metropolitan District No. 3 and Anthology West Metropolitan District No. 4, Anthology West Metropolitan District No. 5 and Anthology West Metropolitan District No. 6, dated March 21, 2016 and approved by the Town Council of the Town

of Parker pursuant to Resolution No. 16-024, Series 2016, adopted on April 4, 2016 (as amended by the Service Plan Amendment and as more particularly defined in Section 1.01 hereof, the “Service Plan”); and

WHEREAS, the Districts are authorized by the Special District Act to provide for the planning, design, acquisition, construction, installation, relocation and redevelopment of certain public facilities including, but not limited to, streets, traffic and safety, drainage and storm sewer, water, sanitation, and parks and recreation improvements, subject to any limitation of their Service Plan; and

WHEREAS, under their Service Plan, the Districts are intended to work together and coordinate their efforts with respect to the planning, design, acquisition, construction, installation, relocation, redevelopment and financing of the Public Improvements (as defined in the Service Plan), and the primary purpose of the Districts is to provide for such Public Improvements; and

WHEREAS, pursuant to the Colorado Constitution, Article XIV, Section 18(2)(a), and Section 29-1-203, C.R.S., the Districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition and collection of taxes, and the incurring of debt; and

WHEREAS, pursuant to a Settlement Agreement, Covenant Not-To-Sue and Mutual Release dated August 5, 2013 entered into in connection with Civil Action No. 10-cv-02216-WJM-KLM (the “Case”), which agreement was made a binding order of the United States District Court for the District of Colorado (the “U.S. District Court”) on September 20, 2013, District No. 2 (then known as Cherry Creek South Metropolitan District No. 2) issued a General Obligation Limited Tax Bond, Series 2014 to Stroh Ranch Development, LLC on January 3, 2014 in the original aggregate principal amount of \$1,850,000 (the “Prior 2014 Bonds”), and the Case was closed by the U.S. District Court; and

WHEREAS, at the time the Prior 2014 Bonds were issued, the boundaries of District No. 2 consisted of, in broad terms and subject to certain exceptions, the property within the current boundaries of District No. 2 (being the Pledge District) and District No. 4 (being the Issuing District); and

WHEREAS, subsequent to the issuance of the Prior 2014 Bonds (but prior to its name change to Anthology Metropolitan District No. 2), the Board of Directors of District No. 2 (the “District No. 2 Board”) excluded certain property from the boundaries of District No. 2 (the “Excluded Property”) pursuant to an exclusion order entered on June 22, 2016 and recorded with the Douglas County Clerk and Recorded on June 29, 2016 at Reception No. 2016041869; and

WHEREAS, the Excluded Property, in addition to a small directors’ parcel of land, now comprise the boundaries of District No. 4 (being the Issuing District) and, as a result of the provisions of Section 32-1-503(a), C.R.S., the Excluded Property remained subject to the levy of ad valorem property taxes to pay and secure the Prior 2014 Bonds and/or any obligations issued to refund the Prior 2014 Bonds, such as the Prior 2021 Loan (defined below); and

WHEREAS, the Issuing District issued its \$6,440,000 General Obligation Limited Tax Bonds, Series 2018 (the “Prior 2018 Bonds”) pursuant to an Indenture of Trust dated January 19,

2018 between the Issuing District and UMB Bank, n.a., as trustee, and the electoral authorization obtained at an election of the eligible electors of the Issuing District duly called and held on May 3, 2016 (the “Issuing District Election”); and

WHEREAS, for purposes of refunding all of the outstanding Prior 2014 Bonds and the Prior 2018 Bonds, the Issuing District issued its General Obligation (Limited Tax Convertible to Unlimited Tax) Refunding Loan, Series 2021 (the “Prior 2021 Loan”) pursuant to a Loan Agreement dated November 30, 2021; and

WHEREAS, for purposes of financing the costs of certain public improvements and facilities, the Issuing District issued its Subordinate Limited Tax General Obligation Bonds, Series 2022B₍₃₎ (the “Prior 2022 Bonds”) pursuant to an Indenture of Trust (Subordinate) dated March 22, 2022; and

WHEREAS, in connection with the Prior 2021 Loan (and the then anticipated Prior 2022 Bonds), District No. 4 and District No. 2 entered into that certain Revenue Pledge Agreement dated November 30, 2021 (the “2021 Pledge Agreement”), pursuant to which District No. 2 agreed to impose ad valorem property taxes and remit the revenue derived therefrom (and specific ownership taxes allocable thereto) to or at the direction of District No. 4 for payment of the Prior 2021 Loan and the Prior 2022 Bonds; and

WHEREAS, after review and consideration of the facts and circumstances relating to the Prior 2021 Loan and the Prior 2022 Bonds, the Board of Directors of District No. 4 (the “District No. 4 Board”) has determined that it is desirable to enter into a refunding program at this time with respect to the Prior 2021 Loan and the Prior 2022 Bonds (collectively, the “Refunded Bonds”) for the purpose of lowering the debt service mill levies imposed for payment of the Refunded Bonds and thus reducing the tax burden on the residents, owners and taxpayers of District No. 4 and District No. 2; and

WHEREAS, the placement agent, D.A. Davidson & Co., Denver, Colorado (“Placement Agent”), acting on behalf of District No. 4, solicited proposals from various lending institutions with respect to the lending of funds to District No. 4 for the purpose of refunding the Refunded Bonds; and

WHEREAS, the District No. 4 Board determined that the proposal from NBH Bank, Greenwood Village, Colorado, provided refunding loan terms and conditions most favorable to District No. 4, District No. 2, and their respective owners and taxpayers, and the District No. 4 Board has accepted such proposal; and

WHEREAS, for the purposes of refunding the Refunded Bonds, the District No. 4 Board determined that District No. 4 shall issue its General Obligation (Limited Tax Convertible to Unlimited Tax) Refunding Loan, Series 2024, in the original principal amount of \$[9,700,000] (the “Loan”) bearing interest at a per annum rate of _____%; and

WHEREAS, District No. 4 will impose in each year a debt service mill levy for the purposes of producing revenue to pay and secure the Loan (together with specific ownership taxes allocable thereto and as more particularly defined in Section 1.01 hereof, the “District No. 4 Revenue”); and

WHEREAS, at an election of the eligible electors of District No. 2 duly called and held on Tuesday, November 2, 2004 (the “District No. 2 Election”), a majority of those eligible to vote and voting at the District No. 2 Election voted in favor of, *inter alia*, the issuance of indebtedness by District No. 2 and the imposition of taxes for the payment thereof, for the purpose of providing public improvements and for the refunding of such indebtedness, including intergovernmental agreements constituting multiple fiscal year financial obligations of District No. 2, all in the amounts shown below:

Purpose	Principal Amount
Streets	\$ 37,560,000
Parks and Recreation	59,280,000
Sanitation	14,280,000
Water	<u>8,880,000</u>
TOTAL PUBLIC IMPROVEMENTS	\$120,000,000
Operations and Maintenance	10,000,000
Refunding	<u>130,000,000</u>
Intergovernmental Agreements	*
GRAND TOTAL	<u>\$260,000,000</u>

; and

WHEREAS, the returns of the District No. 2 Election were duly canvassed and the result thereof was duly declared; and

WHEREAS, the results of the District No. 2 Election were certified by District No. 2 by certified mail to the Town Council of the Town, being the governing body of the municipality that has adopted a resolution of approval of District No. 2 pursuant to Section 32-1-204.5, C.R.S., and a copy of such certification was filed with the division of securities created by Section 11- 51-701, C.R.S., all within forty-five days after the District No. 2 Election; and

WHEREAS, proceeds of the Loan are to be used to refinance: (i) the Prior 2021 Loan (which refinanced District No. 2’s Prior 2014 Bonds, and such District No. 2 obligations are thus being refinanced again through the issuance of the Loan) and (ii) Public Improvements financed with proceeds of the Prior 2022 Bonds that benefitted both District No. 2 and District No. 4 and their respective residents, occupants, taxpayers and property owners; accordingly, the District No. 4 Board and the District No. 2 Board have determined that it is fair and equitable for District No. 2 to undertake an obligation to levy ad valorem property taxes each year and pay the revenue derived therefrom (together with specific ownership taxes allocable thereto) to District No. 4 for the purposes of providing additional revenue to pay and secure the Loan; and

WHEREAS, District No. 4 and District No. 2 are, concurrently with the issuance of the Loan, entering into this Agreement, pursuant to which District No. 2 will levy ad valorem property

* Ballot Question 5I provides that District No. 2 shall be authorized to enter into one or more intergovernmental agreements with the State or any political subdivision of the State (including the Issuing District) for the purpose of jointly financing the costs of any public improvements, facilities, systems, programs or projects which District No. 2 may lawfully provide, and that such intergovernmental agreements may constitute a debt or indebtedness and multiple-fiscal year obligation of District No. 2.

taxes each year and pay the revenue derived therefrom (together with specific ownership taxes allocable thereto) to District No. 4 for the purpose of providing additional revenue to pay and secure the Loan; and

WHEREAS, upon the execution and delivery of this Agreement by District No. 2 and the Issuing District, the 2021 Revenue Pledge Agreement will concurrently be terminated and cancelled, and forthwith this Agreement will govern the obligations of District No. 2 regarding the imposition of a debt service mill levy and the transferring to the Issuing District of the revenue derived therefrom (together with specific ownership taxes allocable thereto); and

WHEREAS, District No. 2's obligations under this Agreement constitute a multiple fiscal year financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution (TABOR), and therefore, the District No. 2 Board has determined to allocate the obligations of District No. 2 represented by this Agreement to the "Intergovernmental Agreements" category of indebtedness authorized at the District No. 2 Election in an amount equal to the total amount of District No. 2 Capital Revenue actually collected by District No. 2 and paid to District No. 2, and such allocation shall be made annually in District No. 2's audited financial statements; and

WHEREAS, the Service Plan defines "Debt" as bonds or other obligations for the payment of which a District (as defined in the Service Plan, which includes District No. 2) has promised to impose an ad valorem property tax mill levy; and

WHEREAS, although District No. 2 is promising to impose an ad valorem property tax mill levy hereunder, this agreement shall *not* constitute debt under the Service Plan because the obligations of District No. 2 are for the sole purpose of providing additional revenue for the indebtedness of another, and thus such obligation of District No. 2 is not of itself debt within the meaning of the Service Plan; and

NOW THEREFORE, the Districts have determined that the execution of this Agreement for the purposes aforesaid is in the best interests of District No. 2, its residents, occupants, taxpayers and property owners, and the Issuing District, its residents, occupants, taxpayers and property owners.

AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and stipulations herein, the parties hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. As used herein, unless the context expressly indicates otherwise, the words defined below and capitalized in the text of this Agreement shall have the respective meanings set forth below:

“2021 Revenue Pledge Agreement” means the Revenue Pledge Agreement dated November 30, 2021 between the Pledge District and the Issuing District, which agreement shall be cancelled upon execution of this Agreement.

“Agreement” means this 2024 Revenue Pledge Agreement as the same may be amended from time to time in accordance with the provisions hereof and of the Loan Agreement.

“Capital Levy” has the following meanings:

(a) Subject to paragraph (c) of this definition, *prior to the Conversion Date*, an ad valorem mill levy (a mill being equal to 1/10 of 1 cent) imposed upon all taxable property of the Pledge District each year in the amount which, when combined with the District No. 4 Revenue anticipated to be received in the related tax collection year as set forth in District No. 4’s approved budget for such year, will be sufficient to pay the principal of and interest on the Loan as the same become due and payable in such collection year, but, *subject to Section 2.05(b) hereof* not in excess of 35 mills *minus* the number of mills equal to the Operations Levy for the same levy year; *provided, however*, that if, on or after January 1, 2000, there were or are changes in the method of calculating assessed valuation or any constitutionally or statutorily mandated tax credit, cut or abatement, such maximum mill levy shall be increased or decreased to reflect such changes, such increases and decreases to be determined by the Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by such mill levy, as adjusted for changes occurring after January 1, 2000, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation, and any constitutional or legislative changes in the actual value against which the assessment rate is applied, shall be deemed to be a change in the method of calculating assessed valuation. Notwithstanding the foregoing or anything herein to the contrary, the Capital Levy and the District No. 4 Required Mill Levy calculated pursuant to this paragraph (a) and paragraph (a) of the definition of “District No. 4 Required Mill Levy”, respectively, shall be the same number of mills in each tax levy year.

(b) Subject to paragraph (c) below, *on and after the Conversion Date*, the District No. 2 Unlimited Debt Service Mill Levy, determined as provided herein, without limitation of rate or amount. On and after the Conversion Date, the definition of “Capital Levy” shall be determined exclusively by this paragraph (b) regardless of any subsequent increase in the Debt to Assessed Ratio; *provided, however*, that this paragraph (b) shall not apply to the Capital Levy to be imposed in the tax levy year immediately preceding the year in which the Maturity Date occurs, and in such levy year the Pledge District shall impose the Capital Levy in the number of mills identified as such in the Pledge District’s approved budget for the Fiscal Year that is the applicable tax collection year.

(c) Notwithstanding anything herein to the contrary, in no event may the Capital Levy be established at a mill levy which would, when combined with the District No. 2 Operations Levy, constitute a material departure from the requirements of the Service Plan or cause the Pledge District to derive tax revenue in any year in excess of the maximum tax increases permitted by the Pledge District’s electoral authorization, and if the Capital Levy, when combined with the District No. 2 Operations Levy, as calculated

pursuant to the foregoing would cause the amount of taxes collected in any year to exceed the maximum tax increase permitted by the Pledge District's electoral authorization or create a material departure from the Service Plan, the District No. 2 Operations Levy shall be reduced to the point that such maximum tax increase is not exceeded and no material departure from the Service Plan occurs.

"Certified Public Accountant" means a certified public accountant within the meaning of Section 12-100-112, C.R.S., and any amendment thereto, licensed to practice in the State of Colorado.

"Collective Assessed Value" means, with respect to each tax levy year, the sum of District No. 4's Assessed Value and District No. 2's Assessed Value as certified by the County Assessor in that same levy year.

"Conversion Date" means the first date on which the Debt to Assessed Ratio is 50% or less.

"County" means Douglas County, Colorado.

"County Assessor" means the Assessor of Douglas County, Colorado.

"County Treasurer" means the Treasurer of Douglas County, Colorado.

"CPI" means the Consumer Price Index, Denver-Aurora-Lakewood area as published by the U.S. Bureau of Labor Statistics for the month of [September] each year.

"C.R.S." means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

"Debt Service Mill Levy" means, with respect to each tax levy year, the number of mills that would, if levied against the Collective Assessed Value, produce tax revenue in the related tax collection year in an amount which would, when combined with the District No. 4 Specific Ownership Tax Revenues and the District No. 2 Specific Ownership Tax Revenues budgeted to be received in the related tax collection year, be sufficient to pay the Debt Service Requirements with respect to such tax collection year, such mill levy being without limitation of rate and in amounts sufficient to produce such tax revenue each year.

"Debt Service Requirements" means, with respect to each tax collection year (i.e., Fiscal Year), the sum of the following: (a) the principal of and interest on the Loan due and coming due in such year (except for the year in which the Maturity Date of the Loan occurs, which shall not apply to this definition) and (b) any fees of a paying agent or similar service incurred in connection with the payment thereof which are due and payable in the same year.

"Debt to Assessed Ratio" means, as of any particular date of calculation, the ratio derived by dividing (a) the then current Loan Balance of the Loan by (b) the sum of District No. 2's Assessed Value and District No. 4's Assessed Value.

“*District No. 2*” or “*Pledge District*” means Anthology West Metropolitan District No. 2 (formerly known as Cherry Creek South Metropolitan District No. 2), in the Town of Parker, Douglas County, Colorado.

“*District No. 2’s Assessed Value*” means, as of any relevant date, the final assessed valuation of all taxable property of District No. 2 as most recently certified by the appropriate county assessor on or about December 10 of the applicable year (or such other date as may be established by law for the final certification of assessed valuation by the appropriate county assessor).

“*District No. 2 Board*” or “*Pledge District Board*” means the Board of Directors of District No. 2.

“*District No. 2 Capital Revenue*” means the following:

- (a) all District No. 2 Property Tax Revenues; and
- (b) all District No. 2 Specific Ownership Tax Revenues.

“*District No. 2 Election*” means the election held within District No. 2 on November 2, 2004.

“*District No. 2 Operations Levy*” means the following (and, *for avoidance of doubt*, does not include the District No. 2 Secondary O&M Levy, if any, or any mills allocable thereto):

- (a) with respect to any tax levy year *prior to the Independent Administration Date*, the number of mills necessary to generate tax revenue in the amount of District No. 2’s Operations Cost Allocation for the related tax collection year, provided that such mill levy shall not produce a dollar amount exceeding the amount of the applicable Operations Annual Cost Allowance for such year; and
- (b) with respect to any tax levy year *after the Independent Administration Date*, the number of mills necessary to generate tax revenue in the amount of District No. 2’s Operations Expenses for the related tax collection year, provided that such mill levy shall not produce a dollar amount exceeding the amount of the applicable Operations Annual Cost Allowance for such year.

“*District No. 2 Property Tax Revenues*” means all revenue derived from imposition by District No. 2 of the Capital Levy, net of fees of the County Treasurer and any tax refunds or abatements authorized by or on behalf of the County.

“*District No. 2 Residential Maximum Debt Mill Levy*” has the meaning ascribed to the defined term “Residential Maximum Debt Mill Levy” in the Service Plan, as applicable to District No. 2, as adjusted from time to time pursuant to the Mill Levy Adjustment.

“*District No. 2 Secondary O&M Levy*” has the meaning ascribed to such term in Section 5.08 hereof.

“District No. 2 Specific Ownership Tax Revenues” means the specific ownership taxes remitted to District No. 2 pursuant to Section 42-3-107, C.R.S., or any successor statute to the extent allocable to the Capital Levy.

“District No. 2 Unlimited Debt Service Mill Levy” means, with respect to each tax levy year, the number of mills equal to the Debt Service Mill Levy for the same tax levy year, being the Capital Levy to be levied by District No. 2 in that year.

“District No. 4” or the *“Issuing District”* means Anthology West Metropolitan District No. 4, in the Town of Parker, Douglas County, Colorado.

“District No. 4 Board” or *“Issuing District Board”* means the Board of Directors of District No. 4.

“District No. 4’s Assessed Value” means, as of any relevant date, the final assessed valuation of all taxable property of District No. 4 as most recently certified by the appropriate county assessor on or about December 10 of the applicable year (or such other date as may be established by law for the final certification of assessed valuation by the appropriate county assessor).

“District No. 4 Operations Levy” has the meaning ascribed to the defined term “District Operations Levy” in the Loan Agreement.

“District No. 4 Required Mill Levy” shall have the meaning ascribed to the defined term “Required Mill Levy” in the Loan Agreement.

“District No. 4 Revenue” means the components of the Pledged Revenue (as such term is defined in the Loan Agreement for the Loan) identified in paragraphs (b), (c) and (d) of such definition.

“District No. 4 Secondary O&M Levy” has the meaning ascribed to the defined term “District Secondary O&M Levy” in the Loan Agreement.

“District No. 4 Specific Ownership Tax Revenues” has the meaning ascribed to the defined term “District Specific Ownership Tax Revenues” in the Loan Agreement.

“District Operating Services Agreement” means the District Operating Services Agreement dated January 1, 2017 by and among District No. 2, Anthology West Metropolitan District No. 3, District No. 4, Anthology West Metropolitan District No. 5 and the Operating District.

“Districts” means, collectively, District No. 2 (the Pledge District) and District No. 4 (the Issuing District).

“Effective Date” means the date on which District No. 4 closes the Loan (defined as the “Closing Date” in the Loan Agreement).

“*Event of Non-Compliance*” means any one or more of the events described in Section 4.01 hereof.

“*Fiscal Year*” means, with respect to either one or both of the Districts, as applicable, the period commencing on the first day of January of the applicable calendar year and ending on the last day of December of the same calendar year.

“*Independent Administration Date*” means the date on which the District Operating Services Agreement is terminated at which time the Districts shall administer their operations independently and the Operating District shall no longer be involved in such administration.

“*Issuing District*” or “*District No. 4*” means Anthology West Metropolitan District No. 4, in the Town of Parker, Douglas County, Colorado.

“*Issuing District Election*” means the election of the eligible electors of the Issuing District duly called and held on May 3, 2016.

“*Lender*” means NBH Bank, a Colorado state-chartered bank, in its capacity as the lender of the Loan.

“*Loan*” means the General Obligation Limited Tax (Convertible to Unlimited Tax) Refunding Loan, Series 2024, being issued by District No. 4 for the purpose of refunding the Refunded Bonds.

“*Loan Agreement*” means the Loan Agreement dated September [10], 2024 between District No. 4 and the Lender governing the terms and conditions of the Loan.

“*Loan Balance*” has the meaning ascribed to such term in the Loan Agreement.

“*Maturity Date*” means December 1, 2044, being the final maturity date of the Loan.

“*Maximum Debt Mill Levy Imposition Term*” has the meaning ascribed to such term in the Service Plan.

“*Mill Levy Adjustment*” has the general meaning ascribed to such term in the Service Plan Amendment, and means, specifically, with respect to the District No. 2 Residential Maximum Debt Mill Levy, that if, on or after January 1, 2000, there were or are changes in the method of calculating assessed valuation or any constitutionally or statutorily mandated tax credit, cut or abatement, the District No. 2 Residential Maximum Debt Mill Levy shall be increased or decreased to reflect such changes, such increases and decreases to be determined by the District No. 2 Board in good faith (such determination to be binding and final) so that to the extent possible, the actual tax revenues generated by such mill levy, as adjusted for changes occurring after January 1, 2000, are neither diminished nor enhanced as a result of such changes. For purposes of the foregoing, a change in the ratio of actual valuation, and any constitutional or legislative changes in the actual value against which the assessment rate is applied, shall be deemed to be a change in the method of calculating assessed valuation.

“*Operating District*” means Anthology West Metropolitan District No. 6, in the Town of Parker, Douglas County, Colorado.

“*Operations Allowance Allocation*” means, in any applicable year, the allocated share of District No. 4, District No. 2, or both of the Districts combined, of the Operations Annual Cost Allowance, being as follows:

(a) prior to the Independent Administration Date, the Operations Annual Cost Allowance shall be allocated 100% to both of the Districts, on a combined basis; and

(b) after the Independent Administration Date, unless otherwise agreed to by the Districts, the Operations Annual Cost Allowance shall be allocated 50% to District No. 4 and 50% to District No. 2.

“*Operations Annual Cost Allowance*” means the maximum amount of Operations Expenses that may be paid annually, subject to the Operations Allowance Allocation, from tax revenues derived from the District No. 4 Operations Levy and the District No. 2 Operations Levy (which levies do not include the Secondary O&M Levies, if any), such amount being as follows: (i) commencing with tax levy year 2024 (for tax collection in 2025), the amount of \$150,000; and (ii) with respect to each tax levy year thereafter, an additional amount equal to CPI plus 1.0%; *provided, however*, that on and after the Conversion Date, such annual allowance shall not exceed the limitations of the Service Plan, if any, or any other parameters established by the Town.

“*Operations Cost Allocation*” means, for purposes of determining the District No. 4 Operations Levy and the District No. 2 Operations Levy in each tax levy year *prior to the Independent Administration Date*, each of District No. 4’s and District No. 2’s allocated share of the Operations Expenses for the related tax collection year (being the Fiscal Year on which the Districts’ annual budgets were based in computing the Operations Expenses), computed as a percentage of such annual Operations Expenses, where the percentages used to compute such allocated shares are in proportion to the relative amounts of District No. 4’s Assessed Value and District No. 2’s Assessed Value.

By way of example: If the sum of District No. 4’s Assessed Value and District No. 2’s Assessed Value equals \$10,000,000, and District No. 4’s Assessed Value is \$3,000,000 and District No. 2’s Assessed Value is \$7,000,000, then District No. 4’s Operations Cost Allocation for the related tax collection year shall be 30% of the total Operations Expenses budgeted for the related collection year (i.e., Fiscal Year) and District No. 2’s Operations Cost Allocation for the related tax collection year shall be 70% of the total Operations Expenses budgeted for the related collection year (i.e., Fiscal Year).

“*Operations Expenses*” means:

(a) *prior to the Independent Administration Date*, with respect to each Fiscal Year corresponding to the related tax collection year, the amount reasonably determined by the Operating District as being necessary to pay the Districts’ combined annual administrative and operations expenses for such year as established in the Districts’ approved budgets for such Fiscal Year; and

(b) *on and after the Independent Administration Date*, with respect to each Fiscal Year corresponding to the related tax collection year:

(i) with respect to District No. 4, the amount reasonably determined by District No. 4 as being necessary to pay District No. 4's annual administrative, operations and maintenance expenses for such Fiscal Year as set forth in District No. 4's approved budget for such Fiscal Year; and

(ii) with respect to District No. 2, the amount reasonably determined by District No. 2 as being necessary to pay District No. 2's annual administrative, operations and maintenance expenses for such Fiscal Year as set forth in District No. 2's approved budget for such Fiscal Year.

"Operations Mill Levy" means an ad valorem property tax levied for payment of administration, operations and maintenance expenses.

"Payment Obligation" has the meaning assigned to such term in Section 2.04(c) hereof.

"Pledge District" or *"District No. 2"* means Anthology West Metropolitan District No. 2 (formerly known as Cherry Creek South Metropolitan District No. 2), in the Town of Parker, Douglas County, Colorado.

"Prior 2021 Loan" means the General Obligation (Limited Tax Convertible to Unlimited Tax) Refunding Loan, Series 2021, issued by the Issuing District in the original principal amount of \$8,900,000 for the purpose of refunding all of the outstanding Prior 2014 Bonds and the Prior 2018 Bonds (each, as defined in the recitals hereof).

"Prior 2022 Bonds" means the Subordinate Limited Tax General Obligation Bonds, Series 2022B₍₃₎, issued by the Issuing District in the aggregate principal amount of \$1,100,000 for the purpose of financing Public Improvements.

"Public Improvements" has the meaning ascribed to such term in the Service Plan.

"Refunded Bonds" means the Prior 2021 Loan and the Prior 2022 Bonds.

"Secondary O&M Levies" means the District No. 4 Secondary O&M Levy and the District No. 2 Secondary O&M Levy.

"Service Plan" means the Amended and Restated Service Plan for Cherry Creek South Metropolitan District No. 2 and Cherry Creek South Metropolitan District No. 3 and Consolidated Service Plan for Cherry Creek South Metropolitan District No. 2 and Cherry Creek South Metropolitan District No. 3 and Anthology West Metropolitan District No. 4, Anthology West Metropolitan District No. 5 and Anthology West Metropolitan District No. 6, dated March 21, 2016 and approved by the Town Council of the Town of Parker pursuant to Resolution No.16-024, Series 2016, adopted on April 4, 2016, as amended by the Service Plan Amendment, and as the same may be further amended or modified from time to time in accordance with the provisions thereof and of applicable law.

“*Service Plan Amendment*” means the amendment to the Service Plan made pursuant to the Joint Resolution of the Boards of Directors of Anthology West Metropolitan District Nos. 2-6 Appending Town Council of the Town of Parker Resolution No. 22-065, Series of 2022, Titled: “*A Resolution Approving Adjustment of Mill Levies Resulting From Legislative or Constitutionally Mandated Reduction*” to the Amended and Restated Service Plan for Cherry Creek South Metropolitan District Nos. 2 and 3 and Consolidated Service Plan for Cherry Creek South Metropolitan District Nos. 2 and 3 and Anthology West Metropolitan District Nos. 4-6.

“*State*” shall mean the State of Colorado.

“*Supplemental Act*” shall mean the Supplemental Public Securities Act, Sections 11 57 201, et seq., C.R.S., as the same may be amended from time to time.

“*Termination Date*” means the first date on which the Loan Balance and all interest thereon is fully paid under the Loan Agreement.

Section 1.02. Interpretation. In this Agreement, unless the context expressly indicates otherwise, the words defined below shall have the meanings set forth below:

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms, refer to this Agreement as a whole and, except for use of the term “hereof” where the context so indicates, such terms shall not refer to any particular article, section, or subdivision hereof; the term “heretofore” means before the date of execution of the Agreement; and the term “hereafter” means after the date of execution of this Agreement.

All definitions, terms, and words shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in Section 1.01 hereof.

Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa.

The captions or headings of this Agreement are for convenience only, and in no way define, limit, or describe the scope or intent of any provision, article, or section of this Agreement.

All schedules, exhibits, and addenda referred to herein are incorporated herein by this reference.

ARTICLE II

PAYMENT AND CAPITAL LEVY OBLIGATIONS

Section 2.01. Electoral Authorization.

(a) ***District No. 2 Election.*** The voted authorization for District No. 2 to incur debt and the total maximum repayment cost relating thereto was approved at the District No. 2 Election as required by Article X, Section 20 of the Colorado Constitution.

(b) ***Allocation of Voted Authorization.*** The District No. 2 Board has determined to allocate the indebtedness of District No. 2 represented by this Agreement to the “Intergovernmental Agreements” category of indebtedness authorized at the District No. 2 Election in an amount equal to the total amount of District No. 2 Capital Revenue actually collected by District No. 2 and paid to the Issuing District, and such allocation shall be made annually in the District No. 2’s audited financial statements. The Pledge District hereby covenants and agrees that it shall make (or cause to be made) the necessary allocations annually in the Pledge District’s audited financial statements. Accordingly, the performance by the Pledge District of its obligations under this Agreement in accordance with the terms hereof requires no further electoral approval.

(c) ***Limits of Electoral Authorization.*** In no event shall the total or annual obligations of the Pledge District hereunder exceed the maximum amounts permitted under the District No. 2 Election. Upon payment by the Pledge District hereunder of the maximum amounts authorized by the District No. 2 Election, the obligations of the Pledge District under this Agreement will be deemed defeased and no longer outstanding.

Section 2.02. Multiple Fiscal Year Financial Obligation. This Agreement shall constitute a multiple fiscal year financial obligation of District No. 2 within the meaning of Article X, Section 20 of the Colorado Constitution.

Section 2.03. Pledge. District No. 2 hereby pledges and assigns to District No. 4 all District No. 2 Capital Revenue for the purpose of paying and securing the Loan, and District No. 2 hereby elects to apply the provisions of the Supplemental Act to such pledge of the District No. 2 Capital Revenue. District No. 4 shall pledge its interest in and to the District No. 2 Capital Revenue to the Lender to secure and pay the Loan.

Section 2.04. Payment Obligation. District No. 2 hereby covenants and agrees to remit all District No. 2 Capital Revenue to District No. 4 (or as directed in writing by District No. 4) in accordance with this Section 2.04 (the “Payment Obligation”).

(a) ***Remittance of District No. 2 Capital Revenue.*** All District No. 2 Capital Revenue shall be remitted to or at the direction of District No. 4 promptly upon the receipt by District No. 2 thereof. District No. 4 shall from time to time provide written instructions to the Pledge District with directions as to the remittance of the District No. 2 Capital Revenue. District No. 4 shall apply all District No. 2 Capital Revenue received by it under this Agreement solely to the payment of the Loan in accordance with the Loan Agreement and to no other purpose.

(b) ***Exclusive Obligations.*** The Pledge District acknowledges and agrees that its obligations under this Agreement with respect to the District No. 2 Capital Revenue run exclusively to District No. 4 for the benefit of the Lender of the Loan, and there is no lien on the District No. 2 Capital Revenue other than the lien thereon of District No. 4 pursuant to this Agreement for the benefit of the Lender of the Loan.

(c) ***Prepayment Prohibited.*** Because the actual dollar amount of the Pledge District's obligations hereunder cannot be ascertained with any certainty at any time, the Pledge District shall not be permitted to prepay its obligations hereunder.

Section 2.05. Covenant To Impose Capital Levy.

(a) For the purpose of providing funds for payment of the Loan and performing its Payment Obligation hereunder, the Pledge District covenants to cause to be levied on all of the taxable property of the Pledge District, in addition to all other taxes, direct annual taxes in each of the years 2024 through 2043, inclusive (for tax collection in years 2025 through 2044, inclusive), and in each year thereafter in which the Loan remains outstanding, in the amount of the Capital Levy; provided that nothing herein shall be construed as requiring the Pledge District to levy an ad valorem property taxes for the purpose of paying the Loan and performing its Payment Obligation hereunder which: (i) is in contravention of the Maximum Debt Mill Levy Imposition Term to the extent limited by the Service Plan or (ii) is in excess of the Capital Mill Levy.

(b) Notwithstanding anything to the contrary herein, it is agreed that the payment when due of the Loan shall have priority over the payment of Operations Expenses of the Pledge District. Specifically, if the imposition of the District No. 2 Operation Levy in any levy year as calculated herein would reduce the Capital Levy such that the tax revenues generated therefrom would be insufficient to fully pay the principal of and interest on the Loan when due in the related tax collection year, the Capital Levy shall be levied in the number of mills necessary to produce sufficient tax revenue to pay when due such principal of and interest on the Loan, and the District No. 2 Operation Levy will be reduced accordingly so that the sum of the Capital Levy and the District No. 2 Operation Levy shall not exceed the limitations of the Service Plan or District No. 2's electoral authorization.

(c) The foregoing provisions of this Agreement are hereby declared to be the certificate of the District No. 2 Board to the board or boards of county commissioners of each county in which taxable real or personal property of the Pledge District is located, showing the aggregate amount of taxes to be levied from time to time, as required by law, for the purposes aforesaid.

(d) It shall be the duty of the District No. 2 Board, annually, at the time and in the manner provided by law for levying other Pledge District taxes, to ratify and carry out the provisions hereof with reference to the levying and collection of taxes; and the District No. 2 Board shall levy, certify, and collect said taxes in the manner provided by law for the purposes aforesaid.

(e) Said taxes shall be levied, assessed, collected, and enforced at the time and in the form and manner and with like interest and penalties as other general taxes in the State of Colorado, and when collected said taxes shall be paid to the Pledge District as provided by law, for subsequent payment to or at the direction of District No. 4 as provided herein. The District No. 2 Board shall take all necessary and proper steps to enforce promptly the payment of taxes levied pursuant to this Agreement.

Section 2.06. No Impairment; Reliance of Third Parties.

(a) ***Appropriation.*** The sums herein required to pay the District No. 2 Capital Revenue to or at the direction of District No. 4 hereunder are hereby appropriated for that purpose, and said amounts for each applicable year shall be included in the annual budget and the appropriation resolution or measures to be adopted or passed by the District No. 2 Board in each applicable year or years while the Loan are outstanding. No provisions of any constitution, statute, resolution or other order or measure enacted after the execution of this Agreement shall in any manner be construed as limiting or impairing the obligation of the Pledge District to (i) impose the Capital Levy; (ii) collect and enforce the ad valorem District No. 2 Property Tax Revenues derived therefrom and the District No. 2 Specific Ownership Tax Revenues allocable thereto; or (iii) pay or cause the payment of the District No. 2 Capital Revenue to or at the direction of District No. 4 as provided herein.

(b) ***Timely Remittance; Third Parties.*** The Pledge District acknowledges that third parties may provide financial commitments and additional security for the Loan and, as a result, shall be entitled to rely on the Payment Obligation of the Pledge District. Accordingly, it is acknowledged by the Districts that the purpose of this Section 2.06(b) is to ensure that the Pledge District will remit the District No. 2 Capital Revenue due hereunder in a timely manner in order to pay the Loan when due under the Loan Agreement.

(c) ***Survival of Payment Obligation.*** In addition, and without limiting the generality of the foregoing, the Payment Obligation of the Pledge District shall survive any court determination of the invalidity of this Agreement as a result of a failure, or alleged failure, of any of the directors of the Districts to properly disclose, pursuant to Colorado law, any potential conflicts of interest related hereto in any way, provided that such disclosure is made on the record of Districts' meetings as set forth in their official minutes.

Section 2.07. Limited Defenses; Specific Performance. It is understood and agreed by the Pledge District that its obligations hereunder are absolute, irrevocable, and unconditional and so long as this Agreement has not been terminated, the Pledge District agrees that, notwithstanding any fact, circumstance, dispute, or any other matter, it will not assert any rights of setoff, counterclaim, estoppel, or other defenses to its obligations hereunder, or take or fail to take any action which would delay performance of such obligations. Notwithstanding that this Agreement specifically prohibits and limits defenses and claims of the Pledge District, in the event that the Pledge District reasonably believes that it has valid defenses, setoffs, counterclaims, or other claims other than specifically permitted by this Section 2.07, it shall, nevertheless, (i) impose the Capital Levy; (ii) collect and enforce the District No. 2 Property Tax Revenues derived therefrom and the District No. 2 Specific Ownership Tax Revenues allocable thereto; and (iii) pay or cause the payment of the District No. 2 Capital Revenue to or at the direction of District No. 4 as provided herein, and then may attempt or seek to recover such payments by actions at law or in equity for damages or specific performance, respectively.

Section 2.08. Future Exclusion of Property. The Pledge District shall not exclude nor consent to the exclusion of any taxable property from within its boundaries unless 100% of the

property owners of such proposed excluded property agree in writing to the imposition of the Capital Levy upon their respective property pursuant to this Agreement.

Section 2.09. Reporting Requirements. For so long as the Loan is outstanding, the Pledge District hereby agrees as follows:

(a) as soon as available, but not later than the earlier of two weeks following completion of the Pledge District's audited financial statements or September 30 of the calendar year immediately succeeding the calendar year which is the subject of such audit, the Pledge District shall furnish to the Lender its unqualified audited financial statements prepared in accordance with generally accepted accounting principles consistently applied, in reasonable detail and audited by a firm of independent Certified Public Accountants;

(b) not later than February 28 of each Fiscal Year, the Pledge District shall furnish to the Lender the Pledge District's annual budget for such Fiscal Year;

(c) not later than February 28 of each year, the Pledge District shall furnish to the Lender the final certified assessed valuation of the Pledge District, as calculated, recorded and certified by the County Assessor on or before December 10 of the prior calendar year;

(d) not later than February 28 of each year, the Pledge District shall furnish to the Lender the certification of the Pledge District to the County with respect to the number of mills certified for debt service by the Pledge District on or before December 15 of the prior calendar year; and

(e) promptly upon request of the Lender, the Pledge District shall furnish to the Lender such other reports or information regarding the District No. 2 Capital Revenue or the assets, financial condition, business or operations of the Pledge District as the Lender may reasonably request upon reasonable prior notice.

Section 2.10. Additional Covenants.

(a) The Pledge District will not issue or incur bonds, notes, or other obligations payable in whole or in part from, or constituting a lien upon, and will not otherwise assign or pledge the District No. 2 Capital Revenue or any portion thereof except as provided in this Agreement.

(b) The Pledge District shall not enter into agreement, or amend or supplement or consent to the amendment or supplement of any agreement to which it is a party or by which it or its property is bound which, in the reasonable judgment of the Pledge District, would impair or reduce its Payment Obligation or any other of the Pledge District's obligations hereunder.

(c) The Pledge District shall keep and maintain, or cause to be kept and maintained, accurate records and accounting entries reflecting all moneys received or delivered pursuant to this Agreement and the use(s) of such moneys.

(d) The Pledge District will maintain its existence and shall not merge or otherwise alter its corporate structure in any manner or to any extent as might impair its obligations hereunder, and the Pledge District will continue to operate and manage the Pledge District in an efficient and economical manner in accordance with all applicable laws, rules, and regulations.

(e) At least once a year the Pledge District will cause an audit to be performed of the records relating to its revenues and expenditures, and the Pledge District shall use its best commercially reasonable efforts to have such audit report completed no later than September 30 of each calendar year. The foregoing covenant shall apply notwithstanding any State law audit exemptions that may exist. In addition, at least once a year in the time and manner provided by law, the Pledge District will cause a budget to be prepared and adopted. Copies of the budget and the audit will be filed and recorded in the places, time, and manner provided by law.

(f) The Pledge District shall carry general liability coverage, public liability, and such other forms of insurance on insurable Pledge District property in such amounts and upon the terms and conditions, and issued by recognized insurance companies, that, in the judgment of the Pledge District, will protect the Pledge District and its operations.

(g) Each official of the Pledge District or other person having custody of any funds of the Pledge District or responsible for the handling of such funds, shall be bonded or insured against theft or defalcation at all times.

(h) The Pledge District covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such further acts, instruments, and transfers as District No. 4 and the Lender of the Loan may reasonably require for the better assuring, transferring, and pledging unto District No. 4 the District No. 2 Capital Revenue.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

Section 3.01. Representations and Warranties of the Districts. Each of the Districts hereby makes the following representations and warranties to the best of its knowledge:

(a) ***Pledge District.***

(i) The Pledge District is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State of Colorado.

(ii) The Pledge District has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. The Pledge District's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(iii) The Pledge District is not in violation of any of applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of the Pledge District to perform its obligations hereunder. The execution, delivery and performance by the Pledge District of its obligations under this Agreement (A) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator, or governmental authority; (B) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of the Pledge District in a manner that could reasonably be expected to result in a material adverse effect; and (C) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of the Pledge District pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which the Pledge District is a party or which purports to be binding upon Pledge District, or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(iv) The Pledge District has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by the Pledge District of this Agreement.

(v) There is no action, suit, inquiry, investigation, or proceeding to which the Pledge District is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of the Pledge District, threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of the Pledge District is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of the Pledge District to perform its obligations under, this Agreement.

(vi) This Agreement constitutes a valid and binding obligation of the Pledge District, legally enforceable against the Pledge District in accordance with its terms (except as such enforceability may be limited by bankruptcy, moratorium, or other similar laws affecting creditors' rights generally and provided that the application of equitable remedies is subject to the application of equitable principles).

(vii) The lien of this Agreement on the District No. 2 Capital Revenue is a superior and exclusive pledge and has priority over any and all other obligations and liabilities of the Pledge District which purport to pledge or assign the District No. 2 Capital Revenue or any portion thereof.

(b) ***District No. 4.***

(i) District No. 4 is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State of Colorado.

(ii) District No. 4 has all requisite corporate power and authority to execute, deliver, and to perform its obligations under this Agreement. District No. 4's execution, delivery, and performance of this Agreement has been duly authorized by all necessary action.

(iii) District No. 4 is not in violation of any of applicable provisions of law or any order of any court having jurisdiction in the matter, which violation could reasonably be expected to materially adversely affect the ability of District No. 4 to perform its obligations hereunder. The execution, delivery and performance by District No. 4 of this Agreement (A) will not violate any provision of any applicable law or regulation or of any order, writ, judgment or decree of any court, arbitrator, or governmental authority; (B) will not violate any provision of any document or agreement constituting, regulating, or otherwise affecting the operations or activities of District No. 4 in a manner that could reasonably be expected to result in a material adverse effect; and (C) will not violate any provision of, constitute a default under, or result in the creation or imposition of any lien, mortgage, pledge, charge, security interest, or encumbrance of any kind on any of the revenues or other assets of District No. 4 pursuant to the provisions of any mortgage, indenture, contract, agreement, or other undertaking to which District No. 4 is a party or which purports to be binding upon District No. 4 or upon any of its revenues or other assets which could reasonably be expected to result in a material adverse effect.

(iv) District No. 4 has obtained all consents and approvals of, and has made all registrations and declarations with any governmental authority or regulatory body required for the execution, delivery, and performance by District No. 4 of this Agreement.

(v) There is no action, suit, inquiry, investigation, or proceeding to which District No. 4 is a party, at law or in equity, before or by any court, arbitrator, governmental or other board, body, or official which is pending or, to the best knowledge of District No. 4 threatened, in connection with any of the transactions contemplated by this Agreement nor, to the best knowledge of District No. 4 is there any basis therefor, wherein an unfavorable decision, ruling, or finding could reasonably be expected to have a material adverse effect on the validity or enforceability of, or the authority or ability of District No. 4 to perform its obligations under, this Agreement.

ARTICLE IV

NON-COMPLIANCE AND REMEDIES

Section 4.01. Events of Non-Compliance. The occurrence or existence of any one or more of the following events shall be an “Event of Non-Compliance” hereunder, and there shall be no default or Event of Non-Compliance hereunder except as provided in this Section:

- (a) the Pledge District fails or refuses to impose the Capital Levy;
- (b) the Pledge District fails or refuses to collect and enforce the ad valorem property tax revenue derived from imposition of the Capital Levy or the District No. 2 Specific Ownership Tax Revenues allocable thereto;
- (c) the Pledge District fails to remit the District No. 2 Capital Revenue or any portion thereof as required by the terms of this Agreement;
- (d) the Pledge District’s pledge of the District No. 2 Capital Revenue for the purposes stated herein fails to be enforceable with the priority required hereunder;
- (e) the Pledge District materially fails in the performance of any other of its covenants in this Agreement, and such material failure continues for 60 days after receipt of written notice from District No. 4 specifying such default and requiring the same to be remedied;
- (f) the Pledge District commences proceedings for dissolution or consolidation with another metropolitan district during the term of this Agreement; or
- (g) (i) any party to this Agreement shall commence any case, proceeding, or other action (A) under any existing or future law of any jurisdiction relating to bankruptcy, insolvency, reorganization, or relief of debtors, seeking to have an order for relief entered with respect to it or seeking to adjudicate it insolvent or a bankrupt or seeking reorganization, arrangement, adjustment, winding up, liquidation, dissolution, composition, or other relief with respect to it or its debts, or (B) seeking appointment of a receiver, trustee, custodian, or other similar official for itself or for any substantial part of its property, or any party shall make a general assignment for the benefit of its creditors; or (ii) there shall be commenced against any party any case, proceeding, or other action of a nature referred to in clause (i) and the same shall remain not dismissed within 90 days following the date of filing; or (iii) there shall be commenced against any party any case, proceeding, or other action seeking issuance of a warrant of attachment, execution, distraint, or similar process against all or any substantial part of its property which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed, or bonded pending appeal within 90 days from the entry thereof; or (iv) any party shall take action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in clause (i), (ii) or (iii) above; or (v) any party shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due.

Section 4.02. Remedies for Events of Non-Compliance. Subject to Section 2.07 hereof, upon the occurrence and continuance of an Event of Non-Compliance, any party may proceed to protect and enforce its rights against the party or parties causing the Event of Non-Compliance by mandamus or such other suit, action, or special proceedings in equity or at law, in any court of competent jurisdiction, including an action for specific performance. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

ARTICLE V

MISCELLANEOUS

Section 5.01. Pledge of Revenue; Supplemental Act. The creation, perfection, enforcement, and priority of the Pledge District's pledge hereunder of the District No. 2 Capital Revenue to District No. 4 to pay and secure the Loan shall be governed by Section 11-57-208 of the Supplemental Act and this Agreement. The District No. 2 Capital Revenue shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against Pledge District irrespective of whether such persons have notice of such lien.

Section 5.02. No Recourse Against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the District No. 2 Board or any officer or agent of the Pledge District acts in good faith, no civil recourse shall be had against such member, officer, or agent for payment or performance of the Pledge District's Payment Obligation hereunder. Such recourse shall not be available either directly or indirectly against the Pledge District, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of this Agreement and as a part of the consideration hereof, District No. 4 and, by execution of the Loan Agreement, the Lender of the Loan, specifically waives any such recourse.

Section 5.03. Conclusive Recital. Pursuant to Section 11-57-210 of the Supplemental Act, this Agreement is executed and delivered pursuant to certain provisions of the Supplemental Act, and this recital is conclusive evidence of the validity and the regularity of this Agreement after its delivery for value.

Section 5.04. Limitation of Actions. Pursuant to Section 11-57-212, C.R.S., no legal or equitable action brought with respect to any legislative acts or proceedings in connection with the authorization, execution, or delivery of this Agreement shall be commenced more than thirty days after the authorization of this Agreement.

Section 5.05. Notices. Except as otherwise provided herein, all notices or payments required to be given under this Agreement shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, or air freight, to the following addresses:

Pledge District: Anthology West Metropolitan District No. 2
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Trisha Harris, Esq.

District No. 4: Anthology West Metropolitan District No. 4
c/o White Bear Ankele Tanaka & Waldron
2154 E. Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Trisha Harris, Esq.

Each with a copy to: White Bear Ankele Tanaka & Waldron Professional Corporation
12154 E. Commons Avenue, Suite 2000
Centennial, CO 80122
Attention: Trisha Harris, Esq.

All notices or documents delivered or required to be delivered under the provisions of this Agreement shall be deemed received one day after hand delivery or three days after mailing. Any written notice so provided may change the address to which future notices shall be sent.

Section 5.06. District No. 2 Secondary O&M Levy. Notwithstanding anything to the contrary in this Agreement, if in any tax levy year prior to the Conversion Date the sum of the District No. 2 Operations Levy and the Capital Levy (the “District No. 2 Mill Levies”) proposed to be imposed in that levy year is fewer mills than the District No. 2 Residential Maximum Debt Mill Levy (as computed for the same levy year), and District No. 2’s Operations Expenses for the related tax collection year (being District No. 2’s Fiscal Year) exceed the applicable Operations Annual Cost Allowance for such collection year, then District No. 2 shall have the right to impose an additional Operations Mill Levy in that levy year (in addition to the number of mills equal to the District No. 2 Operations Levy in such levy year) of up to the number of mills equal to the difference between such District No. 2 Residential Maximum Debt Mill Levy and such District No. 2 Mill Levies (the “District No. 2 Secondary O&M Levy”).

Section 5.07. Miscellaneous.

(a) This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings or agreements of the parties. This Agreement may not be contradicted by evidence of any prior or contemporaneous statements or agreements. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation, understanding, agreement, commitment, or warranty outside those expressly set forth in this Agreement.

(b) If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, and such provision shall not affect the legality, enforceability, or validity of the remainder of this Agreement.

If any provision or part thereof of this Agreement is stricken in accordance with the provisions hereof, then such stricken provision shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible.

(c) This Agreement may not be assigned or transferred by any party without the prior written consent of each of the other parties.

(d) This Agreement shall be governed by and construed under the applicable laws of the State.

(e) This Agreement may be amended or supplemented by the parties, but any such amendment or supplement must be in writing and must be executed by all parties.

(f) Each party has participated fully in the review and creation of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(g) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(h) Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

(i) The Districts shall have the right to access and review each other's records and accounts, on reasonable times during District's regular office hours, for purposes of determining compliance by the Districts with the terms of this Agreement. Such access shall be subject to the provisions of Public Records Act of the State of Colorado contained in Article 72 of Title 24, C.R.S. In the event of disputes or litigation between the parties hereto, all access and requests for such records shall be made in compliance with the Public Records Act.

(j) The Pledge District covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of its obligations hereunder.

Section 5.08. Third-Party Beneficiaries. The Pledge District acknowledges that third parties may provide financial commitments and security for the Loan and, as a result, such third parties, if any, shall be entitled to rely on the Payment Obligation of the Pledge District hereunder. Accordingly, it is acknowledged by the Districts that the Lender of the Loan shall be a third-party beneficiary hereunder, but solely with respect to the Pledge District's Payment Obligation and the obligations of the Pledge District hereunder to (i) impose the Capital Levy; (ii) collect and enforce

the District No. 2 Property Tax Revenues derived therefrom and the District No. 2 Specific Ownership Tax Revenues allocable thereto; (iii) pay or cause the payment of the District No. 2 Capital Revenue to or at the direction of District No. 4 as provided herein; and (iv) perform any covenants or other obligations, including reporting requirements, hereunder for the benefit of such third-party beneficiary. Nothing in this Section 5.07 or elsewhere in this Agreement shall be construed as giving any third-party beneficiary any rights other than as specified in the preceding sentence. In no event shall any third-party beneficiary of this Agreement have any right of prior consent to any amendments hereto. It is intended that there be no third-party beneficiaries of this Agreement other than the third-party beneficiaries specifically named in this Section 5.07 and nothing contained herein, expressed or implied, is intended to give to any person any claim, remedy, or right under or pursuant hereto (other than such named third-party beneficiaries and then only as specified in this Section 5.07, and any agreement, condition, covenant, or term contained herein required to be observed or performed by or on behalf of any party hereto shall be for the sole and exclusive benefit of the other party.

Section 5.09. Effective Date and Termination Date. This Agreement shall become effective on the Effective Date and shall remain in effect until the Termination Date.

[End of 2024 Revenue Pledge Agreement; Signatures Appear on Following Page]

IN WITNESS WHEREOF, authorized officers of District No. 2 and District No. 4 have executed this 2024 Revenue Pledge Agreement as of the day and year first above written.

ANTHOLOGY WEST METROPOLITAN
DISTRICT NO. 2

By _____
President

[SEAL]

ATTEST:

Secretary or Assistant Secretary

ANTHOLOGY WEST METROPOLITAN
DISTRICT NO. 4

By _____
President

[SEAL]

ATTEST:

Secretary or Assistant Secretary

[Signature Page to 2024 Revenue Pledge Agreement]



Trisha K. Harris
Of Counsel

303-858-1800
tharris@wbapc.com

August 5, 2024

VIA E-MAIL

Ms. Jamie Wynn
Town of Parker
jwynn@parkeronline.org

Ms. Kim Crawford
Butler Snow
Kim.Crawford@butlersnow.com

Re: Anthology West Metropolitan District Nos. 2 and 4

Dear Ms. Wynn and Ms. Crawford:

Pursuant to the provisions of the Service Plan for Anthology West Metropolitan District Nos. 2-6 (collectively, the “Districts”), approved by the Town Council on April 4, 2016, all intergovernmental agreements are required to be submitted to and approved by the Town. On behalf of Anthology West Metropolitan District Nos. 2 and 4 (“District No. 2” and “District No. 4” respectively), we are submitting a Pledge Agreement for consideration by the Town in compliance with the requirements of the Service Plan.

Anthology West Metropolitan District No. 4 currently has the following debt outstanding:

- Limited Tax (Convertible to Unlimited Tax) General Obligation Refunding Loan, Series 2021, in the principal amount of \$8,900,000
- Subordinate Limited Tax General Obligation Bonds, Series 2022, in the principal amount of \$1,100,000

(collectively, the “Existing Debt”).

District No. 4 pledges property taxes toward the payment of the Existing Debt. Additionally, District No. 2, via a Revenue Pledge Agreement with District No. 4, also pledges property taxes to support the payment of the Existing Debt.

At this time, District No. 4 is anticipating refunding the Existing Debt through the issuance of a General Obligation (Limited Tax Convertible to Unlimited Tax) Refunding Loan, Series 2024, in an approximate principal amount of \$9,700,000 (the “2024 Loan”). As with the Existing Debt,

August 5, 2024

Page 2

District No. 2 and District No. 4 will enter into a 2024 Revenue Pledge Agreement (the "Pledge Agreement"), pursuant to which District No. 2 will pledge to impose a debt service mill levy each year and pay the revenue derived therefrom to District No. 4 toward the repayment of the 2024 Loan. All mill levies pledged by District No. 4, directly, and by District No. 2 pursuant to the Pledge Agreement, will be consistent with the limitations of the Service Plan, as approved by the Town of Parker.

To that end, enclosed for review and approval by the Town Council of Parker, Colorado is the Pledge Agreement. As legal counsel for the Districts, we request that the enclosed document be considered and approved by the Town Council at its meeting to be held on September 3, 2024, and would request confirmation of the same. If additional information is required from our office, please do not hesitate to contact our office.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON

A handwritten signature in blue ink, appearing to read 'THH', is written over the printed name.

Trisha K. Harris
Of Counsel



Request for Town Council Action

Date: September 3, 2024
Submitted By: Nathan Klass, Engineering Service Manager
Reviewed By: Michelle Kivela, Town Manager
Title: **Procurement of Traffic Signal Poles for the Hess Road/Tammy Lane and Dransfeldt Road/Parkglenn Way Signals**
Amount: \$167,704
Manufacturer: Millerbernd MFG
Department: Engineering and Public Work, Nathan Klass

EXECUTIVE SUMMARY

This item is to award a purchase order with Millerbernd MFG for procurement of the Hess Road/Tammy Lane and Dransfeldt Road/Parkglenn Way mast arm signal poles and pedestrian poles.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town of Parker is planning to construct traffic signals at the Hess Road and Tammy Lane intersection and Dransfeldt Road and Parkglenn Way intersection in 2025. Due to current supply chain issues and increasing steel pricing, Town staff decided to move forward with owner (Town) furnished signal poles for the capital improvement project to lock in the pricing and the delivery schedule. The manufacturing lead time for mast-arm signal poles has increased substantially and is now approaching six (6) months from approval of shop drawings, which is almost double what it was a few years ago. Normally, the Town has the contractor procure the mast arm signal poles for traffic signal projects, but given the current challenges and variability, Town staff decided to procure these signal poles.

In July, Town staff requested quotes from the four (4) signal pole manufacturers/vendors that have previously provided signal poles in Parker. One of the vendors did not respond to the quote request. The lowest responsible quote that was supplied was from Millerbernd MFG. The spread between quotes is as follows:

J&S Contractors Supply	\$173,920
Millerbernd MFG	\$167,704
Valmont Industries	\$213,674

Millerbernd MFG has supplied signal poles for numerous previous Town capital improvement projects. Given the current supply chain issues and recent steel pricing increases, and based on discussions with traffic signal contractors, this pricing is reasonable. Town staff recommends Town Council approve the award of a purchase order to Millerbernd MFG for these signal poles.

FINANCIAL IMPACT

Funding for the signal poles has been appropriated in the Traffic Control Capital Improvement Projects (301-4293) account.

STRATEGIC GOAL(S)

PROMOTE A SAFE AND
HEALTHY COMMUNITY



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

None

RECOMMENDED MOTION

I move to approve the staff recommendation, as a part of the consent agenda.



Request for Town Council Action

Date: September 3, 2024

Submitted By: Weldy Feazell, PAR & Economic Development Director

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 1.289.8 – Second Reading**
A Bill for an Ordinance to Approve the First Amendment to the Second Amended and Restated Cooperation Agreement Between the Town of Parker, Colorado, and the Parker Authority for Reinvestment
Department: PAR and Economic Development, Weldy Feazell

EXECUTIVE SUMMARY

The Second Amended and Restated Cooperation Agreement between the Town and Parker Authority for Reinvestment (PAR) is a comprehensive document that outlines the administrative items allowing PAR to implement the Town's Urban Renewal Plans.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

PAR and the Town initially entered into a Cooperation Agreement for Administrative Services on August 21, 2006, which was subsequently amended on three occasions: June 4, 2012 (the "First Amendment"); March 17, 2014 (the "Second Amendment"); and May 15, 2017 (the "Third Amendment"). Following this, on December 4, 2017, the Town and PAR entered into the Amended and Restated Cooperation Agreement, which has also been amended twice, on April 15, 2018 (the "First Amendment") and September 8, 2020 (the "Second Amendment"). Most recently, the Second Amended and Restated Cooperation Agreement was entered into on June 5, 2023.

The proposed First Amendment to the Second Amended and Restated Cooperation Agreement brings several beneficial changes, including:

- Use of Town Employees/Administrative Services: PAR reimburses the Town for the cost of salaries and benefits for staff. The amendment aims to update the current staff titles without altering the percentage reimbursed to the Town.
 - PAR Executive Director - 25% of the Town Manager's salary and benefits
 - PAR/Economic Development Director – 50% of the PAR and Economic Development Director's salary and benefits
 - Business Development Liaison – 100% of salary and benefits
- Capital Projects Within an Urban Renewal Project Area: This section simplifies the Capital Projects section by allowing changes to the list of projects without future

amendments to the agreement. Budget allocations will still be required for all capital projects funded by PAR.

FINANCIAL IMPACT

None. All 2024 budget allocations remain unchanged.

STRATEGIC GOAL(S)

ENHANCE ECONOMIC
VITALITY



INNOVATE WITH
COLLABORATIVE
GOVERNANCE

ATTACHMENTS

1. Ordinance No. 1.289.8

RECOMMENDED MOTION

I move to approve Ordinance No. 1.289.8 on second reading.

ORDINANCE NO. 1.289.8, Series of 2024

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE FIRST AMENDMENT TO THE SECOND AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE TOWN OF PARKER, COLORADO, AND THE PARKER AUTHORITY FOR REINVESTMENT

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the First Amendment to the Second Amended and Restated Cooperation Agreement between the Town of Parker and the Parker Authority for Reinvestment, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____,
2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

FIRST AMENDMENT TO SECOND AMENDED AND RESTATED COOPERATION AGREEMENT BETWEEN THE TOWN OF PARKER, COLORADO, AND THE PARKER AUTHORITY FOR REINVESTMENT

THIS FIRST AMENDMENT TO SECOND AMENDED AND RESTATED COOPERATION AGREEMENT (the "First Amendment") dated as of the ____ day of _____, 2024, is entered into by and between the Town of Parker, Colorado (the "Town"), a home rule municipal corporation of the State of Colorado, and the Parker Authority for Reinvestment (the "Authority"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado and the Charter of the Town.

RECITALS:

WHEREAS, the Town is a home rule municipality and municipal corporation duly organized and existing under and pursuant to Article XX of the Colorado Constitution and the Charter of the Town the Charter;

WHEREAS, the Authority is a body corporate and has been duly organized established and authorized by the Town to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Charter and the Colorado Urban Renewal Law, C.R.S. § 31-25-101, *et seq.* (the "Act");

WHEREAS, pursuant to C.R.S. § 31-25-109 of the Act the Authority has the power and authority to issue or to incur notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, advances, or other obligations including refunding obligations (collectively, the "Obligations"), for the purpose of financing the activities and operations authorized to be undertaken by the Authority with respect to the projects in accordance with an adopted urban renewal plan and the Act as approved by the Town;

WHEREAS, the Town and the Authority entered into the Cooperation Agreement for Administrative Services on August 21, 2006 (the "Original Cooperation Agreement");

WHEREAS, the Town and the Authority entered into the First Amendment to Cooperation Agreement for Administrative Services on June 4, 2012 (the "First Amendment");

WHEREAS, the Town and the Authority entered into the Second Amendment to Cooperation Agreement for Administrative Services on March 17, 2014 (the "Second Amendment");

WHEREAS, the Town and the Authority entered into the Third Amendment to Cooperation Agreement for Administrative Services on May 15, 2017 (the "Third Amendment");

WHEREAS, the Town and the Authority entered into the Amended and Restated Cooperation Agreement for Administrative Services on December 4, 2017 (the "Original Restated Cooperation Agreement");

WHEREAS, the Town and the Authority entered into the First Amendment to Amended and Restated Cooperation Agreement on April 15, 2019 (the "First Amendment to the Original Restated Cooperation Agreement");

WHEREAS, the Town and the Authority entered into the Second Amendment to Amended and Restated Cooperation Agreement on September 8, 2020 (the "Second Amendment to the Original Restated Cooperation Agreement");

WHEREAS, the Town and the Authority entered into the Second Amended and Restated Cooperation Agreement, dated June 5, 2023 (the "Second Amended and Restated Cooperation Agreement"), to memorialize all updated aspects of the relationship between the Town and the Authority;

WHEREAS, the Town and the Authority now desire to enter into this First Amendment to the Second Amended and Restated Cooperation Agreement to reflect an updated list of Capital Projects to be funded by the Authority, and to change the term "Redevelopment Coordinator" to "Business Development Liaison"; and

WHEREAS, the Act, and Section 18 Article XIV of the Colorado Constitution authorize the Town and the Authority to enter into cooperative agreements such as this Cooperation Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the following terms and conditions, the Town and the Authority hereby agree to this Amended and Restated Cooperation Agreement as follows:

1. Section 1.0, subsection A. of the Second Amended and Restated Cooperation Agreement is amended to read as follows:

1.0 USE OF TOWN EMPLOYEES/ADMINISTRATIVE SERVICES.

A. Use of Town Employees. The Town hereby authorizes the Authority to utilize the services of certain specified Town employees to assist the Authority in work related to urban renewal projects in the Town. Effective as of December 23, 2023, the Town hereby assigns the following positions to perform such services for the percentage of their time specified below as follows:

1. The Authority Executive Director: The Town Manager shall perform the function of Executive Director, and the Authority shall pay twenty-five percent (25%) of the total cost of the Town Manager's salary and benefits for performing such functions;

2. The Authority Director: The Parker Authority for Reinvestment/Economic Development Director shall perform the function of Authority Director, and the Authority shall pay fifty percent (50%) of the total cost of the salary and benefits for performing such functions; and

3. The Authority Business Development Liaison: The Authority shall pay one hundred percent (100%) of the total cost of the salary and benefits for performing such functions.

2. Section 3.0 of the Second Amended and Restated Cooperation Agreement is amended to read as follows:

3.0 CAPITAL PROJECTS WITHIN AN URBAN RENEWAL PROJECT AREA.

The Town and the Authority desire to continue to have the Authority fund or otherwise provide the Capital Projects more particularly described in **Exhibit A, as attached to the Second Amended and Restated Cooperation Agreement and other Capital Projects as the Town and the Authority agree to fund from time to time ~~as revised~~**, pursuant to C.R.S. § 31-25-103(10)(c), and C.R.S. § 31-25-105(1)(c), and seek to utilize the process set forth in this Agreement.

The Town and the Authority therefore agree the provisions of this Agreement shall continue to apply if the Authority approves the funding for the providing of any of the Capital Projects identified in **Exhibit A, ~~as revised~~**.

The Parties agree that the Authority shall provide the necessary funds for any Capital Project identified on **Exhibit A, ~~as revised~~**, including **the funding for** necessary soft costs, and said funds shall thereafter be appropriated by the Town for such Capital Projects as more particularly described in the contracts of the Town approving any of the identified Capital Projects. The Town shall use the Town procurement processes and Town employees in order to contract for the completion of the Capital Projects with the segregated funds as set forth herein. The Authority shall have no obligation after providing the funds to the Town to be segregated hereunder for construction of the Capital Projects.

3. Entire Agreement — Amendments. This First Amendment to Second Amended and Restated Cooperation Agreement and the Second Amended and Restated Cooperation Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained within this First Amendment to Second Amended and Restated Cooperation Agreement and the Second Amended and Restated Cooperation Agreement. This Agreement may be further amended by written agreement between the Town and the Authority.

[Remainder of page intentionally left blank. Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Second Amended and Restated Cooperation Agreement to be duly executed and delivered by their duly authorized officers as of the date first above written.

TOWN OF PARKER, COLORADO

By: _____
Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

**PARKER AUTHORITY FOR
REINVESTMENT**

By: _____
Jeff Toborg, Chairman

ATTEST:

Chris Vanderpool, Authority Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann, Authority Attorney



Request for Town Council Action

Date: September 3, 2024

Submitted By: Patrick Burke, Project Engineer

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.377 - Second Reading**
A Bill for an Ordinance to Approve the Memorandum of Agreement
Between the Regional Transportation District and the Town of Parker
Regarding the Lincoln Avenue Widening Project
Department: Engineering and Public Works, Patrick Burke

EXECUTIVE SUMMARY

This ordinance is for the approval of a Memorandum of Agreement between the Regional Transportation District and the Town of Parker for the conveyance of real property necessary to construct the Lincoln Avenue/Jordan Road Widening Capital Improvement Project.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town is currently working on final construction drawings for an upcoming capital improvement project known as the Lincoln Avenue/Jordan Road Widening Project (the "Project"). The Project proposes to make roadway and sidewalk improvements to Lincoln Avenue between Keystone Boulevard and Parker Road. The Project also includes improvements to Jordan Road between Stonegate Parkway and Lincoln Avenue. Lincoln Avenue will be widened from a four (4) lane section to a six (6) lane section. Additionally, sidewalks and curb ramps will be reconstructed along the widened section to increase pedestrian mobility and ADA compliance.

In July 2023, Town Council approved Ordinance No. 1.589, which authorized staff to proceed with good faith negotiations regarding procurement of right-of-way, permanent easements, and temporary construction easements along Lincoln Avenue necessary to construct the Project. In October 2023, Town Council approved Ordinance No. 1.592, which authorized staff to proceed with good faith negotiations regarding procurement of right-of-way, permanent easements, and temporary construction easements along Jordan Road necessary to construct the Project. There are thirty-six (36) impacted parcels inside the project limits, and this ordinance addresses the acquisition of the required right-of-way and temporary construction easements on one (1) of the impacted parcels.

These acquisitions include approximately 386 square feet (SF) of right-of-way and 3,138 SF of temporary construction easement that is needed to accommodate construction of sidewalk and roadway improvements.

FINANCIAL IMPACT

The purchase price for the acquisition of these necessary easements is \$13,317. Funding has been appropriated for these acquisitions in the Highway and Streets Capital Projects Fund (301-4310).

STRATEGIC GOAL(S)

SUPPORT AN
ACTIVE COMMUNITY



ENHANCE ECONOMIC
VITALITY



PROMOTE A SAFE AND
HEALTHY COMMUNITY

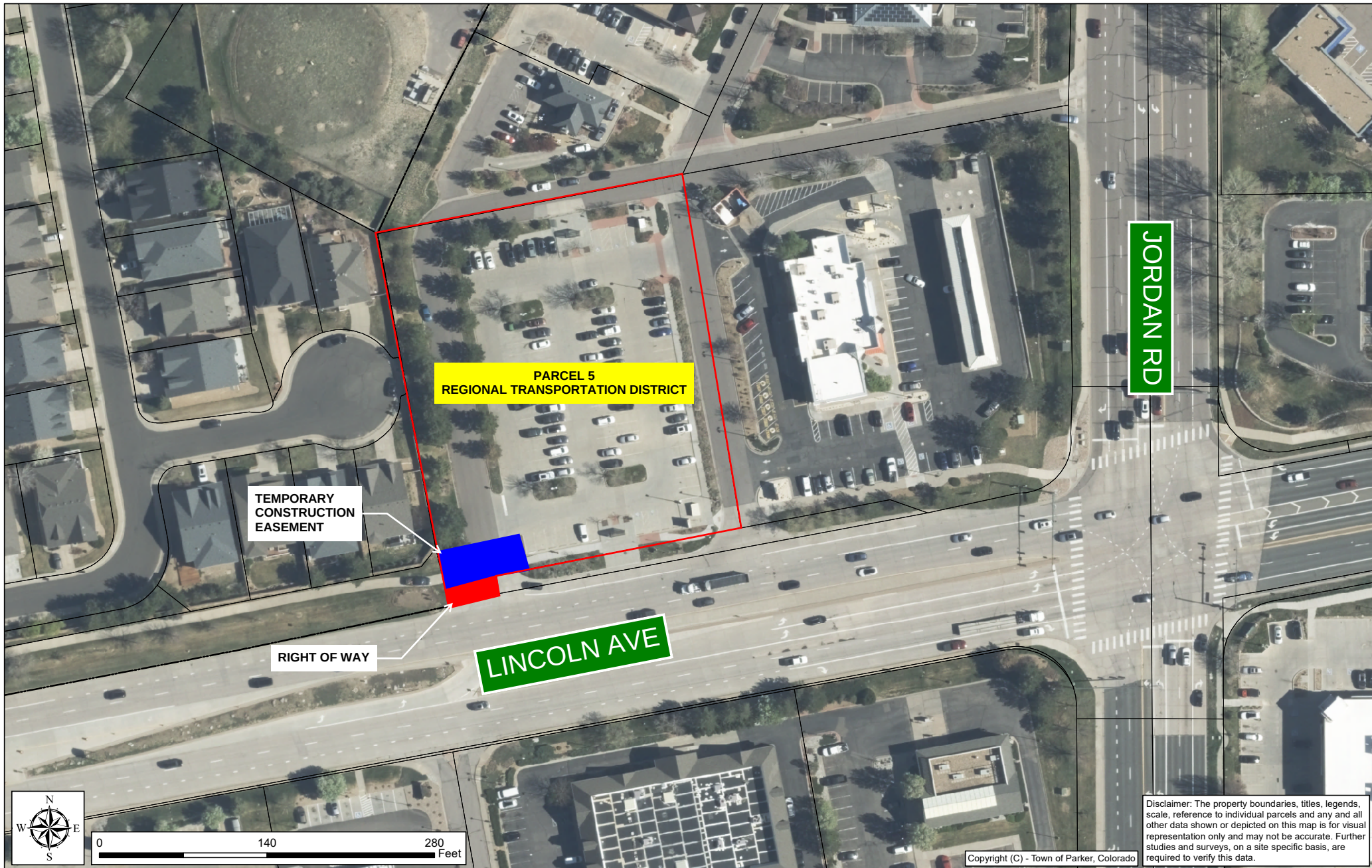
ATTACHMENTS

1. Vicinity Map
2. Ordinance No. 9.377

RECOMMENDED MOTION

I move to approve Ordinance No. 9.377 on second reading.

LINCOLN AVENUE WIDENING PROJECT (KEYSTONE BLVD TO PARKER RD)



ORDINANCE NO. 9.377, Series of 2024

TITLE: A BILL FOR AN ORDINANCE TO APPROVE THE MEMORANDUM OF AGREEMENT BETWEEN THE REGIONAL TRANSPORTATION DISTRICT AND THE TOWN OF PARKER REGARDING THE LINCOLN AVENUE WIDENING PROJECT

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the Memorandum of Agreement Between the Regional Transportation District and the Town of Parker Regarding the Lincoln Avenue Widening Project, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

Town of Parker MEMORANDUM OF AGREEMENT	Project: Lincoln Avenue Widening Project Location: 16775 E Lincoln Avenue, Parker, Colorado 80134 Parcel(s): RW-5 County: Douglas
This agreement made on _____, 20____ is between the Regional Transportation District (GRANTOR) for the purchase of the parcel(s), grants of easement(s), listed above from <u>TOWN OF PARKER</u> , a Colorado Home Rule Municipality (GRANTEE).	
Just compensation was determined by appraisal(s) prepared in accordance with Federal and Colorado state laws and regulations. The amount of money and/or compensation listed below is full consideration for the following land, easements, improvements, and damages of any kind.	
Land (described in attached Exhibit A)	386 Sq.ft ☒ /acres ☐ \$6,755.00
Permanent and Slope Easements (described in attached exhibits)	Sq.ft ☐ /acres ☐ \$
Temporary Easements (described in attached exhibits)	Sq.ft ☐ /acres ☐ \$
Improvements: 386/SF Concrete Pavement	\$6,562.00
Damages	\$
	Gross Total \$
	Less Credit \$
	Net Total \$13,317.00
Other conditions: Grantor agrees to provide an access agreement to the Grantee's contractor for the property shown in Exhibit B in similar form to Exhibit C.	
The GRANTORS and GRANTEE agree that: -with the exception of any Relocation Agreement there are no promises, terms, conditions, or obligations other than those listed on this agreement. -this contract is binding on both the GRANTORS and GRANTEE and their heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees, but only after approval on behalf of the Town of Parker. -the compensation shown on this agreement is for the fee simple estate of the parcel(s), grant(s) of easement(s), and/or compensation for described above.	
The GRANTORS: -will at the closing pay all taxes (including prorated taxes for the current year) and special assessments for the current year. -has entered into this agreement only because the GRANTEE has the power of eminent domain and requires the property for public purposes. -will execute and deliver to GRANTEE those documents indicated below.	
The GRANTEE: -will be entitled to specific performance of this agreement upon tender of the agreed consideration. -will be held harmless from any claims against the property or to any interest in the property, except for any benefits due under relocation law. -will make payment after receiving an acceptable deed from the GRANTORS. -will take possession of the parcel(s) when it tenders payment to the GRANTORS unless other arrangements are made that follow Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended. -will prepare the following documents:	
☒ Special Warranty Deed ☐ w/Min Rev ☐ Access Deed ☐ Full Release(s) Book/Page/Reception #: ☐ Partial Release(s) Book/Page/Reception#: ☐ Or (specify) ☐ Title Company to prepare documents except ☐ Utility Easement ☐ Permanent Easement ☐ Slope Easement ☐ Temporary Easement	
Order Warrant \$13,317.00	Payable to: Regional Transportation District
Real Property Specialist	
GRANTOR: Regional Transportation District Debra Johnson, General Manager & CEO	06.26.24
Approved as to legal form for RTD By: Aimee Beckwith, Senior Associate General Counsel	Beckwith, Aimee - 22099 Digitally signed by Beckwith, Aimee - 22099 Date: 2024.06.26 14:00:48 -0500
GRANTEE: Jeff Toborg, Mayor	
Town Clerk: Chris Vanderpool	
Approved as to legal form for Town of Parker By: Jamie Wynn, Interim Town Attorney	

Attach W-9 form

EXHIBIT "A"

PARCEL NUMBER: RW-5

May 8, 2023

DESCRIPTION

A PARCEL OF LAND NO. RW-5, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF PARKER, DOUGLAS COUNTY, COLORADO, BEING A PORTION OF LOT 3B, STONEGATE FILING NO. 2, 5TH AMENDMENT, RECORDED OCTOBER 1, 1999 AT RECEPTION NO. 99084288, IN THE OFFICIAL RECORDS OF THE CLERK AND RECORDER'S OFFICE, COUNTY OF DOUGLAS, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN WHENCE THE NORTH LINE OF SAID SECTION 16 BEARS NORTH 89°14'39" EAST, A DISTANCE OF 5,312.69 FEET, ALL BEARINGS HEREON ARE REFERENCED TO SAID LINE;

THENCE SOUTH 26°36'25" WEST, A DISTANCE OF 1,300.89 FEET TO THE WESTERLY BOUNDARY OF SAID LOT 3B AND THE **POINT OF BEGINNING**;

THENCE ALONG SAID WESTERLY BOUNDARY, SOUTH 10°31'16" EAST, A DISTANCE OF 9.54 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3B AND THE NORTHERLY BOUNDARY OF LINCOLN AVENUE RECORDED AT RECEPTION NO. 2005090279 IN SAID RECORDS;

THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 3B AND THE NORTHERLY RIGHT-OF-WAY, NORTH 79°28'44" EAST, A DISTANCE OF 40.50 FEET;

THENCE DEPARTING SAID SOUTHERLY BOUNDARY AND NORTHERLY RIGHT-OF-WAY, NORTH 10°31'16" WEST, A DISTANCE OF 9.50 FEET;

THENCE SOUTH 79°31'31" WEST, A DISTANCE OF 40.50 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS AN AREA OF 0.009 ACRES, (386 SQUARE FEET), MORE OR LESS.

DANIEL E. DAVIS PLS 38256
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1
LITTLETON, CO 80122



EXHIBIT "B"

PARCEL NUMBER: TCE-5

May 8, 2023

DESCRIPTION

A TEMPORARY CONSTRUCTION EASEMENT NO. TCE-5, BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF PARKER, DOUGLAS COUNTY, COLORADO, BEING A PORTION OF LOT 3B, STONEGATE FILING NO. 2, 5TH AMENDMENT, RECORDED OCTOBER 1, 1999 AT RECEPTION NO. 99084288, IN THE OFFICIAL RECORDS OF THE CLERK AND RECORDER'S OFFICE, COUNTY OF DOUGLAS, STATE OF COLORADO, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST QUARTER OF SECTION 16, TOWNSHIP 6 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN WHENCE THE NORTH LINE OF SAID SECTION 16 BEARS NORTH 89°14'39" EAST, A DISTANCE OF 5,312.69 FEET, ALL BEARINGS HEREON ARE REFERENCED TO SAID LINE;

THENCE SOUTH 26°36'25" WEST, A DISTANCE OF 1,300.89 FEET TO THE WESTERLY BOUNDARY OF SAID LOT 3B AND THE **POINT OF BEGINNING**;

THENCE ALONG SAID WESTERLY BOUNDARY, NORTH 10°31'16" WEST, A DISTANCE OF 44.33 FEET;

THENCE DEPARTING SAID WESTERLY BOUNDARY, NORTH 80°54'12" EAST, A DISTANCE OF 72.23 FEET;

THENCE SOUTH 10°31'16" EAST, A DISTANCE OF 42.57 FEET TO THE NORTHERLY RIGHT-OF-WAY LINCOLN AVENUE RECORDED AT RECEPTION NO. 99084288 IN SAID RECORDS;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY AND THE WESTERLY PROLONGATION THEREOF, SOUTH 79°30'17" WEST, A DISTANCE OF 72.21 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED TEMPORARY CONSTRUCTION EASEMENT CONTAINS AN AREA OF 0.072 ACRES, (3,138 SQUARE FEET), MORE OR LESS.

DANIEL E. DAVIS PLS 38256
COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.
300 E. MINERAL AVENUE, SUITE 1
LITTLETON, CO 80122



EXHIBIT "C"

**RIGHT OF ENTRY AGREEMENT
FOR []**

THIS RIGHT OF ENTRY AGREEMENT ("**Agreement**") is made by and between the REGIONAL TRANSPORTATION DISTRICT, a political subdivision of the State of Colorado, whose address is 1660 Blake St., Denver, Colorado 80202 ("**RTD**"), and [INSERT CONTRACTOR NAME], [Insert Contractor Type], whose address is [Insert Contractor Address] ("**Contractor**").

RECITALS

- A. RTD owns a parcel of land at known as the Jordan Road Park-n-Ride for mass transit purposes at 16775 E Lincoln Avenue in Douglas County, Colorado (the "**RTD Property**").
- B. RTD and the Town of Parker ("Licensee") are parties to a Memorandum of Agreement dated _____ ("License"), whereby RTD granted a non-exclusive license and permission to Licensee to enter upon and have ingress to and egress from the RTD Property, as defined in the License, pursuant to the terms of the License, for the purpose(s) of constructing, maintaining, using, and operating the Facilities, as that term is defined in the License. The License is incorporated into this Agreement by reference.
- C. Licensee has contracted with Contractor and requested RTD to permit Contractor to perform the work related to the Facilities pursuant to the License.

In consideration of the permission of RTD for Contractor to enter upon the RTD Property pursuant to the License, the parties agree as follows:

ARTICLE 1. RIGHT OF ENTRY

- A. Subject to all the terms and conditions of this Agreement and the License, RTD grants to Contractor the non-exclusive, revocable right to enter upon and have ingress to and egress from the RTD Property solely to perform work under the License within the area shown on the attached **Exhibit 1 ("Licensed Area")** and in accordance with the Plans attached as **Exhibit 2**.
- B. RTD shall retain all rights in and usage of the Licensed Area. This Agreement is subject to existing interests, easements, leases, licenses, and permits (if any) previously granted, reserved, or held by RTD, its predecessors in interest, or any other person or entity affecting any of the Licensed Area or RTD Property, whether of record or not. Contractor's use of the Licensed Area shall not interfere with RTD's use and/or maintenance of RTD facilities and the RTD Property, nor with the needs and requirements of RTD's tenants, easement beneficiaries, licensees, or lien holders, nor with the use of their improvements on the RTD Property.
- C. Contractor shall require its agents, employees, and subcontractors (collectively, "**Contractor's Agents**") performing work pursuant to this Agreement to comply with each of the terms and conditions of this Agreement and to acknowledge all rights reserved to RTD pursuant to this Agreement.

- D. In the event of Contractor's violation of any of the terms of this Agreement, RTD may terminate this Agreement in part or in full, effective immediately upon Contractor's receipt of RTD's written termination notice.
- E. All recitals and attached exhibits are deemed incorporated into this Agreement. Exhibits may not be modified without prior approval by RTD; any approved modifications to exhibits shall be incorporated in this Agreement by an amendment to the Agreement signed by both parties.

ARTICLE 2. TERM

This Agreement shall become effective upon the last date of execution by both parties ("**Effective Date**") and shall remain in effect for 90 days, until completion of the work, until earlier termination of this Agreement, or until the License is terminated, whichever occurs first.

ARTICLE 3. WORK AND COORDINATION WITH RTD

- A. Contractor shall perform the work in accordance with **Exhibit 2** with due care, at Contractor's expense, and in full compliance with federal, state, and local laws and applicable industry and RTD standards.
- B. Contractor shall coordinate all work with RTD's Manager, Construction ("**RTD Representative**") at office number [insert number] or by email at [first.last@RTD-Denver.com]. Contractor's Agent shall notify the RTD Representative 2 weeks prior to beginning work.

ARTICLE 4. ACCESS

- A. During any work under this Agreement, Contractor agrees to maintain the Licensed Area in a clean, neat, and sanitary condition, and to properly and promptly dispose of all litter and debris. Following completion of the work, Contractor shall promptly remove all tools, equipment, and materials and restore the Licensed Area, including re-vegetation, to substantially the same state and condition as when entered upon. If Contractor does not complete the restoration work within a reasonable time, RTD may complete the restoration work at Contractor's sole expense; Contractor shall reimburse RTD within 30 days of Contractor's receipt of a written invoice and supporting documentation. Contractor's obligation to restore the Licensed Area or to reimburse RTD for such restoration shall survive any termination of this Agreement.
- B. Contractor shall obtain a Buildings and Grounds Access Permit ("**BGAP**") from RTD Facilities Maintenance by submitting the permit form, which can be found at <https://www.rtd-denver.com/business-center/construction-engineering/right-of-way-agreements-and-permits>, to bgapermits@rtd-denver.com whenever Contractor, Contractor's Agents, or their equipment will be present on the Licensed Area. Contractor must initiate its request for a BGAP five business days before the work is scheduled to begin. Any conditions set forth in a BGAP shall be deemed to be incorporated in this Agreement by this reference.
- C. **In case of emergency** caused by failure of the Facilities or in connection with Contractor's work within the Licensed Area, Contractor shall immediately notify RTD of the emergency at 303.299.2911 or such other number provided by RTD and advise of Co. ntractor's proposed

actions to immediately address the emergency. Contractor shall be responsible for any costs incurred by RTD in connection with any failure of the Facilities or Contractor's actions in relation to such failure or emergency, in accordance with the reimbursement requirements of this Agreement.

- D. RTD reserves the right to have its personnel present during any work under this Agreement.
- E. Contractor shall be responsible for safety related to all aspects of its work under this Agreement. Contractor shall obtain all health, fire, and other relevant safety regulations, work practices, and procedures prescribed by law and by RTD and shall ensure that Contractor's Agents are notified of, understand, and abide by them at all times. Contractor shall provide all required personal protective equipment and other equipment required for the safe performance of the work.
- F. Contractor shall promptly report all accidents, safety incidents, injuries, and environmental incidents concerning the RTD Property or RTD facilities to government authorities as required by law and to RTD.
- G. At any reasonable time, RTD may inspect a work site and appropriate records regarding Contractor's safety procedures and statistics to ascertain compliance with the safety requirements of this Agreement. Neither the existence nor exercise of such right by RTD shall relieve Contractor of its responsibility for compliance with, and for monitoring compliance by Contractor and its subcontractors with, the safety requirements of this Agreement.
- H. Contractor shall stop work when an imminent hazard to persons, the RTD Property, or RTD facilities is identified and shall immediately notify RTD that work has stopped, providing the reasons for stopping the work and an estimate of when the work will resume. Contractor shall take all appropriate measures to abate the imminent hazard.
- I. Contractor shall ensure that Contractor's Agents understand their right to stop work at any time they feel there is an unsafe condition or unsafe behavior in place that could harm them, others, property, or the environment. The work shall not resume until all appropriate measures to abate the hazards have been implemented.
- J. Notwithstanding any other provision of this Agreement, RTD has the right to immediately suspend the performance of the work under this Agreement if RTD, in its sole judgment, determines that any of Contractor's Agents is failing to comply with RTD safety requirements or applicable safety laws and regulations while performing the work, or if the safety of RTD employees or patrons is at risk or RTD operations are at risk. The suspension will continue until RTD notifies Contractor that the suspension is lifted. Contractor acknowledges that RTD has no obligation to lift the suspension until RTD is satisfied that Contractor will comply with applicable requirements. RTD shall not be liable for any delays in the completion of the work that result from an RTD suspension under this paragraph.

ARTICLE 5. DIGGING AND BORING

If any digging or boring is permitted on the Licensed Area, Contractor shall first determine if a telecommunications system or other utility is buried anywhere on or about the Licensed Area in the location where Contractor will perform such digging or boring. If there is such a

telecommunications facility or other utility, Contractor will determine the owner of such telecommunications system or other utility and take such actions in cooperation with the owner(s) as are necessary so as not to damage such system or utility.

ARTICLE 6. NOTICES

Unless otherwise prescribed in this Agreement, any notices required to be given shall be provided in writing and mailed by U.S. mail, first class postage prepaid, or by electronic mail and addressed as follows:

If to RTD: Regional Transportation District
 Attn: Manager Real Property
 1560 Broadway, Suite 650
 Denver, Colorado 80202
 303.299.6904
 [email]

If to Contractor: [Insert Contractor information]

Any such notice shall be deemed to have been provided three days after such notice or communication is mailed. Each party will provide notice of any changes to its address, email address, or contact person.

ARTICLE 7. LIABILITY

- A. Contractor shall be responsible for any damage, including but not limited to Environmental Damages (defined below), to any property, including the Licensed Area, the RTD Property or other RTD property, Contractor's property, adjacent property, utilities, adjacent structures, and other third party real and personal property on or under the RTD Property that is caused by Contractor or Contractor's Agents. Contractor shall either promptly repair such damage or pay damages to the reasonable satisfaction of the owner of the damaged property, in either case at no cost to RTD. RTD and Contractor shall notify one another of any such damage and any potential claims arising out of such damage.
- B. Contractor shall, and shall require Contractor's agents and subcontractors to, indemnify, defend, and hold harmless RTD and its officers, directors, employees, agents, and contractors against and from all claims (including without limitation actions, demands, expenses, costs, attorneys' fees, court costs, and judgments) arising out of or caused by the use of the Licensed Area and RTD Property under this Agreement, including but not limited to Environmental Damages (defined below). In the event of any claims made or suits filed, each party shall give the other prompt written notice, and RTD shall have the option to defend or reasonably settle the same as to claims or suits made against it, without effect as to Contractor's obligations under this Agreement.
- C. Nothing in this Agreement shall be deemed to waive any of RTD's privileges or immunities pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
- D. The provisions of this Article shall survive the termination, in whole or in part, of this Agreement.

ARTICLE 8. NO WARRANTY

- A. RTD does not grant nor purport to grant any right not specifically set forth in this Agreement. Permission for Contractor or Contractor's Agents to traverse the property of any other property owners or interest-holders other than RTD is the sole responsibility of Contractor, as is the procurement of any applicable regulatory permission or consent.
- B. The right to use the Licensed Area and RTD Property is granted subject to their "AS IS" physical condition without any warranty, express or implied.
- C. Contractor specifically assumes all risk of loss, damage, or destruction to any tools, equipment, or materials, if any, that Contractor or Contractor's Agents store on the Licensed Area or the RTD Property, whether the loss, damage, or destruction results from accident, act of God, the elements, severe weather, theft, or vandalism.

ARTICLE 9. INSURANCE

- A. Contractor shall, throughout the Term of this Agreement, procure and maintain, and shall require that Contractor's Agents, with the exception of individual Contractor employees, procure and maintain, the following types of insurance, at a minimum, with an insurer or insurers and in a form satisfactory to RTD. All insurance policies shall name RTD as an additional insured, with the exception of Workers' Compensation and Employers' Liability Insurance and Railroad Protective Liability Insurance.
 - 1. Commercial General Liability Insurance with contractual liability endorsement, which shall provide coverage for limits of not less than \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000, and shall also include, but not be limited to, coverage for bodily injury, property damage, and products and completed operations. Following the completion of construction, this insurance will be maintained (renewed annually) for a time period no less than through the period of the applicable Colorado statute(s) of limitation and, if applicable, the Colorado statute of repose.
 - 2. Umbrella/Excess Liability Insurance. An umbrella/excess liability policy may be procured to meet the requirements of the Commercial General Liability Insurance limits.
 - 3. Automobile Liability Insurance with a combined single limit of at least \$1,000,000 per occurrence, and including coverage for, but not limited to, bodily injury liability and property damage liability for any vehicles owned, used, or hired.
 - 4. Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor, wherever they may be in the United States of America so long as they are engaged in the work covered by this Agreement. The policy or policies shall cover the entire liability of Contractor as determined by the workers' compensation laws of the state or states under which such liability arises, and shall contain, so far as it is lawful to obtain, a waiver of insurer's right of subrogation against RTD for payments made to or on behalf of employees of Contractor. Employers' Liability Insurance shall provide coverage for limits of not less than \$500,000. This insurance, when procured by Contractor's Agents, shall also cover Contractor's Agents' employees.

5. Contractors' Pollution Liability Insurance including contractual liability and providing third-party coverage for bodily injury, property damage, defense, and cleanup as a result of pollution conditions (sudden/accidental and gradual) arising from contracting operations performed. The amount of such coverage shall be no less than \$5,000,000 per occurrence and aggregate.
- B. Prior to entry upon, above, or adjacent to the RTD Property and the Licensed Area, Contractor agrees to furnish RTD with a certificate of the required insurance for each of Contractor's and Contractor's Agents' policy(ies). Contractor shall provide 30 days' advance notice of cancellation of such policy(ies) by registered or certified mail. Certificates of insurance shall be provided to the RTD Manager of Real Property as provided in this Agreement.
- C. Each insurance certificate required above shall have the following endorsements attached:
1. An endorsement naming RTD an additional insured, except on Workers' Compensation and Employers' Liability Insurance and Railroad Protective Liability Insurance;
 2. An endorsement evidencing coverage for a liability assumed under an insured contract for liability assumed by Contractor and Contractor's Agents;
 3. A Broad Form Property Damage endorsement if the policy does not provide for the equivalent coverage; and
 4. Waiver of subrogation in favor of and acceptable to RTD.
- D. In the event of reduction or exhaustion of the applicable aggregate limit or limits of liability under the primary policy or policies referred to in the certificate of insurance solely by reason of losses paid under this Agreement on account of occurrences during the policy period, the excess policy, if any, referred to in the certificate shall (1) in the event of reduction, apply as excess of the reduced limit of liability thereunder; and (2) in the event of exhaustion, continue in force as though it were primary insurance. For claims covered by the insurance specified in this Agreement, the insurance coverage shall be primary and non-contributory insurance with respect to the insured, additional insured parties, and their respective members, directors, officers, employees, and agents, and it shall specify that coverage continues notwithstanding the fact that Contractor and Contractor's Agents have left the RTD Property.
- E. The insurance shall apply separately to each insured and additional insured party against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- F. Liability of Contractor under this Agreement shall not be limited to coverage provided under the required insurance policies.
- G. Only those Contractor's Agents whose operations are covered by the required insurance will be authorized to work upon or about the Licensed Area or the RTD Property.
- H. In the event that any Contractor's Agent does not have its own insurance coverage as set forth in this Article, Contractor shall cause such Contractor Agent to be a named insured under Contractor's policies.

ARTICLE 10. ENVIRONMENTAL OBLIGATIONS

A. Definitions.

1. **Activities:** Any action or omission of Contractor and/or Contractor's Agents.
2. **Environmental Damages:** All claims, judgments, damages, losses, penalties, fines, liabilities (including but not limited to strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement of judgment related to Activities, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred at any time as a result of the existence of Hazardous Material upon, about, or beneath the RTD Property or migrating or threatening to migrate to or from the RTD Property, or the existence of a violation of Environmental Requirements pertaining to the RTD Property and including without limitation:
 - a) damages for personal injury or injury to property or natural resources occurring upon or off of the RTD Property, foreseeable or unforeseeable, including without limitation lost profits, consequential damages, the cost of demolition and rebuilding of any improvements on real property, and interest and penalties including but not limited to claims brought by or on behalf of employees of Contractor;
 - b) fees incurred for the services of attorneys, consultants, contractors, experts, and laboratories and all other costs incurred in connection with the investigation or remediation of Hazardous Materials or violation of Environmental Requirements, including but not limited to the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, or monitoring work required by any federal, state, or local governmental agency or political subdivision, or reasonably necessary to make full economic use of the RTD Property or any other property otherwise expended in connection with such conditions, and including without limitation any attorneys' fees, costs, and expenses incurred in enforcing this Agreement or collecting any sums due under this Agreement; and
 - c) liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subsection 2(b) above.
3. **Environmental Requirements:** All applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions, and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including without limitation:

- a) all requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of Hazardous Materials, whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of Hazardous Materials, whether solid, liquid, or gaseous in nature; and
 - b) all requirements pertaining to the protection of the health and safety of employees or the public.
4. **Hazardous Material(s)**: Any and all substances, chemicals, wastes, or other materials now or from time to time:
- a) defined as hazardous substances or hazardous wastes pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 *et seq.*) ("**CERCLA**"), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 *et seq.*) ("**RCRA**"), and/or the Colorado Hazardous Waste Act, C.R.S. § 25-15-101 *et seq.*, and the Colorado Hazardous Waste Regulations, 6 C.C.R. 1007-3;
 - b) characterized as hazardous or toxic materials, substances, chemicals, pollutants, contaminants, or wastes that are regulated, subject to permitting or warning requirements, or for which removal, remediation, or disposal is required or regulated, under any and all laws for the protection of the environment, human health, and safety, including without limitation CERCLA; RCRA; the Transportation of Hazardous Materials (49 U.S.C. § 5101 *et seq.*); the Federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*); the Clean Air Act (42 U.S.C. § 7401 *et seq.*); the Colorado Hazardous Waste Act (C.R.S. § 25-15-311, *et seq.*); the Colorado Solid Waste Act (C.R.S. § 30-20-100.5, *et seq.*); the Colorado Water Quality Control Act (C.R.S. § 25-8-101, *et seq.*); the Colorado Air Pollution Prevention and Control Act (C.R.S. § 25-7-101, *et seq.*); Title 8, Article 20.5, Colorado Revised Statutes; and/or any federal, state, or local regulations and associated guidance promulgated thereunder; or
 - c) otherwise posing a present or potential risk to human health, welfare, or the environment, including without limitation asbestos; flammable, explosive, corrosive, or radioactive materials; gasoline; oil; motor oil; waste oil; petroleum (including without limitation crude oil or any component); petroleum-based products, paints, and solvents; lead; cyanide; DDT and other pesticides; and polychlorinated biphenyls.
- B. **No Hazardous Material on Property**. Except in strict compliance with all Environmental Requirements, Contractor and Contractor's Agents shall not cause, permit, or suffer any Hazardous Material to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined, or used upon, about, or beneath the RTD Property or the Licensed Area.
- C. **No Violations of Environmental Requirements**. In performing the Activities, Contractor shall not cause, permit, or suffer the existence or the commission of a material violation of any Environmental Requirements upon, about, or beneath the RTD Property or the Licensed Area.

- D. No Environmental or Other Liens. In performing the Activities, Contractor shall not create or suffer to exist with respect to the RTD Property any lien, security interest, or other charge or encumbrance of any kind, including without limitation any lien imposed pursuant to section 107(f) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9607(1)) or any similar state statute.

ARTICLE 11. SAMPLES AND REMOVAL

As between Contractor and RTD, Contractor shall be solely responsible for the lawful removal, manifesting, transport, testing, and disposal of any samples or other materials, including but not limited to Hazardous Materials, removed from the RTD Property or Licensed Area or generated as a result of work performed pursuant to this Agreement, and shall duly and properly perform or cause to be performed any such work that it undertakes or is required to undertake pursuant to federal, state, and local laws and applicable industry standards. As between Contractor and RTD, Contractor is the sole generator (as the term "generator" is used in applicable statutes and regulations concerning the removal, transport, and/or disposal of Hazardous Materials, substances, waste, or other contaminants) of any materials, including but not limited to Hazardous Materials, removed from the RTD Property or Licensed Area by Contractor or Contractor's Agents or generated as a result of sampling and/or testing undertaken by Contractor or Contractor's Agents.

ARTICLE 12. GENERAL

- A. Assignment. Contractor may not assign this Agreement, or any part or interest in this Agreement, without the prior written consent of RTD. No RTD-approved assignment shall release Contractor from any liability under this Agreement. Any assignment in violation of this Agreement shall be null and void.
- B. Agreement Binding. This Agreement and all of the covenants, terms, and conditions in this Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
- C. Execution in Counterparts. This Agreement (and each amendment, modification, and waiver in respect of this Agreement) may be executed and delivered in counterparts, each of which will be deemed an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Agreement shall be effective as delivery of a manually executed counterpart of this Agreement.
- D. Governing Laws; Jurisdiction and Venue. The laws of the State of Colorado and applicable federal, state, and local laws, rules, regulations, and guidelines govern this Agreement. Jurisdiction and venue for all disputes shall be in the county in which the Licensed Area is located, and Contractor expressly submits itself to such jurisdiction.
- E. No Recordation. Neither party (nor any of their respective agents or representatives) shall record this Agreement (or any memorandum or short form of this Agreement) without the prior written consent of the other party.

- F. Amendment. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.
- G. No Agency. It is expressly understood and agreed that RTD and Contractor do not intend to be and shall not in any respect be deemed agents of each other.
- H. Headings. The headings in this Agreement are inserted for reference purposes only and are not restrictive as to content.
- I. Liens. Contractor shall not permit any lien, claim, or other charge to be placed on the RTD Property, and Contractor shall promptly cause any such lien, claim, or charge to be removed. If any mechanic's lien, claim, or other charge is filed against the RTD Property, Contractor shall discharge the same of record by a release or bond within 30 days after the filing of any notice of such lien, claim, or other charge. This provision shall survive termination, in whole or in part, of this Agreement.
- J. Waiver; Severability. The failure of either party to exercise any right under this Agreement, or to insist upon strict compliance by the other party, shall not constitute a waiver of either party's right to demand strict compliance with the terms and conditions of this Agreement. If any provision of this Agreement is held to be unenforceable for any reason, its unenforceability shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.
- K. Legal Authority. Contractor warrants that it possesses the legal authority to enter into this Agreement and that it has taken all actions required by its procedures, bylaws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Agreement and to bind Contractor to its terms. The person(s) executing this Agreement on behalf of Contractor warrant(s) that such person(s) have full authorization to execute this Agreement.
- L. No Dedication; Third Parties. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the Licensed Area or the RTD Property to the general public or for any public use or purpose whatsoever. Except as specifically provided in this Agreement, no rights, privileges, or immunities of either party shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions contained in this Agreement.
- M. Breach. Any failure of Contractor to fulfill any of Contractor's obligations under this Agreement shall constitute a breach of this Agreement and subject Contractor to immediate termination of the Agreement, as well as damages and costs, including attorneys' fees.
- N. Applicable Laws; Violation. Contractor shall use the Licensed Area in a safe and careful manner and shall comply with all applicable ordinances and regulations of the jurisdiction in which the Licensed Area is located; federal, state, and local laws; and all other rules of governmental authorities as may be in force and effect during the term of this Agreement. If at any time the use of the Licensed Area by Contractor violates applicable ordinances or laws, Contractor shall cease and desist from continuing such use upon demand by RTD.

- O. Additional Uses. Contractor understands and agrees that the RTD Property may be used by the public or otherwise, and Contractor shall conduct its work so as not to unreasonably interfere with such other uses.
- P. RTD Equipment. Contractor shall not use RTD equipment, tools, or furnishings located in or about the Licensed Area or RTD Property without prior written approval by RTD.
- Q. Entire Agreement. This Agreement represents the entire agreement between the parties regarding the Licensed Area and the RTD Property.
- R. Electronic Signatures. This Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature, electronically scanned and transmitted versions of an original signature, and digital signatures.

Signature Page(s) to Follow

SAMPLE

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the Effective Date.

REGIONAL TRANSPORTATION DISTRICT

By: _____
Jyotsna Vishwakarma, P.E.
Acting AGM, Capital Programs

APPROVED AS TO LEGAL FORM FOR THE
REGIONAL TRANSPORTATION DISTRICT

By: _____
[Attorney Name]
[Attorney Title]

Date: _____

CONTRACTOR
[INSERT CONTRACTOR NAME]

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT 1
RTD Property

SAMPLE

EXHIBIT 2
Plans

SAMPLE



Request for Town Council Action

Date: September 3, 2024

Submitted By: Alex Mestdag, Engineering Service Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **ORDINANCE NO. 9.359.1 - Second Reading** (*Continued from August 19, 2024*)
A Bill for an Ordinance Approving the First Amendment to Agreement Regarding Construction of Development Improvement Project Drainage and Flood Control Improvements for Brandy Gulch Upstream of Spirit Trail Boulevard (Agreement No. 23-04.15A Project No. 109776) By and Between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker
Department: Engineering and Public Works, Alex Mestdag

EXECUTIVE SUMMARY

This ordinance proposes to approve the amendment to the Intergovernmental Agreement (IGA) with the Mile High Flood District (MHFD) to codify the funding and construction of stabilization improvements to Brandy Gulch within the Looking Glass development.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Looking Glass development is located in the southwest portion of the Town, northwest of Crowfoot Valley Road and south of Stroh Road. The development contains several major drainageways, including a tributary stream of Lemon Gulch named Brandy Gulch. In accordance with the Town's Storm Drainage criteria, the developer of the property is obligated to construct or fund the master-planned stabilization improvements to the drainageway.

The Town and MHFD entered into an IGA on July 31, 2023, regarding the construction of drainage and flood control improvements upstream of Spirit Trail Boulevard. This IGA contemplated two phases for the construction of the drainage and flood control improvements. The IGA only provides the funding level for Phase 1. This first amendment describes the project costs for Phase 2, including the parties' funding responsibilities for this work.

The developer is currently constructing Segment 2A of the development, which includes a segment of Brandy Gulch located upstream of the future Chambers Road alignment (Phase 2 of the improvements). The developer has designed the stabilization improvements for this reach of the gulch, which includes minor channel realignment, regrading of the channel banks, and riprap stabilization. The Town and the MHFD have approved the design, and MHFD has agreed to

construct the project with developer funding as a Development Improvement Project. The construction and the revegetation of the gulch will be funded 100% by the developer.

The developer is obligated to provide the construction funding to the Town in the Subdivision Improvement Agreement for Looking Glass Filing No. 15. The proposed amendment to the IGA proposes to pass this funding through to MHFD, and in turn obligates MHFD to construct the improvements. The Town and MHFD have successfully collaborated in this manner on several projects in recent years.

FINANCIAL IMPACT

None. This project is funded 100% by the developer of the property. The full cost of the improvements, including construction management and revegetation of the affected area, is \$2,339,404.56.

STRATEGIC GOAL(S)



INNOVATE WITH
COLLABORATIVE
GOVERNANCE



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

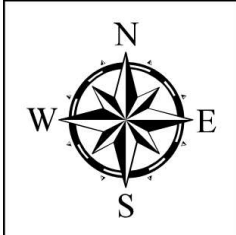
1. Vicinity Map
2. Ordinance No. 9.359.1

RECOMMENDED MOTION

I move to approve Ordinance No. 9.359.1 on second reading.



Vicinity Map
Brandy Gulch IGA



ORDINANCE NO. 9.359.1, Series of 2023

TITLE: A BILL FOR AN ORDINANCE APPROVING THE FIRST AMENDMENT TO AGREEMENT REGARDING CONSTRUCTION OF DEVELOPMENT IMPROVEMENT PROJECT DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR BRANDY GULCH UPSTREAM OF SPIRIT TRAIL BOULEVARD (AGREEMENT NO. 23-04.15A PROJECT NO. 109776) BY AND BETWEEN URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT AND THE TOWN OF PARKER

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. The Town Council of the Town of Parker hereby approves the First Amendment to Agreement Regarding Construction of Development Improvement Project Drainage and Flood Control Improvements for Brandy Gulch Upstream of Spirit Trail Boulevard (Agreement No. 23-04.15A Project No. 109776) by and between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker, which is attached hereto as **Exhibit 1** and incorporated herein by this reference, and authorizes the Mayor of the Town to enter into the Agreement on behalf of the Town.

Section 2. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 3. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. This Ordinance shall become effective ten (10) days after final publication.

INTRODUCED AND PASSED ON FIRST READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

ADOPTED ON SECOND AND FINAL READING this ____ day of _____, 2024.

Jeff Toborg, Mayor

ATTEST:

Chris Vanderpool, Town Clerk

APPROVED AS TO FORM:

Jamie Wynn, Town Attorney

EXHIBIT 1

FIRST AMENDMENT TO AGREEMENT REGARDING CONSTRUCTION OF DEVELOPMENT IMPROVEMENT PROJECT DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR BRANDY GULCH UPSTREAM OF SPIRIT TRAIL BOULEVARD

Agreement No. 23-04.15A
Project No. 109776

THIS FIRST AMENDMENT TO AGREEMENT (hereinafter called "FIRST AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and TOWN OF PARKER (hereinafter called "TOWN" and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Construction of Development Improvement Project Drainage and Flood Control Improvements for Brandy Gulch Upstream of Spirit Trail Boulevard" (Agreement No. 23-04.15) dated July 31, 2023 (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES have completed construction of Phase 1 of drainage and flood control improvements for Upper Brandy Gulch Upstream of Sprit Trail Boulevard; and

WHEREAS, PARTIES now desire to proceed with construction of Phase 2 of drainage and flood control improvements for Upper Brandy Gulch Upstream of Spirit Trail Boulevard (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$2,339,404.56; and

WHEREAS, the Town Council of TOWN have authorized, by appropriation or resolution, all of PROJECT costs from DEVELOPER.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

A. PARTIES agree that for the purposes of this AGREEMENT, PROJECT costs shall consist of and be limited to the following:

1. Construction
2. Construction Management Services
3. Contingency- 5% of Construction and Irrigation Installation
4. Vegetation Establishment
5. Administrative Fee

- B. It is understood that PROJECT costs as defined above are not to exceed \$3,185,444.63 without amendment to this AGREEMENT.

PROJECT costs for the various elements of the effort are estimated as follows:

	<u>ITEM</u>	<u>PHASE TWO</u>	<u>PHASE ONE</u>
1.	Construction	\$ 1,900,545.28	\$ 678,445.40
2.	Construction Management	\$ 30,000	-0-
	Services <i>*included in</i> <i>Construction Proposal</i>		
3.	Contingency	\$ 95,027.26	\$ 33,922.27
3a	Irrigation System Install**	93,019.84	
4.	Vegetation Establishment	\$ 163,795.82	\$ 92,965.68
5.	Administrative Fee	\$ 57,016.36	\$ 40,706.72
	Total	\$ 2,339,404.56	\$ 846,040.07

Total for Phase 1 and Phase 2 \$3,185,444.63

**Contingency includes \$93,019.26 for a temporary irrigation system. DISTRICT will work with TOWN and DEVELOPER in the Spring of 2025 to determine if an irrigation system is necessary. If an irrigation system is not required, the funds set aside for the temporary irrigation system shall be returned.

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this AGREEMENT provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

2. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

A. Project Costs. As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's share may come from its own revenue sources or from funds received from state, federal, or other sources of funding without limitation and without prior DISTRICT approval.

Project Payment by TOWN of \$3,185,444.63 shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The project payment shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to TOWN of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be

accrued to the special fund established by DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

PARTIES agree that, within 30 calendar days after the final payments have been made to vendors for completion of the Construction scope of work and the Construction Engineering Services, any remaining money that was unused for these scopes of work, and any remaining Construction Contingency funds, will be returned to DEVELOPER. Funds collected for Vegetation Establishment and Administrative Fees will not be returned to TOWN.

TOWN'S failure to approve DEVELOPMENT will not constitute a default by DISTRICT in its performance of this Agreement. Additional work requested beyond the contract documents for PROJECT will require an amendment to AGREEMENT.

At TOWN request, remaining monies shall be transferred to another special fund held by DISTRICT.

- B. Administrative Costs. As set forth in DISTRICT policy (Resolution No. 38, Series of 2017), DISTRICT shall collect administrative fees for Development Improvement Project projects to offset DISTRICT staff time required to manage the Final Design and Construction of PROJECT. The administrative fee is nonrefundable and to be held in the Development Service Enterprise Fund.

1. Construction. The administrative fee is based percentage of the estimated construction costs. The percentage charged is as shown in the following table.

Estimated Construction Cost Range	Percentage Charged
Under \$500,000	8%
\$500,000 - \$1,000,000	6%
\$1,000,000 - \$1,500,000	4%
\$1,500,000 - \$2,000,000	3%
\$2,000,000 - \$3,500,000	2.0%
\$3,500,000 - \$5,000,000	1.5%
\$5,000,000 - \$10,000,000	1.0%
\$10,000,000 - \$15,500,000	0.7%
\$15,500,000 - \$20,000,000	0.6%

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this FIRST AMENDMENT to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT D/B/A
MILE HIGH FLOOD DISTRICT

Checked By

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

TOWN

By_____

Name_____

Title_____

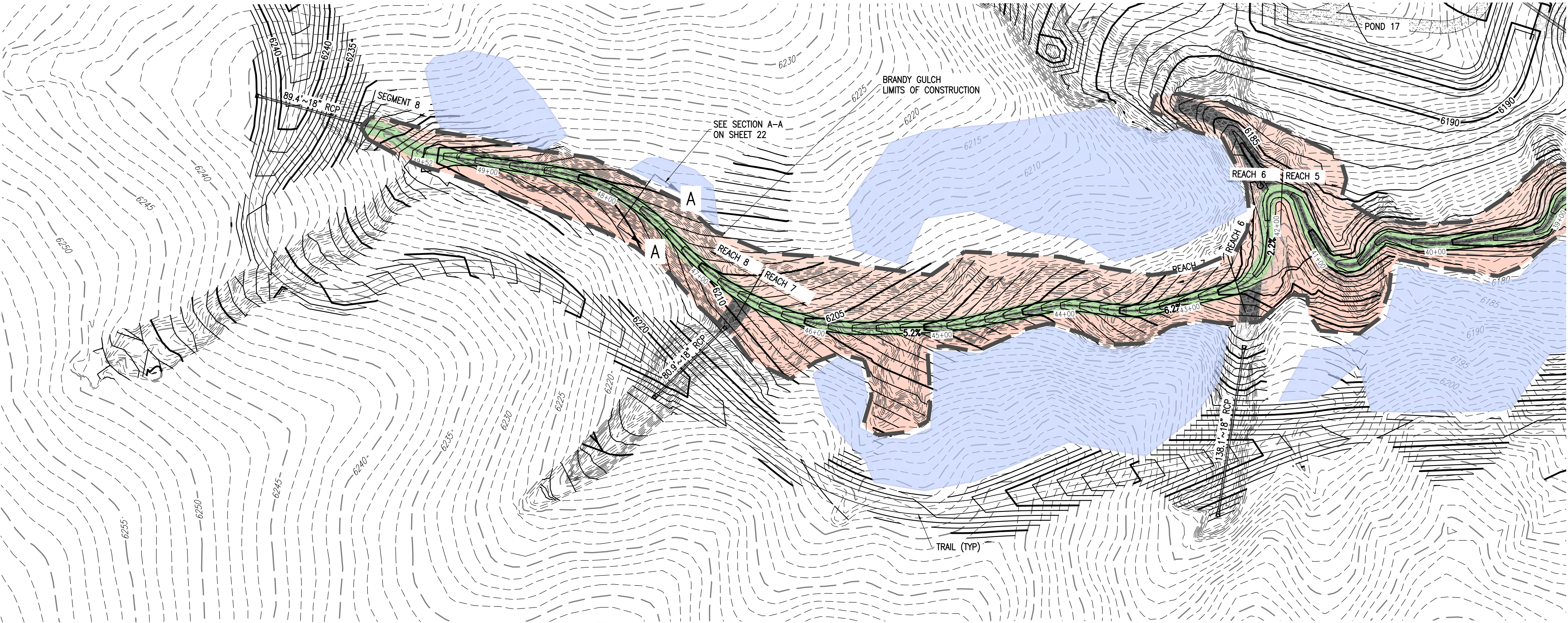
Date_____

APPROVED AS TO FORM:

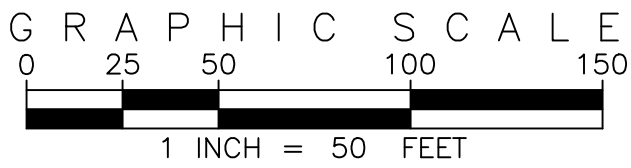
Jamie Wynn, Town Attorney

ATTEST:

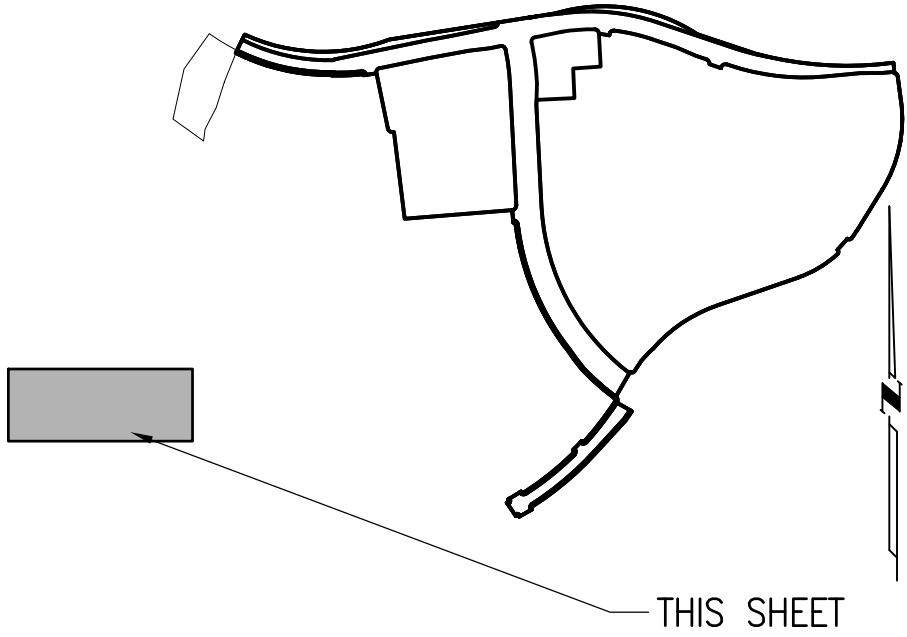
Christ Vanderpool, Town Clerk



SEE NEXT SHEET



KEY MAP



LEGEND

- BARE RIPRAP
NO SEED
- PLANTING ZONE 1 SEED MIX
- PLANTING ZONE 2 SEED MIX
- TREE PRESERVATION ZONE

NOTES

- SEE SHEET 23 FOR SEED MIXES AND LANDSCAPE NOTES.
- EXISTING TREES, VEGETATION, AND FACILITIES TO BE PROTECTED IN PLACE AS SHOWN ON THESE PLANS UNLESS OTHERWISE DIRECTED BY ENGINEER IN THE FIELD.

BENCHMARK

BENCHMARK: DOUGLAS COUNTY CONTROL MONUMENT 1.050005, A 3-1/4" ALUMINUM CAP STAMPED 1.050005
ELEVATION = 6365.22 (NAVD88 DATUM)

APPROVAL

THE TOWN OF PARKER REVIEW CONSTITUTES GENERAL COMPLIANCE WITH THE TOWN'S STANDARDS AND APPROVED VARIANCES, SUBJECT TO THESE PLANS BEING STAMPED, SIGNED, AND DATED BY THE PROFESSIONAL ENGINEER OF RECORD. REVIEW BY THE TOWN DOES NOT CONSTITUTE APPROVAL OF THE PLAN DESIGN OR ACCURACY AND CORRECTNESS OF ENGINEERING CALCULATIONS. ERRORS IN THE DESIGN OR CALCULATIONS REMAIN THE RESPONSIBILITY OF THE REGISTERED PROFESSIONAL ENGINEER WHOSE STAMP AND SIGNATURE ARE AFFIXED TO THIS DOCUMENT.

THIS REVIEW DOES NOT CONSTITUTE APPROVAL OF ANY PRIVATE ON-SITE IMPROVEMENTS WHICH MAY BE SHOWN. CONSTRUCTION CANNOT COMMENCE UNTIL ALL REQUIRED DRAINAGE/TRAFFIC REPORT(S), FINAL DEVELOPMENT PLAN(S), SPECIAL REVIEWS(S), GRADING PERMIT, AND/OR OTHER PERMITS ARE COMPLETE, APPROVED AND ON FILE WITH THE TOWN OF PARKER

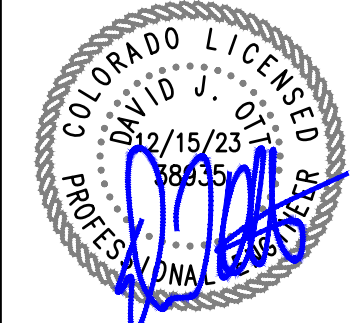
TOWN OF PARKER, DIRECTOR OF ENGINEERING _____ DATE _____

REUSE OF DOCUMENT

THE IDEAS AND DESIGN INFORMATION SHOWN HEREIN ARE THE PROPERTY OF EMK CONSULTANTS, INC., AND ARE NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT WRITTEN AUTHORIZATION OF EMK CONSULTANTS, INC.

Know what's below. Call before you dig.

811



REVISIONS		BY	DATE
NO.	DESCRIPTION		
DESIGNED BY:	DJO	CHECKED BY:	DJO
DRAWN BY:	DJO	APPROVED BY:	ERM

UPPER BRANDY GULCH

LANDSCAPE PLAN

EXHIBIT B

					
Project: Upper Brandy Gulch Channel Improvements at Looking Glass - STA 17+50 to 50+00					
Client: MHFD & Parker					
Item	Description	Quantity	UM	Unit Price	Total Price
1.	Mobilization	1.0	LS	\$ 95,000.00	\$ 95,000.00
2.	Water Control	1.0	FA	\$ 28,670.00	\$ 28,670.00
3.	Surveying	1.0	LS	\$ 20,400.00	\$ 20,400.00
4.	Traffic Control (by others)	0.0	LS	\$ 17,025.00	\$ -
5.	Vehicle Tracking Control (by others)	0.0	SY	\$ 67.00	\$ -
6.	Stabilized Staging Area (not needed)	0.0	SY	\$ 21.00	\$ -
7.	Sediment Control Log	200.0	LF	\$ 8.00	\$ 1,600.00
8.	Concrete Washout Area (by others)	0.0	EA	\$ 4,410.00	\$ -
9.	Stream Crossing, Temporary, with Culvert	1.0	EA	\$ 10,570.00	\$ 10,570.00
10.	General BMP Maintenance	20.0	HR	\$ 250.00	\$ 5,000.00
11.	Topsoil, Excavate, Stockpile, and Replace	3,291.3	CY	\$ 19.00	\$ 62,534.88
12.	Earthwork, Excavation and Fill On-Site	4,420.0	CY	\$ 14.00	\$ 61,880.00
13.	Riprap, Type M	4,318.7	CY	\$ 144.00	\$ 621,898.67
14.	Riprap, Type H	101.3	CY	\$ 148.00	\$ 14,997.33
15.	Concrete Sidewalk / Trail, 6-Inch Thick	4,777.8	SY	\$ 92.00	\$ 439,555.56
16.	Concrete Cutoff Walls 18-Inch	122.0	LF	\$ 61.00	\$ 7,442.00
17.	Erosion Control Blanket, Coir Mat	17,333.3	SY	\$ 17.00	\$ 294,666.67
18.	Seeding, Upland, Broadcast	2.62	AC	\$ 5,370.00	\$ 14,082.69
19.	Seeding, Riparian, Broadcast	0.55	AC	\$ 5,670.00	\$ 3,123.97
20.	Mulch, Hydromulch	3.17	AC	\$ 6,795.00	\$ 21,563.52
21.	Reinforced Concrete Pipe (RCP), Class III, 18-Inch Diameter	364.0	LF	\$ 130.00	\$ 47,320.00
22.	Flared End Section, Reinforced Concrete Pipe (RCP), with Toe Wall, 18-Inch Diameter	8.0	EA	\$ 4,390.00	\$ 35,120.00
23.	Reinforced Concrete Pipe (RCP), Class III, 42-Inch Diameter	119.0	LF	\$ 450.00	\$ 53,550.00
24.	Flared End Section, Reinforced Concrete Pipe (RCP), with Toe Wall, 42-Inch Diameter	2.0	EA	\$ 7,110.00	\$ 14,220.00
25.	Reinforced Concrete Pipe (RCP), Class III, 48-Inch Diameter	44.0	LF	\$ 600.00	\$ 26,400.00
26.	Flared End Section, Reinforced Concrete Pipe (RCP), with Toe Wall, 48-Inch Diameter	2.0	EA	\$ 10,475.00	\$ 20,950.00
27.	Construction Management Services - EMK	1.0	LS	\$ 30,000.00	\$ 30,000.00
				Total Bid	\$ 1,930,545.28
Clarifications:					
1.	Assumed no bedding section for the Type M or Type H riprap items				
2.	Seeding items include soil prep as follows: Biosol Forte @ 800#/AC, Humates @ 200#/AC, Mycorrhizae @ 20#/AC				
3.	It is possible that additional Sediment Control Log could be required by the local municipality. If additional SCL is required it is assumed the funds would be pulled from contingency.				
4.	No bid for temporary irrigation is included since the funding has been included in the contingency. Cost for the temporary irrigation system is estimated to be: 3.17 AC @ \$29,312.00/AC = \$93,019.84. Assumed irrigation system is above ground temporary with no permanent water source connections. Purchase of water and maintenance not included.				
Exclusions:					
1.	Design and/or Engineering				
2.	Quality Assurance Testing & Inspection				
3.	SWMP Plan				
4.	Temporary Fencing and Gates				
5.	Utility Locates (Above & Beyond iDig811) and Relocations				
6.	Watering and/or Cost of Water				
SIGNED: John Leone TITLE : President DATE : Tuesday, August 20, 2024					
Naranjo Civil Constructors, Inc. 627 27th Street Garden City, CO 80631 Office: (970) 356 -7909 Fax: (970) 356 - 0887 Mobile: (303) 304-3051 www.naranjocivil.com					

EXHIBIT C

Mile High Flood District: Douglas County

Upper Brandy Gulch at Looking Glass Reach 2

May 13, 2024

Prepared by:



14 Inverness Drive East Suite A-100 Englewood CO, 80112

www.habitatmanagementinc.com

Prepared for:

Laura Hinds, P. E.

Project Engineer

Mile High Flood Control District



Introduction:

The following landscape establishment budget was developed for Mile High Flood District's (MHFD) project area at Upper Brandy Gulch at Looking Glass Reach 2 (Upper Brandy Gulch). Habitat Management, Inc. (HMI) will implement a vegetation maintenance plan including the following tasks outlined in this budget upon approval.

1 Site Inspections and Management

Habitat Management will visit this site when visiting other MHFD sites in Douglas County and perform a monthly site inspection. These inspections will be performed throughout the growing season (March to October) to inspect for weeds, plant community health, and vegetation establishment issues. HMI will fill out an inspection report and provide it to MHFD to help plan maintenance items as they are identified. This line item includes up to eight site visits during the growing season. HMI will note and recommend in their inspection report areas for potential seeding efforts or areas of concern that need to be addressed. After inspections, areas identified as needing further evaluation through soil sampling and monitoring will be recommended to MHFD for approval.

2 Noxious Weed Management

Habitat Management recommends visiting this site regularly throughout the growing season for Colorado Noxious Weed Listed species to implement noxious weed management activities and planning. Chemical control methods will be utilized to treat noxious, and nuisance weed species growing at the site in the upland and riparian areas. A licensed pesticide applicator will visit this site regularly to inspect the treatment area(s). The applicator will evaluate noxious, and nuisance weed infestations and apply herbicides, based on site conditions. HMI has accounted for two pre-construction noxious weed treatments in the spring. Spot-applications of appropriate herbicides will take place in specific areas within the project boundaries up to six separate times in the growing season. The recommended schedule will be adjusted based on site conditions and timing of weed emergence, flowering, and senescence. Other environmental conditions will need to be accounted for when applying herbicides. Only herbicides labeled for use in or near water will be applied near the channels. An appropriate surfactant will also be used to increase adhesion of the herbicide to the targeted species and a blue marker dye will be added to indicate where herbicide has been applied. Herbicide applications will only occur within MHFD's right-of-way and records will be provided at the completion of work. The recommended schedule can be adjusted to meet the site's demands as the vegetation starts to establish and we see what kind of weed control effort will be required. Additional weed control to the surrounding property may be necessary to reduce spreading into the site.

3 Mechanical Weed Control

The site may require additional weed control efforts that include weed whacking, mowing, and mechanical seedhead removal to areas within the project boundary. It is recommended to include mechanical treatments in the site's integrated weed management plan. This task includes the cost for HMI to have a four-person crew visit the site with mechanical equipment to control annual weeds growing in recently seeded areas or noxious weeds that have already begun to produce flowers or seedheads.

4 Seeding

Habitat Management estimated that up to 3 acres of upland seeding may occur during the post construction maintenance period. HMI's costs include performing hand-broadcast seeding and harrowing after seeding to areas that are larger than 4 sq. ft. These areas will be reseeded in the spring and fall of each growing season based on site success. Seeding areas will be identified based on signs of poor establishment or bare patches. If areas are showing signs of soil/water distress, HMI will notify MHFD of reseeding areas that may need additional monitoring to determine the best method of seeding.

5 Erosion Control

Habitat Management has estimated minor BMP maintenance and/or removal efforts from surface may occur post construction. This may require HMI to work onsite to remove or repair any BMPS left in place during the establishment period.

6 Pre-Construction Weed Control

Habitat Management will perform two separate weed control events prior to construction to target areas infested with noxious weeds within the construction boundary.

MHFD: Douglas County: Upper Brandy Gulch at Looking Glass Reach 2

7 Budget

This budget includes estimates for landscape maintenance during a 3-year period post-construction. The total budget for post construction maintenance is **\$163,795.82**. All work is invoiced on a time and materials basis not-to-exceed this amount without prior approval using the 2024 Habitat Management Rate Sheet. Habitat Management is planning to only perform weed control within the construction boundaries and did not include time to treat tree preservation zones. HMI can spend time performing weed management in these areas using this budget with approval from MHFD.

Upper Brandy Gulch at Looking Glass Reach #2					
Table 1: Estimated Cost Not-to-Exceed Budget					
Item Description	Labor	Travel	Equipment	Materials & Outside Services	Task Total
Task 1: Site Monitoring and Management	\$ 3,105.00	\$ 184.37	\$ 402.50	\$ -	\$3,691.87
Task 2: Noxious Weed Management	\$ 20,850.00	\$ 430.94	\$ 5,500.00	\$ 337.50	\$27,118.44
Task 3: Mechanical Weed Control	\$ 9,349.50	\$ 100.47	\$ 1,725.00	\$ -	\$11,174.97
Task 4: Seeding	\$ 3,415.50	\$ 50.24	\$ 1,633.00	\$ 4,662.50	\$9,761.24
Task 5: Erosion Control	\$ 8,464.00	\$ 145.16	\$ 2,760.00	\$ -	\$11,369.16
Task 6: Pre-Construction Weed Control	\$ 8,750.00	\$ 90.62	\$ 4,312.50	\$ 237.50	\$ 13,390.62
Total Year One	\$ 53,934.00	\$ 1,001.80	\$ 16,333.00	\$ 5,237.50	\$76,506.30
Total Year Two (25% reduction from year 1)					\$49,879.73
Total Year Three (25% reduction from year 2)					\$37,409.79
<u>Grand Total:</u>					<u>\$163,795.82</u>



Request for Town Council Action

Date: September 3, 2024

Submitted By: Nathan Klass, Engineering Service Manager

Reviewed By: Michelle Kivela, Town Manager

Title: **Dransfeldt Road & Parkglenn Way Traffic Signal (CIP23-007) & Hess & Tammy Traffic Signal (CIP24-012)**

Amount: \$936,914.50

Contractor: Dynalectric Company of Colorado

Department: Engineering and Public Works, Nathan Klass

EXECUTIVE SUMMARY

This item is to award a trade contractor agreement with Dynalectric Company of Colorado for the Parkglenn/Dransfeldt and Hess/Tammy traffic signals (CIP 23-007 and CIP24-012).

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

The Town opened competitive bids on August 21, 2024, for the Parkglenn/Dransfeldt and Hess/Tammy traffic signal projects (CIP 23-007 and CIP24-012). Work includes, but is not limited to, mast arm signal poles, caissons, ADA curb ramp improvements, pavement markings, and traffic control.

The Town received bids from three (3) contractors with Dynalectric Company of Colorado being the lowest responsible bidder. Dynalectric Company of Colorado is in the progress of completing Town of Parker traffic signal improvements as a subcontractor with good results. Town staff recommend moving forward with the contract award. The bids were as follows:

Adiona Transportation Solutions, LLC	\$1,028,032.00
Dynalectric Company of Colorado	\$936,914.50
Lighthouse Transportation Group	\$984,515.50

FINANCIAL IMPACT

Funding for this project's construction has been appropriated within the Traffic Control Capital Improvement Fund (301-4392).

STRATEGIC GOAL(S)



INNOVATE WITH
COLLABORATIVE
GOVERNANCE



PROMOTE A SAFE AND
HEALTHY COMMUNITY



DEVELOP A VISIONARY
COMMUNITY THROUGH
BALANCED GROWTH

ATTACHMENTS

None

RECOMMENDED MOTION

I move to approve the staff recommendation, as a part of the regular agenda.